

WSR 08-13-087
PROPOSED RULES
FOREST PRACTICES BOARD

[Filed June 17, 2008, 1:16 p.m.]

Supplemental Notice to WSR 08-03-009.

Exempt from preproposal statement of inquiry under WSR 05-2-097 [05-20-097].

Title of Rule and Other Identifying Information: Achieving desired future conditions in riparian management zones. This rule proposal amends WAC 222-30-021(1) to change timber harvest and leave tree requirements in riparian management zones adjacent to Type S and F Waters as defined in WAC 222-16-030. It pertains to forest lands in western Washington.

Hearing Location(s): Borst Park, Kitchen 1, 902 Johnson Road, Centralia, on Tuesday, September 9, 2008, at 6:00 p.m.; at the Colville Public Library, 195 South Oak, Colville, on Wednesday, September 10, 2008, at 6:00 p.m.; at the Mount Vernon Fire Department Station 2, 1901 North LaVenture Road, Mt. Vernon, on Tuesday, September 16, 2008, at 6:00 p.m.; and at the Port Townsend Fire Station, 1256 Lawrence Street, Port Townsend, on Thursday, September 18, 2008, at 6:00 p.m.

Date of Intended Adoption: November 12, 2008.

Submit Written Comments to: Patricia Anderson, DNR Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@dnr.wa.gov, fax (360) 902-1428, by September 19, 2008.

Assistance for Persons with Disabilities: Contact forest practices division at (360) 902-1400, by August 29, 2008, TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 222-30-021 provides prescriptions and options to harvesting trees in forested "riparian management zones" as defined in WAC 222-16-010. Pursuant to RCW 76.09.370, the forest practices board incorporates a scientific-based adaptive management process to determine the effectiveness of forest practices rules in aiding Washington's salmon recovery effort. Under this adaptive management process, a scientific study was completed by the forest practices board's cooperative monitoring, evaluation, and research committee. The study, entitled *Validation of the Western Washington Riparian Desired Future Condition (DFC) Performance Targets in the Washington State Forest Practices Rules with Data From Mature, Unmanaged, Conifer-Dominated Riparian Stands*, found that basal area per acre of mature, unmanaged conifer-dominated riparian stands are greater than the values used in the current rule.

In response to the DFC study findings, the board is considering three alternative rule amendments to WAC 222-30-021(1). The intended effects of all of the alternatives are to increase the basal area retained in riparian management zones, thereby decreasing allowable harvest.

- The first alternative would increase the target basal area per acre to three three hundred twenty-five square feet for all site classes that a riparian forest stand is projected to reach at one hundred forty years from the year of harvest in the riparian management zone.

- The second alternative would increase the target basal area per acre the same as the first alternative, and would also:
 - allow landowners to credit the required inner zone leave trees towards meeting the riparian zone basal area target; and
 - expand the table, "Option 2. Leaving trees closest to water," to include site classes IV and V on streams greater than ten feet in width.
- The third would increase the target basal area per acre the same as the first alternative, and will allow landowners to credit the required inner zone leave trees towards meeting the riparian zone basal area target.

Reasons Supporting Proposal: The proposed rule changes are based on recommendations resulting from the scientifically based adaptive management process outlined in WAC 222-12-045. Through this process, the board has determined that the forest practices rules should be adjusted to ensure that appropriate riparian buffers are maintained on forest land covered by the Forest Practices Act.

Statutory Authority for Adoption: RCW 76.09.040 and 76.09.370(6).

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

Name of Proponent: Forest practices board, governmental.

Name of Agency Personnel Responsible for Drafting: Marc Engel, 1111 Washington Street S.E., Olympia, (360) 902-1390; Implementation: Gary Graves, 1111 Washington Street S.E., Olympia, (360) 902-1483; and Enforcement: Lenny Young, 1111 Washington Street S.E., Olympia, (360) 902-1744.

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

Small Business Economic Impact Statement

OBJECTIVES: The forest practices board is considering permanent rule making that will affect timber harvesting in riparian management zones (RMZs) in Washington. The objectives of this economic analysis are to determine whether the benefits of the proposed rules exceed the costs, and whether the compliance costs of the proposed rules will disproportionately affect the state's small businesses.

Prior to rule adoption, the Administrative Procedure Act (APA) (chapter 34.05 RCW)¹ requires completion of a cost-benefit analysis (CBA) that demonstrates that probable benefits of the proposal exceed its probable costs and that it is the most cost-effective means of achieving the goal of the rule change. A small business economic impact statement (SBEIS) is required by the Regulatory Fairness Act (RFA) (chapter 19.85 RCW)² to consider the impacts of state administrative rules on small businesses, defined as those with fifty or fewer employees. An SBEIS compares the costs of compliance for small businesses with the cost of compliance for the 10% of businesses that are the largest businesses required to comply with the proposed rules.

This economic analysis combines the SBEIS and the CBA and complies with the legislative requirements for these analyses as part of the rule-making process.

HISTORICAL CONTEXT: The forests and fish negotiations resulted in rules that manage timber harvests in riparian zones; one of the objectives of which is to reach DFC. The DFC of a riparian forest is a timber stand that demonstrates the characteristics of mature, unmanaged riparian stands at age 140³. One of the metrics chosen to create these characteristics is a target basal area per acre at age 140 (hereinafter referred to as bapa-140), with targets varying by site class.

As part of the adaptive management process, the riparian scientific advisory group (RSAG) of the cooperative monitoring, evaluation and research committee (CMER) commissioned a study of mature, unmanaged riparian forest stands in western Washington (Schuett-Hames et al., 2005)⁴. One of the objectives of this study was to determine whether the bapa-140 targets in the forest practices rules were appropriate. The study concluded that the basal area targets are incorrect, but did not provide alternative target values. The study also concluded that there is no statistical difference for basal area targets between site classes.

PROPOSED RULES SUMMARY: The proposed rule changes the DFC target basal area at year 140 (bapa-140). The forest practices board is considering using one value for all site classes, and to use the median value for total live basal area per acre of the Schuett-Hames et al. study data, which is 325 square feet. The board is also considering two alternative proposals that adjust bapa-140 to 325 while modifying other rule provisions. Details are provided below.

ECONOMIC ANALYSIS: To comply with the APA and RFA this analysis identifies potentially affected industries, defines small and large businesses and determines if there is a disproportionate economic impact on small businesses. It also estimates the annual cost of compliance with the proposed rule changes.

Potentially Affected Industries: The rule-complying community affected by the proposal is businesses that own or control the cutting rights on forestland or those with the right to dispose of the timber.

Small Businesses versus Large Businesses: The RFA defines a "small business" as one with fifty or fewer employees. This definition does not lend itself to commercial forestry, because a growing proportion of Washington's commercial forest acreage is owned by investment-oriented firms that employ few people. Forest ownership acreage and the volume of timber harvested on an annual basis are generally more appropriate metrics for characterizing small businesses in the timber industry. In order to better portray the effects of proposed rule changes on small business, this economic analysis defines small businesses as those meeting the state's eligibility criteria for small forest landowner status in the forestry riparian easement program; generally those who harvest an average of less than two million board feet per year from their own land. All other private landowners are categorized as "large businesses" for purposes of this analysis.

Benefits and Costs Included in the Analysis: The costs of the rule change are measured as the potential loss of timber revenue, based on an estimate of the timber volume that is annually affected by the rule making. The intended benefits are related to the value of protecting and restoring habitat for fish and wildlife species that utilize riparian areas for all or part of their life cycles. These benefits cannot be

quantified in this analysis because there is no known research applicable to Washington that quantifies the benefits of protecting additional riparian habitat. Methodology and analysis are further discussed below.

Involvement of Concerned Stakeholders: This rule making is the result of the forests and fish adaptive management process described in WAC 222-12-045. It is a formal process involving scientists and policy makers who represent stakeholders of Washington forest practices: Landowners of large and small forestland acreage, environmental and conservation organizations, tribal organizations, federal and state natural resource agencies, and Washington counties.

In reaction to the findings of the Schuett-Hames report, forests and fish policy petitioned the forest practices board to consider rule making responsive to the findings of the study. DNR's forest practices division held several stakeholder meetings starting in May 2006 to develop a rule proposal that would be responsive to the study results. By the board's August 9, 2006, meeting, the participating stakeholders had not reached an agreement on appropriate changes to the basal area targets. At the August 9, 2006, meeting, the board directed staff to distribute a notice pursuant to RCW 76.09.040(2) requesting comments from the Washington department of fish and wildlife, counties and tribes on a proposal that would change the target basal areas listed in WAC 222-16-0021(1) to the study's median value of 325 square feet per acre for all site classes. The board also instructed staff to specify on the notice that the board intended to consider other options that would appropriately respond to the study.

Prior to the board's June 11, 2007, meeting, the Washington forest protection association forwarded another rule proposal to DNR, which was also intended to respond to the findings in the Schuett-Hames report. Since then, DNR has facilitated several stakeholder meetings to further develop that proposal. The resulting rule proposal is referred in this analysis as "proposals 2 and 3."

METHODS OF ANALYSIS: This analysis includes the following:

- The effects of a change in bapa-140 targets to 325 (median value from Schuett-Hames report) for all site classes (proposal 1); and
- The effects of a proposal to change bapa-140 targets to 325 and modifying other provisions of existing rules (proposals 2 and 3).

Details of the Three Proposals: Current rules and all three proposals offer two harvest options. Under current rules, option 1 is a thinning treatment with a minimum trees-per-acre (tpa) requirement, and option 2 is a packing treatment that leaves trees closest to the water within no-cut floors. Under current rule, the basal area targets are applied to the combined core and inner riparian zones, such that the bapa-140 requirement in the inner zone will vary according to site class, core zone inventory and the rule-required sizes of the core and inner zones⁵. In addition, shade requirements must be met under both options. Proposal 1 changes the target bapa-140 to 325 for all site classes, but otherwise makes no changes to existing rules.

Option 1 provisions are the same for proposals 1, 2, and 3. The differences among proposals are under option 2. Like

proposal 1, proposals 2 and 3 change the target bapa-140 to 325 for all site classes under option 2.

Option 2 of proposal 2 includes the following differences from existing rules:

- The target basal area is changed to 325 square feet for all site classes.
- The 20 tpa conifers that must be left in the cut portion of the inner zone can be credited to meeting the bapa-140 target of 325.
- All harvest sites, regardless of stream size and site class, are eligible to use option 2.
- Additional harvesting may be permitted in the outer zone in cases where minimum no-cut floors result in bapa-140 greater than 325 (referred to in this report as "excess basal area"). Outer zone leave trees may be removed down to 10 trees per acre, so long as the minimum bapa-140 of 325 is met.

Option 2 of proposal 3 is similar to proposal 1. The differences from existing rules are:

- The target basal area is changed to 325 square feet for all site classes.
- The 20 tpa conifers that must be left in the cut portion of the inner zone can be credited to meeting the bapa-140 target of 325.

Data Inputs: The changes included in proposals 2 and 3 necessitate a more complicated approach to the analysis than would have been the case if proposed changes were limited to changing bapa-140 targets (as in proposal 1). This analysis estimates the amount of basal area that would be left in the inner and outer zones under existing rules as well as under the proposals outlined above.⁶ The effects on annual harvest in riparian zones for the two proposals can then be calculated using existing rules as the base case.

These estimates are based on a statewide extrapolation of the data set used by McConnell et al. in the 2007 FPA desktop analysis prepared for the forests and fish CMER, *An Overview of the DFC Model and an Analysis of Westside Type F Riparian Prescriptions and Projected Stand Basal Area per Acre*⁷. The data set consists of one hundred fifty randomly selected forest practices applications (FPAs) from 2003 and 2004 that proposed timber harvesting from within the inner portion of the riparian zone in western Washington. The following data from McConnell's data set was used in this economic analysis:

- Stand characteristics supplied by applicant: Site class, stream size, major species (Douglas-fir or Western Hemlock), core and inner zone acreage, stand age.
- Tree inventory data (softwoods and hardwoods).
- Stand characteristics calculated from these data: Core and inner zone tpa, current basal area per acre (bapa), projected no-cut basal area per acre at age 140 (bapa-140), outer zone leave trees.
- Attributes following model-generated prescription (reported for core and inner zones as appropriate): Current bapa, bapa-140, size of first tree that may be cut (marginal tree dbh), tpa (option 1), no-cut floor (width of no-cut portion of inner zone, option 2).

The DFC model determines the change in post-harvest basal area per acre from the time of harvest to year 140 based on the interaction of a number of stand factors, including stand age, species mix and percent conifer, tpa, current basal area, and site class. The model was designed using existing bapa-140 targets, and because these bapa-140 targets are hardwired into the model, it does not have the flexibility needed to change these bapa-140 targets for this analysis. Given these circumstances, this analysis estimates the effects of changing these targets by calculating the additional conifers that need to be left to meet DFC, assuming that the model's growth projections for post-harvest stands hold at higher bapa-140 targets.

Methodological Approach: The basic unit of analysis is basal area. Basal area is used because it allows the comparison of prescriptions that differ within the RMZ area, i.e., zone configuration, zone treatments, average dbh, etc. The amount of basal area that will remain in the inner and outer zones is estimated for both harvest options under existing rules and each rule proposal as follows:

- For **existing rules options 1 and 2**, the remaining trees left following permitted treatments, as reported in McConnell's study, is recalculated as basal area.
- For **option 1 of all three proposals**, a growth factor must be applied in order to estimate the amount of basal area needed at the time of harvest to meet the target basal area of 325 at age 140. This basal area is calculated by comparing the bapa growth trajectories of a given stand with no inner zone timber harvest and the bapa-140 following the prescribed thinning in existing regulations.
- For **option 2 of proposal 1**, the no-cut floors are adjusted when necessary to meet the inner zone basal area requirement⁸.
- For **option 2 of proposal 2**, no-cut floors are calculated for the FPAs permitted to harvest under proposal 2 that are ineligible under existing rules and proposal 1 (site class 3-large streams and site classes 4 and 5). No-cut floors on all FPAs are adjusted if necessary to account for the crediting of the twenty trees per acre in the cut portion of the inner zone to basal-area-per-acre requirements. If the minimum no-cut floor is farther out than the no-cut floor that would be in place in the absence of minimum no-cut floors, the basal area within this section is considered to be "excess basal area." The amount of excess basal area in outer zone trees that may be cut (down to 10 tpa) is then calculated.
- For **option 2 of proposal 3**, the no-cut floors are adjusted when necessary to meet the inner zone basal area requirement and to account for the crediting of the twenty trees per acre in the cut portion of the inner zone to basal-area-per-acre requirements.

Calculating the affects of option 1 necessitates making growth assumptions in order to determine the amount of basal area that stands must have to meet the bapa-140 target of 325. The methodology outlined above assumes that the relative growth trajectories from now until year 140 for inventory (no-cut), existing bapa-140 targets, and bapa-140 target of 325 follow similar patterns, such that if we know the

trajectories of any two of these (in this case, inventory and existing rules), as well as the target bapa-140, we can calculate the third (in this case, basal area needed following harvest) by interpolating from the other two.

The DFC model and this analysis assume that conifer inventory is evenly spaced throughout the inner area of the riparian zone, and is therefore not sensitive to tree inventory distribution by dbh in the inner zone.

Option 1 and option 2 reported separately. In existing rules, applications for harvest in riparian areas in Site Class 1, 2, or on small streams in Site Class 3 may use harvest options 1 or 2. Site Classes 4, 5 and Site Class 3 on large streams may only use harvest option 1. Of the 150 FPAs in the data set, all one hundred fifty could harvest under option 1, and one hundred eight could harvest under option 2. In practice, all but six of these one hundred eight FPAs chose option 2 as their harvest regime. This appears to be a reflection of ease of operations, rather than maximizing the level of harvest, since option 2 generally results in leaving more basal area than option 1. For this reason, this analysis does not attempt to choose the option that results in the largest inner-zone harvest for each FPA. The analyses for harvest options 1 and 2 are reported separately.

Estimating the value of the additional trees that need to be left in order to meet higher bapa-140 targets: Basal area estimates from McConnell's data set are extrapolated statewide based on FPA activity. Basal area was then converted into timber volume based on average stand characteristics of the one hundred fifty stands in the data set. Timber volume was converted to stumpage values using 2007 DNR timber sales data for western Washington.

EFFECTS OF PROPOSALS ON BASAL AREA LEAVE REQUIREMENTS:

Estimating the number of FPAs that are affected by existing rules and proposed rule changes: The effects of the proposed rule changes on individual FPAs vary, reflecting the wide variability in stand attributes. The effects of existing rules on FPAs are covered in depth in McConnell et

al. Table 1 compares the constraints among the proposals for the two options.

For option 1:

- As reported in McConnell et al., under existing rules, only eight of the one hundred fifty FPAs in the data set are constrained by basal area; the others are constrained by the requirement to leave fifty-seven tpa in the inner zone after thinning. No FPAs are precluded from thinning under existing rules.
- Raising the bapa-140 target to 325 (proposals 1, 2 and 3) results in almost half (seventy one) of the FPAs being constrained by bapa-140. The remaining seventy-nine FPAs remain constrained by the fifty-seven tpa requirement and are therefore not affected by the proposed rule change.
- Twenty of the FPAs do not have sufficient inner zone conifer inventory to thin under proposals 1, 2, and 3.

For option 2:

- As reported in McConnell et al., forty of the one hundred eight FPAs in the data set that are permitted to harvest under option 2 are constrained by basal area under existing rules; the others are constrained by minimum no-cut floors. One FPA has insufficient basal area to perform an option 2 harvest under existing rules.
- Minimum no-cut floors constrain only 20% of FPAs under proposals 1 and 2, and 21% under proposal 3. Bapa-140 constrains the remainder.
- The percentage of FPAs that cannot harvest conifers in the inner zone is similar for the three proposals - 15%, 17%, and 15%, respectively.

Care must be taken in comparing the two proposals. While option 2 under proposal 2 is available to all site class/stream size combinations, option 2 under proposals 1 and 3 are limited to site Classes 1 and 2, and site Class 3-large streams.

**Table 1
Forest Practices Applications Constraints on Harvest**

Number of Forest Practices Applications (FPAs)	Option 1		Option 2			
	Existing rules	Proposal 1, 2 and 3	Existing rules	Proposal 1	Proposal 2	Proposal 3
Constrained by bapa-140	8/150	71/150	40/108	86/108	120/150	85/108
<i>Percent</i>	5%	47%	37%	80%	80%	79%
No conifers harvested in inner zone	0/150	20/150	1/108	16/108	25/150	16/108
<i>Percent</i>	0%	13%	1%	15%	17%	15%

Estimating basal area leave requirements in the inner and outer zones: Tables 2 and 3 summarize the basal area that would be left in the inner and outer zones in the one hundred fifty sample FPAs under existing rules and the three proposals.⁹ Because the total inner zone conifer basal area inventory varies among proposals and options (due to differences in inner zone widths and eligibility), comparisons are made based on percentage of basal area remaining after harvest.

Option 1: Under existing regulations, an average of 57% of conifer basal area is left in the inner zone after thinning. This increases to 69% under the three proposals.

Option 2: For the subset of FPAs that are eligible for option 2 harvest under all three proposals, the differences in leave basal area among the three proposals is relatively minimal. The crediting of cut-area leave trees to basal area requirements under proposals 2 and 3 generally results in a shift of the no-cut floor by zero or one foot. **The most signif-**

icant distinction among the three proposals is that proposal 2 allows option 2 harvest on all site class/stream size combinations. To facilitate comparison, tables 2 and 3 separate leave basal area for proposal 2 into two subgroups: "site class 1, 2, and 3-small," which includes the FPAs eligible to use option 2 under existing rules and all three proposals, and "site class 3-large, 4 and 5," which are ineligible to use option 2 except under proposal 2.

In the subset of one hundred eight FPAs that are eligible to harvest under option 2, 69% of the basal area is left under

current rules, increasing to 81% if bapa-140 is increased to 325 (proposal 1), and 80% under proposals 2 and 3. The subgroup that is ineligible to harvest under current rules leaves 86% of bapa-140 under proposal 2.

Proposal 2 permits the harvest of excess basal area via a decrease in the outer leave tree requirement from twenty down to ten trees per acre. The effects of this prescription are presented in Table 4.¹⁰

Table 2
Basal area remaining after harvest in inner and outer zones.
Option 1 - Thinning

	Inner Zone conifer basal area (sq. ft.)												Outer Zone conifer basal area (sq. ft.)
	All FPAs				Site classes 1, 2, and 3 (small streams)				Site classes 3 (large streams), 4 and 5				
	# FPAs eligible*	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	
Existing rules	150	62,398	35,555	57%	108	43,725	25,385	58%	42	18,673	10,170	54%	3,383
Proposal 1	150	62,398	42,875	69%	108	43,725	28,996	66%	42	18,673	13,880	74%	3,383
Proposal 2	150	62,398	27,007	43%	108	43,725	16,729	38%	42	18,673	10,278	55%	3,293

*Forest practices applications included in McConnell et al. data set

Table 3
Basal area remaining after harvest in inner and outer zones.
Option 2 - Leaving trees closest to the stream

	Inner Zone conifer basal area (sq. ft.)												Outer Zone conifer basal area (sq. ft.)
	All FPAs				Site classes 1, 2, and 3 (small streams)				Site classes 3 (large streams), 4 and 5				
	# FPAs eligible*	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	
Existing rules	108	42,068	29,107	69%	108	42,068	29,107	69%	0	na	na	na	2,656
Proposal 1	108	42,068	34,201	81%	108	42,068	34,201	81%	0	na	na	na	2,656
Proposal 2	150	60,760	49,095	81%	108	42,068	33,336	79%	42	18,692	15,759	84%	3,161

*Forest practices applications included in McConnell et al. data set

Table 4
Effects of proposed rule provisions.
Option 2 - Proposal 2

	All FPAs	Site classes 1, 2, and 3 (small streams)	Site classes 3 (large streams), 4 and 5
Number of FPAs	150	108	42

	All FPAs	Site classes 1, 2, and 3 (small streams)	Site classes 3 (large streams), 4 and 5
Inner zone conifer basal area	60,760	42,068	18,692
Basal area left with minimum floors	49,844	33,815	16,029
Basal area left, no minimum floors	47,787	32,877	14,911

	All FPAs	Site classes 1, 2, and 3 (small streams)	Site classes 3 (large streams), 4 and 5
Excess basal area	2,057	938	1,118
<i>Number of FPAs with excess basal area</i>	27	23	4
Basal area of outer zone trees removed	278	245	33
Inner zone left after prescriptions	49,556	33,570	15,996
<i>Number of FPAs with excess basal area</i>	23	19	4
Excess basal area after credits	1,779	694	1,085

Basal area is in square feet.

Excess basal area is defined as the difference between the basal area left with and without minimum no-cut floors. For the entire data set, this amounts to 2,057 square feet, approximately 4% of the basal area left prior to adjustments. Of the one hundred fifty FPAs in the data set, twenty-seven have leave excess basal area. The others are not constrained by minimum floors. This differs somewhat from the findings reported for proposal 1 because the basal area of the required

twenty leave trees per acre in the cut portion of the inner zone is credited in the calculation of excess basal area.

The basal area of the ten outer zone conifers per acre that may be harvested to mitigate excess basal area amounts to two hundred seventy-eight square feet, less than one half of one percent of the basal area inventory. For most FPAs, there is no difference in leave basal area requirements among the three proposals under option 2.

Statewide extrapolation: The data set used in McConnell et al. was randomly selected from all of the FPAs that included riparian inner-zone harvest in 2003 and 2004. The report describes the situations in which some FPAs were dropped. In cases where there was more than one stream segment, the first stream segment was chosen. For the purposes of extrapolation, these additional stream segments are the equivalent of additional FPAs. There are three hundred forty-eight stream segments in the one hundred fifty sample FPAs, or 2.32 stream segments per FPA. There were three hundred ninety-one FPAs that included riparian zone harvest in 2003, and four hundred forty-four in 2004, for an average of four hundred eighteen. There are, therefore, an estimated nine hundred seventy stream segments where inner zone harvest activity is proposed annually, approximately 6.5 times more riparian area harvest activity per year than is found in the one hundred fifty survey FPAs. Tables 5 and 6 adjust the findings in Tables 2 and 3 to a statewide extrapolation.

Table 5
Basal area remaining after harvest in inner and outer zones.
Statewide annual extrapolation, Option 1 - Thinning

	Inner Zone conifer basal area (sq. ft.)												Outer Zone conifer basal area (sq. ft.)
	All FPAs				Site classes 1, 2, and 3 (small streams)				Site classes 3 (large streams), 4 and 5				
	# FPAs eligible	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	
Existing rules	970	403,505	229,925	57%	698	282,755	164,159	58%	272	120,749	65,766	54%	21,874
Proposal 1	970	403,505	277,262	69%	698	282,755	187,506	66%	272	120,749	89,756	74%	21,874
Proposal 2	970	403,505	174,643	43%	698	282,755	108,181	38%	272	120,749	66,462	55%	21,295

Table 6
Basal area remaining after harvest in inner and outer zones.
Statewide annual extrapolation, Option 2 - Leaving trees closest to the stream

	Inner Zone conifer basal area (sq. ft.)												Outer Zone conifer basal area (sq. ft.)
	All FPAs				Site classes 1, 2, and 3 (small streams)				Site classes 3 (large streams), 4 and 5				
	# FPAs eligible	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	
Existing rules	698	272,042	188,225	69%	698	272,042	188,225	69%	0	na	na	na	17,167

	Inner Zone conifer basal area (sq. ft.)												Outer Zone conifer basal area (sq. ft.)
	All FPAs				Site classes 1, 2, and 3 (small streams)				Site classes 3 (large streams), 4 and 5				
	# FPAs eligible	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	After harvest
Proposal 1	698	272,042	221,166	81%	698	272,042	221,166	81%	0	na	na	na	17,167
Proposal 2	970	392,917	317,479	81%	698	272,042	215,573	79%	272	120,875	101,908	84%	20,441

Calculating timber volume and stumpage value: The most accurate method to estimate timber volume would be to calculate basal area for each FPA based on diameter (dbh) of all leave trees as well as site characteristics (site class, stand age, and species). Given time constraints, a simpler approach was used in this analysis, based on the following tables in the USFS Foresters Field Handbook:

- Westside Douglas-fir fifty-year site index table (to estimate tree height from site index and stand age).
- Board foot volume table for young Douglas-fir Scribner Log Rule.

Although leave trees vary in average diameter among the various proposal/option combinations, the average conifer dbh of all of the trees in the data set - fourteen inches - was used for this calculation.

The average tree height (one hundred nineteen feet) was estimated based on the average stand age (fifty-two) and average site index (one hundred sixteen) of the data set. Volume was then calculated for a fourteen inch dbh Douglas-fir of this height — two hundred eighteen board feet per tree. Stumpage value was calculated based on recent DNR timber

sales results in western Washington. The stumpage price used was \$400 per thousand board feet (mbf), appropriate for twelve to eighteen inch diameter trees.¹¹ The result is a stumpage value of \$87.20 per tree.

Table 7 presents an estimate of the value of inner zone conifer inventory and the value of inner and outer zone conifers left, on an annual basis, to meet DFC for each scenario. Findings are reported separately for the stands that may harvest under either option under existing rules (site Class 1, 2 and 3-small streams), and those that may only use option 1 (site Class 3-large, 4, and 5).¹² Under option 1, out of total inventory of \$32.9 million, \$18.8 million of stumpage value is left under existing rules, and \$22.6 million under the three proposals. Under option 2, total inventory of the site Class 1, 2 and 3-small streams subset is \$22.2 million, of which \$15.4 million is left under existing rules and \$18.0, million \$17.7 million, and \$17.8 million under proposals 1, 2, and 3 respectively. Inventory under proposal 2, which is available to all site class-stream size combinations, is \$32.1 million, and leave stumpage value is \$26.1 million.

**Table 7
Stumpage Value
Statewide annual extrapolation (dollar values in millions)**

OPTION 1 - Thinning

	Inner Zone stumpage value												Outer Zone stumpage value
	All FPAs				Site classes 1, 2 and 3 (small streams)				Site classes 3 (large streams), 4 and 5				
	# FPAs eligible	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	After harvest
Existing rules	970	\$32.9	\$18.8	57%	698	\$23.1	\$13.4	58%	272	\$9.8	\$5.4	\$0.5	\$1.8
Proposal 1	970	\$32.9	\$22.6	69%	698	\$23.1	\$15.3	66%	272	\$9.8	\$7.3	\$0.7	\$1.8
Proposal 2	970	\$32.9	\$14.2	43%	698	\$23.1	\$8.8	38%	272	\$9.8	\$5.4	\$0.6	\$1.7

OPTION 2 – Leaving trees closest to the stream

	Inner Zone stumpage value												Outer Zone stumpage value
	All FPAs				Site classes 1, 2 and 3 (small streams)				Site classes 3 (large streams), 4 and 5				
	# FPAs eligible	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	# FPAs	Before harvest	After harvest	% left after harvest	
Existing rules	698	\$22.2	\$15.4	69%	698	\$22.2	\$15.4	69%	—	na	na	na	\$1.4
Proposal 1	698	\$22.2	\$18.0	81%	698	\$22.2	\$18.0	81%	—	na	na	na	\$1.4
Proposal 2	970	\$32.1	\$25.9	81%	698	\$22.2	\$17.6	79%	272	\$9.9	\$8.3	\$0.8	\$1.7

COSTS OF PROPOSED RULE CHANGES: As previously mentioned, comparisons among some option/proposal combinations are difficult to make, because option 2 is only available to a subset of site class/stream width combinations under existing rules and proposals 1 and 3, and zone configurations vary. Comparisons based on percentage of basal area left can be made, but such comparisons are somewhat skewed because the site Class 3-large, 4 and 5 subgroup leaves a higher percentage of basal area than the site Class 1, 2 and 3-small subgroup under those scenarios that permit harvesting under all site class/stream size combinations (option 1 scenarios and proposal 2 of option 2). Comparison data provided in Table 8 is thus presented by subgroup as well as in total.

Option 1 (thinning): Changing the basal area per acre at age 140 (bapa-140) target to 325 (proposal 1) increases the stumpage value of conifers left to meet DFC by \$3.9 million annually.

Option 2 (leaving trees closest to the stream): Changing the basal area per acre at age 140 (bapa-140) target to 325 (proposal 1) increases the stumpage value of conifers left to meet DFC by \$2.7 million annually. For the subgroup of site class/stream size combinations that may currently use option 2, proposal 2 increases costs by \$2.4 million, but results in a savings of \$300,000 over proposal 1. Additional costs under proposal 3 are \$2.5 million. For the subgroup that may not currently use option 2, comparisons with other option 2 proposals cannot be made. Comparing the stumpage value of leave conifers in this subgroup with option 1 (existing rules) suggests an increase in annual costs of \$3.1 million, but a portion of this increase is due to the fact that option 2 generally results in more leave basal area than option 1, so the comparison cannot be readily made.

Table 8

Annual costs of compliance and changes in costs from existing rules (dollar values in millions)

OPTION 1 – Thinning

	Inner and outer zones	All inner zone	Inner zone site class 1, 2, and 3-small	Inner zone site class 3-large, 4 and 5	Outer zone
Existing rules	\$20.5	\$18.8	\$13.4	\$5.4	\$1.8
Proposal 1	\$24.4	\$22.6	\$15.3	\$7.3	\$1.8
Cost increase (decrease)	\$3.9	\$3.9	\$1.9	\$2.0	—
Proposal 2	\$16.0	\$14.2	\$8.8	\$5.4	\$1.7
Cost increase (decrease)	(\$4.6)	(\$4.5)	(\$4.6)	\$0.06	(\$0.05)

OPTION 2 – Leaving trees closest to the stream

	Inner and outer zones	All inner zone	Inner zone site class 1, 2, and 3-small	Inner zone site class 3-large, 4 and 5	Outer zone
Existing rules	\$16.8	\$15.4	\$15.4	—	\$1.4
Proposal 1	\$19.4	\$18.0	\$18.0	—	\$1.4
Cost increase (decrease)	\$2.7	\$2.7	\$2.7	—	—
Proposal 2	\$28.6	\$25.9	\$17.6	\$8.3	\$1.7
Cost increase (decrease)	na	na	\$2.2	na	\$0.3

Small Business Impacts: The one hundred fifty FPAs in the sample were not identified as to small forest landowner status. Anecdotal evidence suggests that nonindustrial landowners are less likely to consider harvesting in riparian zones, due to the complicated nature of following the rules, such as the requirement to inventory each tree by two-inch diameter class. Those that choose to harvest may be more likely to utilize option 2, which is simpler to set up, in spite of the fact that option 1 usually allows more harvesting than option 2. Under these circumstances, we estimate that the effects on small business are similar to the industry as a whole. The major tasks involved in timber sale planning would not change as a result of this rule making, and timber harvests within riparian management zones will continue to be a small percentage of the overall harvest unit. Therefore, it is improbable that this rule making would have an effect on small business employment in the state.

BENEFITS: The goal of the proposed rule making is to facilitate reaching desired future conditions conducive to healthy riparian ecology and function, and ultimately to improve water quality and habitat for fish and wildlife species that utilize riparian areas for all or part of their life cycle. The 1999 forests and fish report, which initiated the current riparian strategies for forest practices rules, based recommendations for improving and maintaining "bank stability, recruitment of large woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are

important to both riparian forest and aquatic system conditions."¹³ The report also initiated an adaptive management program through which adjustments in the rules would be made to achieve resource objectives. The proposed rule proposals are a manifestation of that program and are intended to provide enhanced benefits to water quality and fish and wildlife habitat.

The benefits of the three proposals are difficult to analyze. The economic benefits of the proposed rule change cannot be reasonably estimated because they occur at the margin, and marginal benefits of protecting riparian areas haven't been studied. Some general inferences can be made from the data set, however. In twenty of the one hundred fifty sample FPAs, bapa-140 increased after the prescribed option 1 thinning treatment under existing rules compared to bapa-140 without a thinning. On the other hand, none of the one hundred eight eligible FPAs increased bapa-140 after an option 2 treatment. The fact that the vast majority (one hundred two out of one hundred eight) of FPAs in the sample chose option 2 over option 1 even though more trees are left under option 2, and the large standard deviation in the mature stands reported by the Schuett-Hames study, suggest that the current structure may be counterproductive for stands that would benefit from thinning but cannot meet bapa-140 targets. Increasing bapa-140 targets may exacerbate the situation. Furthermore, there are no provisions in the proposed rule to incentivize option 1 thinning treatments.

CONCLUSIONS: This economic analysis estimates the costs of the proposed rule making on an annual basis. Costs are defined as the annual statewide decrease in timber harvest revenue resulting from the proposed rule change. These estimates are based on a statewide extrapolation of the data set used by McConnell et al. in the 2007 CMER report, *An Overview of the DFC Model and an Analysis of Westside Type F Riparian Prescriptions and Projected Stand Basal Area per Acre*.

The annual change from existing rules in stumpage value of trees not harvested under proposal 1 is \$3.9 million under option 1 (thinning) and \$2.7 million under option 2 (packing). Proposals 2 and 3 result in slightly more option 2 harvested stumpage than proposal 1. The significant difference amongst the proposals is that proposal 2 allows the packing option on all site class/stream size combinations.

As discussed in the McConnell et al. report, this analysis necessitated making a number of assumptions that were not field tested. These findings should therefore be considered at best as providing an indication of the scale of the effects of the proposed rule change. In addition, shade rule requirements may further limit harvest under option 1 for some stands.

The effects on small businesses appear to be similar to the industry as a whole for both proposals 1 and 2, and none of the proposals appear to have disproportionate negative impacts on small forest landowners when compared to Washington timber industry businesses overall. The major tasks involved in timber sale planning would not change as a result of this rule making, and timber harvests within riparian management zones will continue to be a small percentage of the overall harvest unit. Therefore, it is improbable that this rule

making would have an effect on small business employment in the state.

Benefits are identified as the value of achieving DFC in riparian areas, but are not quantified due to the lack of available relevant information.

Consideration should also be given to the distribution of costs and benefits. While the benefits accrue generally, the costs are borne by a limited number of forest practices applications. The effects on individual applications vary considerably. Using option 1, about half of the FPAs are unaffected by changing the bapa-140 target to 325 (proposal 1), because they have more than sufficient basal area, and would still be constrained by the fifty-seven trees-per-acre requirement. On the other hand, as mentioned previously, 13% of the FPAs would be precluded from option 1 harvesting under proposal 1, because they are unable to meet bapa-140 in the core plus inner zones. Some of these stands might be more likely to meet DFC with an appropriate thinning.

ACKNOWLEDGMENT: We would like to thank Steven B. McConnell, Upper Columbia United Tribes, for providing the data essential to this analysis, through both the CMER desktop analysis referenced throughout this document and his willingness to work with DNR staff during this analysis.

RESOURCES CITED: McConnell, S. 2007. An Overview of the DFC Model and an Analysis of Westside Type F Riparian Prescriptions and Projected Stand Basal Area per Acre. Project Title: The FPA Desktop Analysis. Contract No. PSC 07-22.

Schuett-Hames, D., R. Conrad, A. Roorbach. 2005. Validation of the Western Washington Riparian Desired Future Condition Performance Targets in the Washington State Forest Practice Rules with Data from Mature, Unmanaged, Conifer-Dominated Riparian Stands. Northwest Indian Fisheries Commission, CMER No. 05-507.

¹ For CBA requirements, see RCW 34.05.328 - The Washington state legislature.

² For SBEIS requirements, see RCW 19.85.040 - The Washington state legislature.

³ See forest practices rules - Title 222 WAC for details.

⁴ This study is available at http://www.dnr.wa.gov/forestpractices/adaptive-management/cmer/publications/CMER_05_507.pdf.

⁵ Refer to WAC 222-30-021 (1)(b)(ii)(B)(I)(II), and Section 7 of the forest practices board manual for existing rules and information pertaining to riparian zone harvest.

⁶ Outer zone trees are included in the analyses to ensure the comparability of the scenarios.

⁷ See <http://www.dnr.wa.gov/forestpractices/adaptive-management/cmer/projects/>.

⁸ Under proposal 1's option 2, harvesters that are constrained by the minimum floor area may harvest up to one-half of the trees in the outer riparian zone on a basal area for basal area basis (maintaining a minimum of ten trees per acre), reported as a basal area credit. Increasing bapa-140 targets will affect this credit, but since the model provides insufficient information to calculate this, these trees have been ignored for this analysis.

⁹ The effects of shade rule requirements are not included in the data provided in tables 2 and 3, but are discussed below.

¹⁰ Existing rules also allow for the harvest of ten outer zone trees on a basal-area-by-basal-area basis.

¹¹ Stumpage price is net of costs; costs are assumed to be \$150/mbf.

¹² This is done in order to allow comparison among like groups; in this case, the subset of stands that may use either option 1 or option 2.

¹³ Forests and Fish Report, 1999. Appendix B (I)(b). This report may be accessed at <http://www.dnr.wa.gov/forestpractices/adaptivemanagement/>, under "Adaptive Management Links."

A copy of the statement may be obtained by contacting Gretchen Robinson, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@dnr.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Gretchen Robinson, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@dnr.wa.gov. Note: The small business economic impact statement and the preliminary cost-benefit analysis are combined in the document, *Preliminary Economic Analysis, Forest Practices Rule Making, Affecting Timber Harvest in Riparian Zones in Western Washington*.

June 17, 2008
Victoria Christiansen
Chair

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-30-021 *Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See ~~((the))~~ board manual section 7 for riparian design and layout guidelines.

***(1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land, the management harvest option, and the bankfull width of the stream. See tables for management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual section 1.

(a) **Core zones.** No timber harvest or construction is allowed in the core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) **Inner zones.** Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull

width, and management option. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions. The following table defines basal area targets when the stand is 140 years old.

Site Class	Desired future condition target basal area per acre (at 140 years)
I	((285)) 325 sq. ft.
II	((275)) 325 sq. ft.
III	((258)) 325 sq. ft.
IV	((224)) 325 sq. ft.
V	((190)) 325 sq. ft.

Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target. The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.

(i) **Hardwood conversion in the inner zone.** When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the combined core and inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than 57 conifer trees per acre 8 inches or larger dbh in the conversion area;
- There are fewer than 100 conifer trees per acre larger than 4 inches dbh in the conversion area;
- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can be successfully reforested with conifer and support the development of conifer stands;
- The landowner owns 500 feet upstream and 500 feet downstream of the harvest unit;
- The core and inner zones contain no stream adjacent parallel roads;
- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the conversion activities, and meet shade requirements of WAC 222-30-040 or have a 75-foot buffer with trees at least 40 feet tall on both sides of the stream for 500 feet upstream and 500 feet downstream of the proposed harvest unit (or the length of the stream, if less);

- If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

- Each continuous conversion area is not more than 500 feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two conversion areas is at least half the length of the larger of the two conversion areas.

- Type S and F (Type 1, 2, or 3) Water: Up to 50% of the inner zone area of the harvest unit on one side of the stream may be converted provided that:

- ◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall or:

- ◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall.

- Not more than 25% of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

- Conifer trees larger than 20 inches dbh shall not be harvested;

- Not more than 10% of the conifer stems greater than 8 inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and

- The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all residual conifer trees within the conversion area including conifer trees less than 8 inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

- Reforest the conversion area with **conifer** tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and

- Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of 150 conifer trees greater than 8 inches dbh per acre.

- Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimizing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) **Harvest options.**

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	RMZ width	Core zone width (measured from outer edge of bank-full width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
			I	200'	50'	83'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way

as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory

to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.
- Thinning cannot decrease the proportion of conifer in the stand.

- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of 75 feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.
- The number of residual conifer trees per acre in the inner zone will equal or exceed 57.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) **Option 2. Leaving trees closest to the water.** Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:

- Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;
- Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;

- A minimum of 20 conifers per acre, with a minimum 12-inch dbh, will be retained in any portion of the inner zone where harvest occurs. These riparian leave trees will not be counted or considered towards meeting applicable stand requirements nor can the number be reduced below 20 for any reason.
- Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.
- If (II) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area-for-basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.

Option 2. Leaving trees closest to water.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
				minimum floor distance (measured from outer edge of core zone)		minimum floor distance (measured from outer edge of core zone)		
I	200'	50'	84'	30'	84'	50'	66'	66'
II	170'	50'	64'	30'	70'	50'	56'	50'
III	140'	50'	44'	30'	**	**	46'	**

**Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.

(iii) **Where the basal area components of the stand requirement cannot be met** within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area (above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than 10 trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activities. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) **Outer zones.** Timber harvest in the outer zone must leave 20 riparian leave trees per acre after harvest. **"Outer zone riparian leave trees"** are trees that must be left after harvest in the outer zone in Western Washington. Riparian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The 20 riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of 12" dbh or greater are not available, then the next largest conifers must be left. If conifers are not present, riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following **sensitive features** to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be 8 inches dbh or greater and representative of the overstory canopy trees in or around the sensitive feature and may include both hardwood and conifer species. Sensitive features are:

- (I) Seeps and springs;
- (II) Forested wetlands;
- (III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (IV) Areas where riparian leave trees may provide windthrow protection;
- (V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).
- (VI) ~~(Archaeological)~~ Archaeological or historical sites registered with the Washington state ~~(office)~~ department of ~~(archeology)~~ archaeology and historic preservation. See WAC 222-16-050 (1)(g); or
- (VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of 12 inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in the board manual section 26. The landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of 10 trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

(A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.

(B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:

(I) Offsets will be measured on a basal area-for-basal area basis.

(II) Conifer in a CMZ equal to or greater than 6" dbh will offset conifer in the outer zone at a one-to-one ratio.

(III) Hardwood in a CMZ equal to or greater than 10" dbh will offset hardwood in the outer zone at a one-to-one ratio.

(IV) Hardwood in a CMZ equal to or greater than 10" dbh will offset conifer in the outer zone at a three-to-one ratio.

***(2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than 10% of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Sensitive site and RMZs protection along Type Np Waters.** Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A 50-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a 56-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a 56-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least 50% of a Type Np Waters' length must be protected by buffers on both sides of the stream (2-sided buffers). Buffered segments must be a minimum of 100 feet in length. If an operating area is located more than 500 feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than 1,000 feet in length, then buffer the Type Np Water according to the following table. If the percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

- (A) Low gradient areas;
- (B) Perennial water reaches of nonsedimentary rock with gradients greater than 20% in the tailed frog habitat range;
- (C) Hyporheic and ground water influence zones; and
- (D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority

areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

(i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.

(ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-30-021 *Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See ~~((the))~~ board manual section 7 for riparian design and layout guidelines.

*** (1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land, the management harvest option, and the bankfull width of the stream. See ~~((tables for))~~ management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the ~~((inner zone))~~ RMZ rules. See ~~((the))~~ board manual section 1.

(a) **Core zones.** No timber harvest or construction is allowed ~~((in))~~ within the fifty-foot core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corri-

dors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) **Inner zones.** Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull width, and management options as described in this section. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions of three hundred twenty-five square feet per acre for all site classes at age one hundred forty. The growth modeling program provided by the department must be used to calculate whether a particular stand meets the stand requirement and is on a trajectory towards the desired future condition basal area target. ~~((The following table defines basal area targets when the stand is 140 years old.~~

Site Class	Desired future condition target basal area per acre (at 140 years)
I	285 sq. ft.
II	275 sq. ft.
III	258 sq. ft.
IV	224 sq. ft.
V	190 sq. ft.

~~Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target. The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.)~~

(i) **Hardwood conversion in the inner zone.** When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the ~~((combined core and))~~ inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than ~~((57))~~ fifty-seven conifer trees per acre ~~((8))~~ eight inches or larger dbh in the conversion area;
- There are fewer than ~~((100))~~ one hundred conifer trees per acre larger than ~~((4))~~ four inches dbh in the conversion area;
- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can

be successfully reforested with conifer and support the development of conifer stands;

- The landowner owns ~~((500))~~ five hundred feet upstream and ~~((500))~~ five hundred feet downstream of the harvest unit;

- The core and inner zones contain no stream adjacent parallel roads;

- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the conversion activities, and meet shade requirements of WAC 222-30-040 or have a ~~((75))~~ seventy-five-foot buffer with trees at least ~~((40))~~ forty feet tall on both sides of the stream for ~~((500))~~ five hundred feet upstream and ~~((500))~~ five hundred feet downstream of the proposed harvest unit (or the length of the stream, if less);

- If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

- Each continuous conversion area is not more than ~~((500))~~ five hundred feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two conversion areas is at least half the length of the larger of the two conversion areas.

- Type S and F (Type 1, 2, or 3) Water: Up to ~~((50%))~~ fifty percent of the inner zone area of the harvest unit on one side of the stream may be converted provided that:

- ◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a ~~((75))~~ seventy-five-foot buffer of trees at least ~~((40))~~ forty feet tall or:

- ◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a ~~((75))~~ seventy-five-foot buffer of trees at least ~~((40))~~ forty feet tall.

- Not more than ~~((25%))~~ twenty-five percent of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

- Conifer trees larger than ~~((20))~~ twenty inches dbh shall not be harvested;

- Not more than ~~((10%))~~ ten percent of the conifer stems greater than ~~((8))~~ eight inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and

- The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all residual conifer trees within the conversion area including conifer trees less than ~~((8))~~ eight inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

- Reforest the conversion area with **conifer** tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and

- Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of ~~((150))~~ one hundred fifty conifer trees greater than ~~((8))~~ eight inches dbh per acre.

- Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimizing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) **Harvest options.**

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	Total RMZ width	((Core zone width width (measured from outer edge of bankfull width or outer edge of CMZ of water)))	Combined core and inner zone width (measured from outer edge of ((core zone)) bankfull width or outer edge of CMZ)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	((50'))	((83')) <u>133'</u>	((100')) <u>150'</u>	67'	50'
II	170'	((50'))	((63')) <u>113'</u>	((78')) <u>128'</u>	57'	42'

Site Class	Total RMZ width	((Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)))	Combined core and inner zone width (measured from outer edge of (core zone)) bankfull width or outer edge of CMZ)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
III	140'	((50'))	((43') <u>23'</u>)	((55') <u>105'</u>)	47'	35'
IV	110'	((50'))	((23') <u>73'</u>)	((33') <u>83'</u>)	37'	27'
V	90'	((50'))	((10') <u>60'</u>)	((18') <u>68'</u>)	30'	22'

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory

to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.
- Thinning cannot decrease the proportion of conifer in the stand.
- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of (~~75'~~) seventy-five feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.
- The number of residual conifer trees per acre in the inner zone will equal or exceed (~~57~~) fifty-seven.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) **Option 2. Leaving trees closest to the water.** (~~Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:~~

- ~~• Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;~~
- ~~• Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;~~
- ~~• A minimum of 20 conifers per acre, with a minimum 12-inch dbh, will be retained in any portion of the inner zone where harvest occurs. These riparian leave trees will not be~~

~~counted or considered towards meeting applicable stand requirements nor can the number be reduced below 20 for any reason:~~

- ~~• Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.~~
- ~~• If (II) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area for basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.)~~ The objective of this option is to retain an RMZ width that will maintain current riparian functions. The stand must provide sufficient residual conifer trees in the combined core and inner zones to reach the target basal area of three hundred twenty-five square feet per acre at age one hundred forty.

Inner zone harvest may occur under option 2 if the projected future basal area within the combined width of the core and inner zones exceeds the target basal area. The combined core and inner zone width must be determined using the leaving trees closest to the water table below; the future basal area must then be calculated using the growth model program provided by the department. The model will produce a minimum inner zone floor width. (The minimum floor width extends outward from the outer edge of the fifty-foot core zone.)

Harvest is permitted under option 2 in the following order:

- If the projected basal area within the combined core and inner zones exceeds the target basal area, an even-age

harvest may occur starting at the outermost portion of the inner zone and progressing to the inner zone floor edge.

In any portion of the inner zone where an even-age harvest method occurs, at least twenty conifer trees per acre with a minimum dbh of twelve inches must be retained. The basal area of these trees will be counted towards meeting applicable stand requirements.

- If the projected basal area within the combined core and inner zones still exceeds the target basal area, the conifer trees otherwise required to be left in the outer zone may be harvested on a basal-area-for-basal-area basis; however, only a maximum of ten conifer trees per acre may be harvested in the outer zone. (Tree counts, minimum size and placement of outer zone trees are specified below in (c) of this subsection.)

Option 2. Leaving trees closest to water.

Site class	Total RMZ width	((Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)))	Combined core and inner zone width (measured from outer edge of bankfull width or outer edge of CMZ)				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
			Core and inner zone width ((measured from outer edge of core zone))	minimum floor ((distance)) width (measured from outer edge of core zone)	Core and inner zone width (measured from outer edge of core zone)	minimum floor ((distance)) width (measured from outer edge of core zone)		
I	200'	((50'))	((84')) 134'	((30')) 80'	((84')) 134'	((50')) 100'	66'	66'
II	170'	((50'))	((64')) 114'	((30')) 80'	((70')) 120'	((50')) 100'	56'	50'
III	140'	((50'))	((44')) 94'	((30')) 80'	((**)) 105'	((**)) 80'	46'	((**)) 35'
IV	110'		74'		83'	80'	36'	27'
V	90'		61'		68'		29'	22'

((**Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.))

(iii) **Where the basal area components of the stand requirement cannot be met** within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area (above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to

leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than ((40)) ten trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activities. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) **Outer zones.** Timber harvest in the outer zone must leave ((20)) twenty riparian leave trees per acre after harvest. "**Outer zone riparian leave trees**" are trees that must be left after harvest in the outer zone in Western Washington. Ripar-

ian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The ~~(20)~~ twenty riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of ~~((12))~~ twelve inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of ~~((12"))~~ twelve inches dbh or greater are not available, then the next largest conifers must be left. If conifers are not present, riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following **sensitive features** to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be ~~((8))~~ eight inches dbh or greater and representative of the overstory canopy trees in or around the sensitive feature and may include both hardwood and conifer species. Sensitive features are:

- (I) Seeps and springs;
- (II) Forested wetlands;
- (III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (IV) Areas where riparian leave trees may provide windthrow protection;

(V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).

(VI) ~~((Archeological))~~ Archaeological or historical sites registered with the Washington state ~~((office))~~ department of ((archeology)) archaeology and historic preservation. See WAC 222-16-050 (1)(g); or

(VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of ~~((12))~~

twelve inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in ~~((the))~~ board manual section 26. The landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of ~~((40))~~ ten trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

(A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.

(B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:

(I) Offsets will be measured on a basal area-for-basal area basis.

(II) Conifer in a CMZ equal to or greater than ~~((6"))~~ six inches dbh will offset conifer in the outer zone at a one-to-one ratio.

(III) Hardwood in a CMZ equal to or greater than ~~((40"))~~ ten inches dbh will offset hardwood in the outer zone at a one-to-one ratio.

(IV) Hardwood in a CMZ equal to or greater than ~~((40"))~~ ten inches dbh will offset conifer in the outer zone at a three-to-one ratio.

***2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a ~~((30))~~ thirty-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than ~~((10%))~~ ten percent of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Sensitive site and RMZs protection along Type Np Waters.** Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A ~~((50))~~ fifty-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within ~~((50))~~ fifty feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within ~~((50))~~ fifty feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a ~~((56))~~ fifty-six-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a ~~((56))~~ fifty-six-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least ~~((50%))~~ fifty percent of a Type Np Waters' length must be protected by buffers on both sides of the stream ~~((2))~~ two-sided buffers). Buffered segments must be a minimum of ~~((100))~~ one hundred feet in length. If an operating area is located more than ~~((500))~~ five hundred feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than ~~((1,000))~~ one thousand feet in length, then buffer the Type Np Water according to the following table. If the percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

- (A) Low gradient areas;
- (B) Perennial water reaches of nonsedimentary rock with gradients greater than ~~((20%))~~ twenty percent in the tailed frog habitat range;
- (C) Hyporheic and ground water influence zones; and
- (D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

- (i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.
- (ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-30-021 *Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See the board manual section 7 for riparian design and layout guidelines.

***(1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land, the management harvest option, and the bankfull width of the stream. See tables for management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual section 1.

(a) **Core zones.** No timber harvest or construction is allowed in the core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) **Inner zones.** Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull width, and management option. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions. The following table defines basal area targets when the stand is 140 years old.

Site Class	Desired future condition target basal area per acre (at 140 years)
I	((285)) 325 sq. ft.
II	((275)) 325 sq. ft.
III	((258)) 325 sq. ft.
IV	((224)) 325 sq. ft.
V	((190)) 325 sq. ft.

Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target.

The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.

(i) **Hardwood conversion in the inner zone.** When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the combined core and inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than 57 conifer trees per acre 8 inches or larger dbh in the conversion area;
- There are fewer than 100 conifer trees per acre larger than 4 inches dbh in the conversion area;
- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can be successfully reforested with conifer and support the development of conifer stands;
- The landowner owns 500 feet upstream and 500 feet downstream of the harvest unit;
- The core and inner zones contain no stream adjacent parallel roads;
- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the conversion activities, and meet shade requirements of WAC 222-30-040 or have a 75-foot buffer with trees at least 40 feet tall on both sides of the stream for 500 feet upstream and 500 feet downstream of the proposed harvest unit (or the length of the stream, if less);
- If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

- Each continuous conversion area is not more than 500 feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two conversion areas is at least half the length of the larger of the two conversion areas.
- Type S and F (Type 1, 2, or 3) Water: Up to 50% of the inner zone area of the harvest unit on one side of the stream may be converted provided that:
 - ◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall or:
 - ◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall.

- Not more than 25% of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

- Conifer trees larger than 20 inches dbh shall not be harvested;
- Not more than 10% of the conifer stems greater than 8 inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and

- The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all residual conifer trees within the conversion area including conifer trees less than 8 inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

- Reforest the conversion area with **conifer** tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and
- Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of 150 conifer trees greater than 8 inches dbh per acre.

- Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimizing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) **Harvest options.**

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
			I	200'	50'	83'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.

- Thinning cannot decrease the proportion of conifer in the stand.

- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of 75 feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.

- The number of residual conifer trees per acre in the inner zone will equal or exceed 57.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) **Option 2. Leaving trees closest to the water.** Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:

- Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;
- Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;
- A minimum of 20 conifers per acre, with a minimum 12-inch dbh, will be retained in any portion of the inner zone

where even-age harvest occurs. These riparian leave trees will ~~((not))~~ be counted ~~((or considered))~~ towards meeting applicable stand requirements ~~((or can))~~. The number of riparian leave trees cannot be reduced below 20 for any reason.

- Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.
- If (II) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area-for-basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.

Option 2. Leaving trees closest to water.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
				minimum floor distance		minimum floor distance		
			(measured from outer edge of core zone)	(measured from outer edge of core zone)	(measured from outer edge of core zone)	(measured from outer edge of core zone)		
I	200'	50'	84'	30'	84'	50'	66'	66'
II	170'	50'	64'	30'	70'	50'	56'	50'
III	140'	50'	44'	30'	**	**	46'	**

**Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.

(iii) **Where the basal area components of the stand requirement cannot be met** within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area

(above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than 10 trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activities. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) **Outer zones.** Timber harvest in the outer zone must leave 20 riparian leave trees per acre after harvest. "**Outer zone riparian leave trees**" are trees that must be left after harvest in the outer zone in Western Washington. Riparian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The 20 riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of 12" dbh or greater are not available, then the next largest conifers must be left. If conifers are not present, riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following **sensitive features** to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be 8 inches dbh or greater and representative of the overstory canopy trees in or around the sensitive feature and may include both hardwood and conifer species. Sensitive features are:

- (I) Seeps and springs;
- (II) Forested wetlands;
- (III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (IV) Areas where riparian leave trees may provide windthrow protection;
- (V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).
- (VI) ~~((Archeological))~~ Archaeological or historical sites registered with the Washington state ~~((office))~~ department of ((archeology)) archaeology and historic preservation. See WAC 222-16-050 (1)(g); or
- (VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of 12 inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(ii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in the board manual section 26. The landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of 10 trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

- (A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.
- (B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:
 - (I) Offsets will be measured on a basal area-for-basal area basis.
 - (II) Conifer in a CMZ equal to or greater than 6" dbh will offset conifer in the outer zone at a one-to-one ratio.
 - (III) Hardwood in a CMZ equal to or greater than 10" dbh will offset hardwood in the outer zone at a one-to-one ratio.
 - (IV) Hardwood in a CMZ equal to or greater than 10" dbh will offset conifer in the outer zone at a three-to-one ratio.

***(2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than 10% of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Sensitive site and RMZs protection along Type Np Waters.** Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A 50-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a 56-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a 56-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least 50% of a Type Np Waters' length must be protected by buffers on both sides of the stream (2-sided buffers). Buffered segments must be a minimum of 100 feet in length. If an operating area is located more than 500 feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than 1,000 feet in length, then buffer the Type Np Water according to the following table. If the percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

- (A) Low gradient areas;
- (B) Perennial water reaches of nonsedimentary rock with gradients greater than 20% in the tailed frog habitat range;
- (C) Hyporheic and ground water influence zones; and
- (D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

(i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.

(ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings

through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

WSR 08-13-088
PROPOSED RULES
OLYMPIC REGION
CLEAN AIR AGENCY
 [Filed June 17, 2008, 2:52 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Olympic Region Clean Air Agency Regulations, Rule 6.3 Asbestos and Rule 3.5 Asbestos Fees. The asbestos rule covers notification, procedures for emission control, and disposal for asbestos abatement and demolition projects. The permit fees for asbestos abatement and demolition are being increased.

Hearing Location(s): Olympic Region Clean Air Agency, 2940 B Limited Lane N.W., Olympia, WA 98502, on August 13, 2008, at 10:00 a.m.

Date of Intended Adoption: August 13, 2008.

Submit Written Comments to: Robert Moody, 2940 B Limited Lane N.W., Olympia, WA 98502, e-mail robert@orca.org, fax (360) 586-1044, by August 8, 2008.

Assistance for Persons with Disabilities: Contact Dan Nelson by August 4, 2008, or (360) 586-1044.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The asbestos rules and associated fees have not changed since 1993. As a result cost recovery does not cover program expenditures. Signifi-

cant changes to the rule include the elimination of the ten day waiting period for owner-occupied residential asbestos abatement/demolition, dismissal of permit requirements for asbestos projects that are less than ten linear feet or eleven square feet, and requiring AHERA protocols for demolition surveys. Other changes include additional definitions and updated description of practices and procedures related to abatement and demolition. These changes will improve customer relations by allowing smaller jobs to be accomplished without a ten-day waiting period and will entirely eliminate the need for permits for the smallest jobs. Fees are increasing in most project categories.

Reasons Supporting Proposal: Fee revenue has not covered the program expenses.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: Olympic Region Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Moody, 2940 B Limited Lane N.W., (360) 586-1044

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the Regulatory Fairness Act (chapter 19.85 RCW) because air pollution control authorities are not deemed state agencies (RCW 70.94.141)

A cost-benefit analysis is not required under RCW 34.05.328. Air pollution control authorities are not deemed to be state agencies (RCW 70.94.141).

June 17, 2008

Richard A. Stedman
 Executive Director

AMENDED SECTION

Rule 3.5 Asbestos Fees

Any (~~application~~) permit required by Rule 6.3.2(a) shall be considered incomplete until all the information required by Rule 6.3.2(a) is received by the Control Officer, or designee, and accompanied by the appropriate, nonrefundable fee. The (~~advance notification period and~~) appropriate fee shall be determined by Table 3.5a.

Table 3.5a Asbestos (~~Notification Period~~) and Demolition Fees

((Project Type)) Category	((Amount of material)) Type of Project	((Advanced Notification Period))	Application Fee	((Forms Required))
DEMOLITION PROJECTS				
Demolition	((AH)) Residential	((10 working days))	\$(2)35.00	((1-Application to perform a demolition 2-Certification that no known asbestos is present))
<u>Demolition</u>	<u>Commercial</u>		<u>\$60.00</u>	
<u>Emergency Demolition</u>	<u>All projects that normally require a 10 working day notification period</u>		<u>\$50.00 plus normal notification fee</u>	

<u>Category</u>	<u>Amount of material</u>		<u>Application Fee</u>	
ASBESTOS PROJECTS				
Asbestos ((Project) removed by owner of owner occupied residence	((Residential (owner-occupied)) All	((Prior notification-required))	\$((25)) 30.00	((Application to perform an asbestos project))
((Asbestos Project))	((<10 linear ft <11 square ft))	((Prior notification-required))	(((\$25.00))	((Application to perform an asbestos project))
1 - Asbestos Project	10-259 linear ft 11-159 square ft	((10 working days))	\$1((0))50.00	((Application to perform an asbestos project))
2 - Asbestos Project	260-999 linear ft 160-4,999 square ft	((10 working days))	\$325((0)).00	((Application to perform asbestos project))
3 - Asbestos Project	1,000-9,999 linear ft 5,000-49,999 square ft	((10 working days))	\$650((0)).00	((Application to perform asbestos project))
4 - Asbestos Project	10,000 + linear ft 50,000 + square ft	((10 working days))	\$1,((0))300.00	((Application to perform an asbestos project))
Annual Asbestos Project	Yearly limit of 260 linear ft on pipes 160 square ft other components	((Prior notification-required))	\$500.00	((Application to perform annually))
Amendments	All projects	((Prior notification-required))	1st and 2nd amendment at no charge \$25.00 charge for 3rd and ((amendment & after)) subsequent amendments	((Amended copy of approved application))
Emergency	All projects that normally require a 10 working day notification period	((Prior notification-required))	\$50.00 plus normal notification fee	((Emergency waiver request letter submitted by property owner.))

AMENDED SECTION

Rule 6.3 Asbestos

The Board of Directors of the Olympic Region Clean Air Agency has found that the use, production, and emission of air contaminants into the atmosphere in the ORCAA region poses a threat to the public health, safety, and welfare of the citizens of the region and causes degradation of the environment. Therefore the Board, in order to control the emission of toxic air pollutants and to provide uniform enforcement of air pollution control in its jurisdiction and to carry out the mandates and purposes of the Washington Clean Air Act, the Federal Clean Air Act, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) (40 CFR Part 61), declares the necessity of the adoption of these rules pertaining to air contaminants.

Rule 6.3.1 Definitions

When used in this Rule the following definitions shall apply:

"Adequately Wet" means sufficiently mixed, saturated, penetrated, or coated with a continuous fine mist of water or an aqueous solution to prevent visible emissions.

"AHERA Building Inspector" means a person who has successfully completed the training requirements for a building inspector established by EPA Asbestos Model

Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E.I.B.3) and whose certification is current.

"Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.

"Asbestos Containing Material (ACM)" means any material containing at least one percent (1%) asbestos as determined by polarized light microscopy using the Interim Method of the Determination of Asbestos in Bulk Samples contained in Appendix A of Subpart F in 40 CFR Part 763. Asbestos containing waste material includes asbestos containing material that has been disturbed or deteriorated in a way that is no longer an integral part of the structure or component, asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos containing material collected for disposal, asbestos contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. Asbestos containing waste material does not include samples of asbestos containing material taken for testing or enforcement purposes. This term does not include asbestos containing roofing material, regardless of asbestos content, when all of the following conditions are met:

(a) The asbestos containing roofing material is in good condition and is not peeling, cracking, or crumbling; and

(b) The binder is petroleum based, the asbestos fibers are suspended in that base, and the individual fibers are still encapsulated; and

(c) The binder still exhibits enough plasticity to prevent the release of asbestos fibers in the process of removing it; and

(d) The building, vessel, or structure containing the asbestos containing roofing material will not be demolished by burning or mechanical renovation/demolition methods that may release asbestos fibers.

"Asbestos Encapsulation" means the application of an encapsulant to the asbestos materials to control the release of asbestos fibers into the air.

"Asbestos Project" means the disturbance, destruction, salvage, or disposal of any asbestos material. ~~((construction, demolition, repair, remodeling, maintenance, or renovation of any public or private building(s), vessel, structure(s), or component(s) involving the demolition, removal, encapsulation, salvage, disposal, or disturbance of any asbestos containing material.))~~ This term includes the removal and disposal of asbestos containing waste material from manufacturing operations that combine asbestos containing material with any other material(s) to produce a product and the removal and disposal of stored asbestos containing material or asbestos containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other nonasbestos materials to seal or fill exposed areas where asbestos fibers may be released.

"Asbestos Survey" means an inspection using the procedures contained in 40 CFR 763.86 and 40 CFR 763.87, or an alternate method that has received prior written approval from the Control Officer, or designee, to determine whether materials or structures to be worked on, removed, disturbed, or demolished, contain asbestos. In residential dwellings, asbestos samples may be taken by the resident owner of the dwelling.

"Certified Asbestos Worker/Supervisor" means a person who is certified as required by the Washington State Department of Labor and Industries under WAC 296-65-010, WAC 296-65-012, and WAC 296-65-030 to undertake an asbestos project or, for federal employees working in a federal facility, trained in an equally effective program approved by the United States Environmental Protection Agency.

"Collected for Disposal" means asbestos containing material properly sealed in a leak tight, labeled container while adequately wet.

"Component" means any equipment, pipe, structural member, or other item covered, coated, or manufactured from asbestos containing material.

"Controlled Area" means an area to which only certified asbestos workers, or other persons authorized by the Washington Industrial Safety and Health Act, have access. For residential dwellings, the controlled area is the interior of the dwelling, garage, or fenced area that is secured, and where warning signs are posted accordingly.

"Demolition" means the wrecking, dismantling, fire department training, or removal of any load supporting structural member that makes that portion of the structure unus-

able. ~~((on, or burning of, any building, vessel, structure, or portion thereof. For residential dwellings, a demolition means the wrecking, dismantling, or removal of any load bearing structural member by the use of heavy equipment (such as a backhoe) or the burning of the building thereby rendering it as permanently uninhabitable, that portion of the building being demolished.))~~ Dismantling an owner occupied residential dwelling, or portion thereof, by hand does not constitute a demolition.

"Emergency ((Renovation Operation))" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.

"Facility" means any institutional, commercial, public, industrial, or residential structure, installation, building, (including any building containing condominiums or individual dwelling units operated as a residential cooperative) any vessel; ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling, is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use of function.

"Fugitive Source" means any sources of emissions not controlled by an air pollution control device.

"HEPA Filter" means a High Efficiency Particulate Air filter found in respirators and vacuum systems capable of filtering 0.3 micrometer mean aerodynamic diameter particles with 99.97% efficiency.

"Leak Tight Container" means a dust tight container, at least 6 mil thick, that encloses the asbestos containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and polyethylene plastic.

"Local Exhaust Ventilation and Collection System" means a system as described in Appendix J of EPA 560/565-024 (Guidance for Controlling Asbestos Containing Materials in Buildings).

"Owner or Operator" means any person who owns, leases, operates, controls, or is responsible for activities at an asbestos project site, or an asbestos project operation, or both.

"Owner Occupied Residential Dwelling" means any ~~((nonmultiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is owned, used, occupied, or intended or designed to be occupied by one family as their domicile.))~~ single family housing unit which is permanently or seasonally occupied by the owner of the unit both prior to and after renovation or demolition. This term includes houses, mobile homes, trailers, houseboats, and houses with a 'mother-in-law apartment' or 'guest rooms.' This term does not include structures that are to be demolished or renovated as part of a commercial or public project. Nor does this term include any mixed-use building, structure, or installation that contains a residential unit, or any building that is leased, ~~((or))~~ used as a rental ~~((or))~~, or for commercial purposes.

"Renovation" means the altering of a structure in a way that removes structural supports and/or other framing, but does not render the building uninhabitable.

"Visible Asbestos Emissions" means any asbestos containing materials that are visually detectable without the aid of instruments. ~~((This term does not include condensed uncombined water vapor.))~~

"Waste Generator" means any owner or operator of a source whose act or process produces asbestos containing waste material.

"Waste Shipment Record" means the shipping document required to be originated and signed by the owner or operator, used to track and substantiate the disposition of asbestos containing waste material.

"Work Day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

Rule 6.3.2 Notification Requirement ~~((and Fees))~~

(a) Application Requirements - Applicability. It shall be unlawful for any person to cause or allow work on an asbestos ~~((project))~~ or demolition project unless the owner or operator has obtained written approval from the Control Officer, or designee, as follows:

(1) A written ~~((Application to Perform an Asbestos Project))~~ Asbestos Permit" or a ~~((n))~~ ~~((Application to Perform a))~~ Demolition Permit" shall be submitted on Agency provided forms by the owner or operator for approval by the Control Officer, or designee, before any work on an asbestos project or demolition begins. It shall be unlawful for any person to cause or allow any false or misrepresenting information on either form.

(2) The written ~~((application))~~ permit for asbestos removal and/or demolition shall be accompanied by the appropriate ~~((application))~~ fee, found in Table 3.5(a) ~~((and a certification that an asbestos survey has been conducted))~~.

(3) The written ~~((application))~~ permit for a demolition shall also include a certification that there is no known asbestos containing material remaining in the area of the demolition.

(4) The duration of an asbestos project or demolition shall have a starting and completion date that is commensurate with the amount of work involved and shall not exceed one (1) year beyond the original starting date ~~((and shall have a starting and completion date that is commensurate with the amount of work involved))~~.

(5) A copy of the approved ~~((application))~~ permit and asbestos survey and all subsequent amendments shall be available for inspection at the asbestos project or demolition site.

(6) ~~((Upon completion of an asbestos project or demolition, a written "Notice of Completion" shall be filed with the Control Officer.))~~

(7) Submission of an ~~((Application to Perform an))~~ Asbestos ~~((Project))~~ Permit" shall be prima facie evidence that the asbestos project involves asbestos containing material.

(8) ~~((Application))~~ Permits for multiple asbestos projects may be filed on one form, if the following criteria are met:

(i) The work will be performed continuously by the same contractor; and

(ii) The structures are in a contiguous group and the property owner has ~~((all have))~~ the same original post office box or mailing address; and

(iii) All asbestos, renovation or demolition projects are bid as a group under the same contract: ~~((The asbestos project specifications regarding location and dates are provided in detail;))~~ and

(iv) ~~((All asbestos projects are bid as a group under the same contract.))~~ The project specifications regarding location and dates are provided in detail in the form of a work plan. The work plan submitted must include:

1. a map of the structures involved in the project;
2. the site address for each structure;
3. the amount and type of asbestos containing material in each structure (for structures with ACM);
4. the schedule for performing asbestos project and demolition work;

5. a copy of the asbestos survey for all structures that do not contain asbestos containing materials; and

6. any other information requested.

(b) ~~((Application))~~ Permit Requirements - Advance Notification Period ~~((and Fee))~~. Any ~~((application))~~ permits required by Rule 6.3.2(a) shall be considered incomplete until all the information required by Rule 6.3.2(a) is received by the Control Officer, or designee, and accompanied by the appropriate, nonrefundable fee. The ~~((advance notification period and))~~ appropriate fee shall be determined by Table 3.5(a):

(c) The notification for either an asbestos or demolition project shall be 10 working days, unless the project falls into a category below:

(1) The project is deemed an emergency.

(2) Prior Notification is required for removal and disposal of the following nonfriable asbestos containing materials: caulking, window-glazing, or roofing (being removed by mechanical means). All other asbestos project and demolition requirements remain in effect.

(3) Prior Notification is required for asbestos removal or demolitions involving owner-occupied, single-family residences.

(d) Annual ~~((Applications))~~ Permits. In addition to the ~~((application))~~ permit requirement of Rule 6.3.2(a) and 6.3.2(b), the owner or operator of a facility may file for approval by the Control Officer, or designee, an annual written ~~((application))~~ permit to conduct asbestos projects on one or more buildings, vessels, or structures at the facility during each calendar year for the purpose of scheduled maintenance or emergency repairs. The requirements of Rule 6.3.2 (a)(1) through 6.3.2 (a)(4), 6.3.2 (a)(6), and 6.3.2(b) shall not apply to asbestos projects undertaken during the calendar year at the applicable facility if all of the following conditions are met:

(1) Annual ~~((Application))~~ Permit - Restrictions.

(i) The annual written ~~((application))~~ permit shall be filed for approval by the Control Officer, or designee, before commencing work on any asbestos project to be specified in an annual ~~((application))~~ permit.

(ii) The total amount of asbestos containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this rule shall be limited to less than 260 linear feet on pipe and 160 square feet on other components.

(iii) The ~~((application))~~ permit requirements of Rules 6.3.2(a) and 6.3.2(b) shall apply to any asbestos project involving at least 260 linear feet on pipes or 160 square feet on other components for each building, vessel, or structure at the facility, including residential dwellings.

(iv) A copy of the written annual ~~((application))~~ permit shall be available for inspection at the property owner or operator's office until the end of the calendar year.

(v) Asbestos containing waste material generated from asbestos projects filed under an annual ~~((application))~~ permit may be stored for disposal at the facility if all of the following conditions are met:

(A) All asbestos containing waste material shall be treated in accordance with Rules 6.3.4 (a)(1), 6.3.4 (a)(2), and 6.3.4 (a)(3);

(B) Accumulated asbestos containing waste material collected during each calendar quarter shall be kept in a controlled storage area posted with one (1) or more asbestos warning signs and accessible only to authorized persons; and

(C) All stored asbestos containing waste material shall be deposited at a waste disposal site within ninety (90) calendar days after collection for disposal unless the asbestos containing waste is handled as dangerous waste in accordance with chapter 173-303 WAC. The waste disposal site shall be operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the appropriate health department within the ~~((Authority's))~~ Agency's jurisdiction.

(2) Annual ~~((Application))~~ Permit - Reporting Requirements and Fees. Annual written ~~((applications))~~ permit required by Rule 6.3.2(c) shall be submitted by the facility owner or operator on forms provided by the Agency and filed for approval by the Control Officer, or designee, accompanied by the annual fee stated in Rule 3.5.

(3) Annual ~~((Application))~~ Permit - Quarterly Reporting Requirements. In addition to the written annual ~~((application))~~ permit requirements of Rule 6.3.2(c), the facility owner or operator shall submit quarterly written reports to the Control Officer, or designee, within fifteen (15) days after the end of each calendar quarter.

(4) Work Done Without Notification - Any work on an asbestos project, renovation, or demolition, for which notification is required, and is commenced or performed prior to obtaining approval from the Control Officer, or designee, constitutes a violation of this Rule.

(e) ~~((Application))~~ Permit Requirements - Amendments. It shall be unlawful for any person to cause or allow any deviation from information contained in a written ~~((application))~~ permit unless an amended ~~((application))~~ permit has been received and approved by the Control Officer, or designee. Amended ~~((application))~~ permits required by this rule shall be filed by the original applicant, received by the Control Officer, or designee, no later than the last filed completion date, and are limited to the following revisions:

(1) A change in the job size category because of additional asbestos containing material. In this case, the fee shall

be increased accordingly and the fee shall be equal to, but not exceed, the fee amount provided for each size category specified in Rule 3.5;

(2) The asbestos project, renovation, or demolition starting or completion date, provided that the total duration of the work does not exceed one (1) calendar year beyond the original ~~((starting))~~ submission date. ~~((The commencement date of the original advance notification period shall apply with no additional waiting period required for amended applications filed in accordance with Rule 6.3.2(d) and approved by the Control Officer. If an amended application results in a job size category that requires a waiting period as specified in Rule 3.5 and the original application did not required a waiting period, the advance notification period shall commence on the approval date of the original application;))~~ If the appropriate waiting period has passed, further waiting is not required. If a waiting period is required, it shall be based on the original submission date.

(3) Name, mailing address, and telephone number of the owner or operator of the asbestos project site or operation;

(4) Waste disposal site, provided the revised waste disposal site is operated in accordance with the provisions of 40 CFR 61.154 or 40 CFR 61.155 and approved by the appropriate health department within the ~~((Authority's))~~ Agency's jurisdiction; and

~~((5))~~ ~~((Method of removal or compliance procedures, provided the revised plan meets the asbestos emission control and disposal requirements of Rule 6.3.3 and 6.3.4;))~~

(6) Description, size (total square feet or number of floors), and approximate age of the building, vessel, or structure at the original address or location; and)

(7) Any other information requested by the Control Officer, or designee.

(f) Opportunity for Amendment - In no case shall an amendment be accepted and approved by the Agency if it is filed after the last completion date on record. In the case of additional work to be performed after the last completion date on record, a new permit shall be submitted to the Agency and shall be accompanied by the appropriate nonrefundable fee as set forth in Table 3.5(a) of these Regulations.

(g) Advance Notification Period - Exemptions (Emergency). The Control Officer, or designee, may waive the required ten working day advance notification period in Rule ~~((3.5))~~ 6.3.2 for an asbestos project or demolition if the facility owner demonstrates to the Control Officer, or designee, that there is an emergency as follows:

(1) There was a sudden, unexpected event that resulted in a public health or safety hazard; or

(2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage; or

(3) Asbestos containing materials encountered that were not identified during the asbestos survey; or

(4) The project must proceed to avoid imposing an unreasonable financial burden to the property owner.

The request for an Emergency Project must meet the requirements below:

(1) Emergency Asbestos Project. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for an asbestos

project. The request shall be submitted for approval by the Control Officer, or designee, and be accompanied by the required ~~((application))~~ permit and appropriate fee as required by Rules 3.5, 6.3.2(a), and 6.3.2(b). Any request for approval of an emergency asbestos project shall include, at a minimum:

(i) The complete name, mailing address, and telephone number of the facility owner or operator, including city(;) and zip code(~~(-and county))~~);

(ii) The complete street address or location of the asbestos project site, including the city(;) and zip code(~~(-and county))~~);

(iii) A description of the sudden and unexpected event including the date ~~((and hour that))~~ the emergency occurred; and

(iv) An explanation of how the sudden and unexpected event has caused an emergency condition.

(2) Government Ordered Demolition. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for a demolition if the request is accompanied by a copy of an order from a federal, state, or local government agency that requires demolition before the ten (10) working day advance notification period has elapsed. The request and copy of the order shall be submitted for approval by the Control Officer, or designee, and be accompanied by the required ~~((applications))~~ permits and appropriate fee as required by Rules 3.5, 6.3.2(a) and 6.3.2(b). Any request for approval of an emergency demolition shall include, at a minimum:

(i) The complete name, mailing address, and telephone number of the owner or operator of the facility and the asbestos/demolition project including the city(;) and zip code(~~(-and county))~~);

(ii) The complete street address or location of the demolition site, including the city(;) and zip code(~~(-and county))~~);

(iii) The name, title, and authority of the government representative who has ordered the demolition;

(iv) The reason why the demolition was ordered; and

(v) The dates on which the order was received and the demolition was ordered to begin.

Rule 6.3.3 Procedures for Asbestos Emission Control

(a) Asbestos Project - Requirements. It shall be unlawful for any person to cause or allow work on an asbestos project unless ~~((an asbestos survey has been conducted and))~~ the following procedures are employed:

(1) Any work on an asbestos project shall be performed by certified asbestos workers under the direct, onsite supervision of a certified asbestos supervisor. This certification requirement shall not apply to ~~((certain limited))~~ asbestos projects conducted in an owner-occupied, single family residence performed by the resident owner of the dwelling in accordance with Rule 6.3.3(b) ((for residential dwellings)).

(2) The asbestos project shall be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area shall be restricted to authorized personnel only, including occasions when asbestos abatement is not actively occurring (e.g., when workers are on break or temporarily off-site.)

(3) All asbestos containing material shall be kept adequately wet while being removed from any structure, building, vessel, or component.

(4) All asbestos containing material that has been removed or may have fallen off components during the course of an asbestos project shall be:

(i) Kept adequately wet until collected for disposal; and

(ii) Collected for disposal at the end of each working day; and

(iii) Contained in a controlled area at all times until transported to a waste disposal site; and

(iv) Carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise handled in such a manner that may risk further damage to them; or

(v) Transported to the to the ground via dust tight chutes or containers if they have been removed or stripped more than 50 feet above ground level and were not removed as a unit or in sections.

(5) The exterior of each leak-tight container shall be free of all asbestos residue and shall be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.

(6) No visible emissions shall result from an asbestos project.

(7) Mechanical assemblies or components covered, coated, or manufactured from asbestos containing material, removed as a unit or in sections, shall be contained in a leak tight wrapping after wetting and labeled in accordance with Rule 6.3.4 (a)(1)(iii).

(i) For large components such as boilers, steam generators, and large tanks, the asbestos containing material is not required to be removed or stripped if the components can be removed, stored, transported, and deposited at a waste disposal site or reused without disturbing or damaging the asbestos.

(ii) Metal components such as valves, fire doors, and reactor vessels that have internal asbestos containing material may avoid wetting and leak tight wrapping if:

(A) All access to the asbestos containing material is welded shut; or

(B) The component has mechanical seals in place that separate the asbestos containing material from the environment and these seals cannot be removed by hand; and

(C) The components are labeled in accordance with Rule 6.3.4 (a)(1)(iii).

(8) Local exhaust ventilation and collection systems used on an asbestos project shall:

(i) Be maintained to ensure the integrity of the system; and

(ii) When feasible, have one or more transparent plastic or glass viewing ports installed on the walls of the enclosure in such a manner that will allow for viewing of all components inside the enclosure. When available, existing windows may be utilized for viewing ports.

(9) Local exhaust ventilation and collection systems, control devices, and vacuum systems, used on an asbestos project shall be equipped with a HEPA exhaust filter, maintained in good working order, and exhibit no visible emissions.

(10) It shall be unlawful for any person to create or allow a condition that results in the disturbance, or likely disturbance, of asbestos containing material (e.g., not removing all asbestos containing material in a structure scheduled for demolition or partially removing asbestos containing material and leaving remaining asbestos containing material in a state that makes it more susceptible to being disturbed, or leaving it on the ground, outside and open to the environment.

(b) Asbestos Project - Exemptions for Residential Dwellings. The requirements of 6.3.3 (a)(1) (~~shall not apply to asbestos projects conducted in a residential dwelling by the resident owner of the dwelling, except that the requirements of 6.3.3 (a)(1))~~) shall not apply to the removal of asbestos on furnace interiors and direct applied mudded asbestos insulation on hot water heating systems (~~, which may not be removed by the resident owner~~). This work must be done by asbestos certified individuals in accordance with Washington State Labor and Industries or Occupational Safety Health Administration standards.

(c) Renovation - Requirements. It shall be unlawful for any person to cause of allow any renovation unless prior to renovation, the property owner or the owner's agent obtains an asbestos survey, or can otherwise competently declare the material being removed as not containing asbestos and file appropriate permits.

(d) Demolition - Requirements. It shall be unlawful for any person to cause or allow the demolition of any building, vessel, structure, or portion thereof, unless all asbestos containing materials have been removed from the area to be demolished. It shall be unlawful for any person to cause or allow any demolition that would disturb asbestos containing material or prevent access to the asbestos containing material for removal and disposal.

(e) Demolition - Asbestos Removal Exemptions. Asbestos containing material need not be removed before the demolition of any building, vessel, structure, or portion thereof if:

(1) The asbestos containing material is on a component that is encased in concrete or other material determined by the Control Officer, or designee, to be equally effective in controlling asbestos emissions. In this case, the (~~(application))~~ permit requirements of Rule 6.3.2 shall apply and these materials shall be kept adequately wet whenever exposed during demolition until disposed of in accordance with Rule 6.3.4 (a)(2); or

(2) The asbestos containing material could not be removed prior to demolition because it (~~was~~) is not accessible until after demolition (~~(began))~~ begins. In this case, the (~~(application))~~ permit requirements of Rule 6.3.2 shall apply and the exposed asbestos containing material and asbestos contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Rule 6.3.4 (a)(2); or

(3) The material was not accessible for removal because of hazardous conditions. Such conditions may include environments that are contaminated by toxic substances, structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. Under such conditions, the facility owner or operator may submit a signed written request for conditional approval by the Control Officer, or

designee, to waive the requirements of Rule 6.3.3(c). In this case, the (~~(application))~~ permit requirements of Rule 6.3.2 shall apply and the exposed asbestos containing material and asbestos contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Rule 6.3.4 (a)(2). Evidence of the hazardous condition, as documented by a state or local government agency, or other competent person, shall accompany the written request in addition to the (~~(application))~~ permit and appropriate fee as required by Rule 6.3.2. The request for exemption from Rule 6.3.3(c) shall include, at the minimum:

(i) The complete name, mailing address, and telephone number of the owner or operator of the facility, including the city(~~(:))~~ and zip code(~~(, and county))~~)

(ii) The complete street address or location of the demolition site, including the city(~~(:))~~ and zip code, (~~(and county))~~;

(iii) The name, title, and authority of the (~~(state or local government representative))~~ person who has determined the hazardous condition;

(iv) A description of the hazardous condition that prevents the removal of asbestos containing material prior to demolition, including the amount, type, and specific location(s) within the structure of such materials; and

(v) The procedures that will be used to prevent the release of asbestos fibers into the ambient air.

(f) Alternative Control Measures. The owner or operator of an asbestos project may submit a signed written request to use an alternative control measure that is equally effective in controlling asbestos emissions, for (~~(conditionally))~~ (~~(approved))~~ approval by the Control Officer, or designee. The written request shall include, at a minimum:

(1) The complete name, mailing address, and telephone number of the owner or operator of the asbestos project, including the city and zip code;

(2) The complete street address or location of the site, including the city(~~(:))~~ and zip code(~~(, and the county))~~);

(3) A description of the material, including the type and percentage of asbestos in the material, total amount of material involved, and the specific location(s) of the material on the site; and

(4) The reason why an alternative control measure is required and a description of the proposed alternative control measure to be employed, including the procedures that will be used to prevent the release of asbestos fibers into the ambient air.

Rule 6.3.4 Disposal of Asbestos Containing Waste Material

(a) Disposal Requirements. It shall be unlawful for any person to cause or allow work on an asbestos project unless the following procedures are employed during the collection, processing, packaging, transporting, or deposition of any asbestos containing material:

(1) Treat all asbestos containing waste material as follows:

(i) Adequately wet all asbestos containing waste material and mix asbestos waste from control devices, vacuum systems, or local ventilation and collection systems with water to form a slurry;

(ii) After wetting, seal all asbestos containing waste material in leak tight containers or wrapping to ensure that

they remain adequately wet when deposited at a waste disposal site;

(iii) Permanently label wrapped materials and each container with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the Occupational Safety and Health Administration. Permanently mark the label with the date the material was collected for disposal, the name of the waste generator, the name and affiliation of the certified asbestos supervisor, and the location at which the waste was generated;

(iv) Ensure that the exterior of each container is free of all asbestos residue; and

(v) Exhibit no visible emissions during any of the operations required by this rule.

~~(2)~~ All asbestos containing waste material shall be deposited within ten (10) calendar days after collection for disposal at a waste disposal site operated in accordance with the provisions of 40 CFR 61.154 or 40 CFR 61.155 and approved by the appropriate (health) city or county department (with jurisdiction). The requirement is modified by Rule 6.3.2(c) for asbestos containing waste material from asbestos projects conducted under annual ~~((applications))~~ permit.

~~(3)~~ All asbestos containing waste materials, handled as dangerous waste in accordance with chapter 173-303 WAC, shall be excluded from the requirements of Rule 6.3.4 (a)(1) and 6.3.4 (a)(2).

(b) Alternative Storage Method - Asbestos Storage Facility. The owner or operator of a licensed asbestos abatement company or disposal facility may apply to the Control Officer, or designee, to establish a facility for the purpose of collecting and temporarily storing asbestos containing waste material.

~~(4)~~ It is unlawful to cause or allow the operation of a temporary asbestos storage facility without the prior written approval of the Control Officer, or designee.

~~(2)~~ The owner or operator must request authorization ((submit a complete application)) for an asbestos storage facility. When approved, ~~((an))~~ the ((Asbestos Storage Facility)) Authorization will be returned and ((to be posted at the entrance to)) be available at the facility.

~~(3)~~ An asbestos storage facility shall meet the following general conditions:

(i) Asbestos containing waste material must be stored in a container with a single piece liner at least 6 mil in thickness; and

(ii) Said container must be in a secured building or in a secured exterior enclosure; and

(iii) The container and enclosure must be locked except during transfer of asbestos containing waste material and have asbestos warning signs posted on the container; ~~((and))~~

(iv) Storage, transportation, disposal, and return of the waste shipment record to the waste generator will not exceed the 45 day requirement of 40 CFR Part 61.150(-); and

(v) A copy of all waste shipment records shall be retained for at least 2 years, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site. A copy of the waste shipment records shall be provided to the Agency upon request.

(c) Alternative Disposal Method - Asbestos Cement Water Pipe. Asbestos cement water pipe used on public right of ways or public easements shall be excluded from the disposal requirements of Rule 6.3.4 (a)(2) if the following condition(s) ~~is ((are))~~ met:

(1) ~~((Any a))~~ Asbestos cement ((water)) pipe ((greater than one (1) linear foot in size)) may be buried in place ((on public right of ways or public easements) if the pipe is left intact (e.g., not moved, broken or disturbed) and covered with at least three (3) feet or more of non-asbestos fill material and the state, county or city authorities ((be)) are notified in writing of buried asbestos cement pipe((-and

~~(2) All asbestos containing waste material, including asbestos cement water pipe fragments that are one (1) linear foot or less, protective clothing, HEPA filters, or other asbestos contaminated material, debris, or containers, shall be subject to the requirements of Rule 6.3.))~~

Rule 6.3.5 Controlled and Regulated Substances

(a) No person shall cause or allow visual asbestos emissions, including emissions from asbestos waste materials

(1) On public or private lands, on developed or undeveloped properties and on any open uncontrolled and non-designated disposal sites;

(2) ~~((No visual emissions to the outside air d))~~ During the collection, processing, handling, packaging, transporting, storage and disposal of any asbestos containing waste material; or

(3) From any fugitive source.

(4) ~~((Vinyl asbestos tile (VAT) shall be subject to the requirements of Rule 6.3.))~~

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 Olympic Region Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 08-14-008

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed June 19, 2008, 3:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-03-147.

Title of Rule and Other Identifying Information: WAC 308-125-010 Definitions, 308-125-025 Application process to register as a real estate appraiser trainee, and 308-125-095 Responsibilities of the appraiser supervisor.

Hearing Location(s): Department of Licensing, Business and Professions Division, 2000 4th Avenue West, Building #3, Second Floor Conference Room, Olympia, WA 98502, on August 5, 2008, at 10:00 a.m.

Date of Intended Adoption: August 5, 2008.

Submit Written Comments to: Ralph C. Birkedahl, P.O. Box 9015, Olympia, WA 98507-9015, e-mail rbirkedahl@dol.wa.gov, fax (360) 570-4981, by July 29, 2008.

Assistance for Persons with Disabilities: Contact Joan Robinson by July 29, 2008, TTY (360) 664-8885 or (360) 664-6504.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To correct grammar; to further define the requirement for appraiser trainee registration; and to add the requirement for supervisory appraisers to register with the department.

Reasons Supporting Proposal: Amendments to rules will further clarify for the supervisory appraiser the requirement to register their employees as appraiser trainees and provide the department with the identification of those appraisers supervising appraiser trainees.

Statutory Authority for Adoption: RCW 18.140.030 (1), (7), (8) and (15).

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

Name of Proponent: [Department of licensing], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ralph C. Birkedahl, Olympia, (360) 664-6504.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rule amendments affect individual licensees and have no impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of licensing is not one of the named agencies under this RCW.

June 19, 2008
Ralph C. Birkedahl
Program Manager

AMENDATORY SECTION (Amending WSR 06-06-069, filed 2/28/06, effective 4/1/06)

WAC 308-125-010 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has in the Certified Real Estate Appraiser Act, (chapter 18.140 RCW) and the Uniform Standards of Professional Appraisal Practice (USPAP).

(2) "Appraisal foundation" means a private association of appraiser professional organizations. The appraisal foundation develops appraisal standards which the regulatory agencies must use as minimum standards for federally related transactions and it develops qualification criteria for appraisers.

(3) "Appraisal subcommittee" means a committee created by Title XI. It monitors all activities related to the implementation of Title XI.

(4) "Appraisal standards board" means a board established by the appraisal foundation for the purpose of developing, publishing, interpreting and amending the *Uniform Standards of Professional Appraisal Practice*.

(5) "The *Uniform Standards of Professional Appraisal Practice* (USPAP)" means the current edition of the publication in force of the appraisal standards board (ASB) of the appraisal foundation. USPAP is the applicable standard for all appraisal practice in the state of Washington regulated under the provisions of chapter 18.140 RCW.

(6) "Appraiser qualifications board" means a board of the appraisal foundation for the purpose of developing, publishing, interpreting and amending the real property appraiser qualification criteria.

(7) "Real property appraiser qualification criteria" means the minimum criteria establishing the minimum education, experience and examination requirements for real property appraisers to obtain a state certification as established by the appraiser qualifications board (AQB) of the appraisal foundation under the provisions of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989, and any additional qualifying criteria established by the director in accordance with chapter 18.140 RCW.

(8) "Classroom hour" means fifty minutes out of each sixty minute hour.

(9) "Full-time" means the equivalent twelve-month period in which an applicant works at least one thousand hours in real estate appraisal.

(10) "Required core curriculum" means a set of appraiser subject matter areas (known as "modules") that require a specified number of educational hours at each credential level as established by the appraiser qualifications board.

(11) "Module" means an appraisal subject matter area (and required hours of coverage) as identified in the required core curriculum.

(12) "Residential properties" means one to four single family residential units and lots where the highest and best use is for one to four family purposes.

(13) "Significant professional appraisal assistance" (~~means~~) shall include but not be limited to the work contributed or performed toward the completion of an appraisal report by either a trainee, state-licensed, or state-certified appraiser, while under the direct supervision of a certified residential appraiser or certified general appraiser as required by the department as qualifying appraisal experience for licensing. Significant professional appraisal assistance shall consist of identifying and analyzing the scope of work, collection of data, analyzing data to derive an opinion of value, (~~and~~) or writing the appraisal report in accordance with the *Uniform Standards of Professional Appraisal Practice*.

AMENDATORY SECTION (Amending WSR 06-06-069, filed 2/28/06, effective 4/1/06)

WAC 308-125-025 Application process to register as a real estate appraiser trainee. (1) Anyone who is not a licensed or certified appraiser or a registered appraiser trainee cannot provide assistance that includes analytical work and exercising discernment or discretion that leads to an appraisal conclusion.

(2) As a prerequisite to registration as a registered appraiser trainee, the applicant shall present evidence satisfactory to the director of successful completion of the appraiser qualifications board module of qualifying core curriculum of approved qualifying education modules:

(a) Basic appraisal principles, thirty hours.

(b) Basic appraisal procedures, thirty hours.

(c) The National USPAP course or equivalent fifteen hours.

~~((2))~~ (3) Application for registration as a trainee from persons who have had either a real estate license or real estate appraiser license suspended or revoked shall not be accepted by the department until after the time period of the suspension or revocation has expired.

~~((3))~~ (4) An applicant for registration as a trainee shall present a completed registration form together with the appropriate fee and copies of core curriculum course completion certificates to the director prior to issuance of the approved trainee registration certificate.

~~((4))~~ (5) Registration as a trainee may be denied for unprofessional conduct as provided in RCW 18.235.130.

AMENDATORY SECTION (Amending WSR 06-06-069, filed 2/28/06, effective 4/1/06)

WAC 308-125-095 Responsibilities of the appraiser supervisor. (1) A certified real estate appraiser licensed by the state of Washington may supervise trainees in accordance with the following provisions:

(a) Not more than three real estate appraiser trainees may be supervised in accordance with the appraiser qualifications board standards unless written authorization by the department is granted to exceed that number of trainees at any one time.

(b) Supervision of trainees in the process of appraising real property shall occur within the boundaries of the state of Washington and comply with jurisdictional and established agreements with other states. If a trainee is supervised by a certified appraiser who is licensed in both the state of Washington and with another state or has a temporary license in another state; and the trainee is registered as a trainee in that other state by either temporary permit, license, or registration, then the appraisal assignments shall qualify as work experience on the experience log.

(c) Authorization to exceed supervision of three trainees may be granted by the director upon approval of a written request and under the provisions of subsection (2) of this section.

(d) A registered real estate appraiser trainee may assist in the completion of an appraisal report, including determination of an opinion of value and may sign the appraisal report, provided that he/she is actively and personally supervised by a state-certified real estate appraiser, and provided that the appraisal report is reviewed and signed by the state-certified real estate appraiser; and provided the state-certified appraiser accepts total responsibility for the appraisal report.

(e) The certified appraiser shall:

(i) Personally inspect with the trainee, at a minimum, the interior of twenty-five subject properties.

(ii) Personally review and verify each appraisal report prepared by the trainee as entered on the trainee experience log as qualifying work experience prior to the log being submitted to the department by the supervised trainee.

(iii) Personally review and verify each appraisal report prepared by a state licensed or certified residential appraiser as entered on the qualifying work experience log prior to the log being submitted to the department by the licensee.

(iv) Comply with all USPAP requirements.

(v) Maintain a separate "properties inspected with trainee" log for each supervised trainee. This log must be made available to the department upon request and is to be submitted with trainee's application for license or certification.

(vi) Register with the department as a supervisory appraiser and include the names of the registered real estate appraiser trainees being supervised. Registration must be five business days prior to the start of supervision. The supervisory appraiser shall notify the department when they are no longer a supervisory appraiser of a trainee, with such notice including the name, address, and registration number of the registered trainee.

(2) Authorization may be granted by the director to a certified appraiser to exceed the number of trainees allowed to be supervised providing:

(a) The certified appraiser has more than five years certified experience.

(b) The certified appraiser shall make a written application to the department requesting to supervise not more than three trainees with less than one year experience; and three trainees with more than one year experience; and five trainees with greater than two years experience. The total number of supervised trainees shall not exceed eight for all experience levels at any one time.

(c) The certified appraiser shall prepare and maintain trainee progress reports and make them available to the department until such time as the trainee becomes certified or licensed or after two years has lapsed since supervising the trainee.

(d) The certified appraiser shall provide to the department a mentoring plan for consideration prior to the department authorizing supervision of more than three trainees.

WSR 08-14-045

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[UTC Docket UT-073014—Filed June 23, 2008, 2:55 p.m.]

Continuance of WSR 08-10-102.

Preproposal statement of inquiry was filed as WSR 07-17-054.

Title of Rule and Other Identifying Information: WAC 480-120-071 Extension of service and 480-120-103 Application of service.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on Thursday, August 14, 2008, at 1:30 p.m.

Date of Intended Adoption: Thursday, August 14, 2008.

Submit Written Comments to: David W. Danner, Executive Director and Secretary, P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-1150, by Wednesday, July 16, 2008. Please include Docket UT-073014 in your communication.

Assistance for Persons with Disabilities: Contact Mary DeYoung by Monday, August 11, 2008, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal would amend WAC 480-120-071 Extension of service, relating to requirements for extension of service to customers within a company's service territory and WAC 480-120-103 Application of service, relating to requirements the applicant and the company must meet for a service application.

The purpose of the continuance of WSR 08-10-102 is to provide notice of an extension of time to July 16, 2008, for filing written comments, and to provide notice of a change in the date of the hearing to receive additional public comment regarding adoption of the rule proposal in this docket. The date of the hearing has been changed from Thursday, June 26, 2008, at 1:30 p.m. to Thursday, August 14, 2008, at 1:30 p.m.

Statutory Authority for Adoption: RCW 80.01.040, 80.04.160, and 80.36.140.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Sharyn G. Bate, Regulatory Analyst, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1295; Implementation and Enforcement: David W. Danner, Executive Director and Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1208.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Industry comments indicate that the proposed revision to the rule will not result in or impose an increase in costs. Because there will not be any increase in costs resulting from the proposed rule changes, a small business economic impact statement is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

June 23, 2008

David W. Danner
Executive Director
and Secretary

WSR 08-14-055

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2007-11—Filed June 25, 2008, 7:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-21-134.

Title of Rule and Other Identifying Information: System for electronic rate and form filing (SERFF).

Hearing Location(s): Insurance Commissioner's Office, Insurance 5000 Building, 5000 Capitol Boulevard, Room TR-120, Tumwater, WA 98504-0255, on August 13, 2008, at 10:00 a.m.

Date of Intended Adoption: September 15, 2008.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail KacyS@oic.wa.gov, fax (360) 586-3109, by August 12, 2008.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by August 12, 2008, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These are new procedural rules that designate the system for electronic rate and form filing (SERFF), developed by the National Association of Insurance Commissioners (NAIC) as the method by which insurers must file property, casualty, disability, life and annuity products through. As part of this rule-making process, the insurance commissioner proposes rate and form filing procedures that are compatible with electronic filings.

This proposal:

1. Creates new chapters for property and casualty rate and form filings.

2. Creates a new chapter for motor vehicle service contract filings.

3. Amends chapter 284-58 WAC to apply only to life, disability and credit insurance products.

4. Repeals nineteen obsolete rules.

5. Publishes web site addresses where insurers can find up-to-date filing instructions. The insurance commissioner will file current instructions with the code reviser on an informational basis with rule-making order.

Reasons Supporting Proposal: SERFF is a key component of the NAIC speed to market initiative. The SERFF system enables insurance companies to send and states to receive, comment on, and approve or reject insurance industry rate and form filings. The SERFF system is designed to improve the efficiency of the rate and form filing and approval process and to reduce the time and cost involved in making regulatory filings. To date, thirteen other states have mandated that insurers transmit rate and form filings through SERFF, and it is rapidly becoming the filing tool of choice by insurance companies.

Statutory Authority for Adoption: RCW 48.02.060, 48.110.150.

Statute Being Implemented: RCW 48.18.100, 48.18.-103, 48.19.010, 48.19.040, 48.19.043, 48.34.100, and 48.110.073.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Lisa Smego, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7134; Implementation: Beth Berendt, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. (A) This filing is solely

procedural. For the most part, the proposed rules codify existing procedures for filing and amend some procedures to meet the needs of filing rates and forms electronically. These rules do not add substantive changes or restrictions to any existing rate or form review processes.

(B) The set of proposed rules under chapter 284-20C WAC required a different analysis in this regard. Unlike the other proposed rules in this filing, the proposed rules for motor vehicle service contracts under chapter 284-20C WAC are not focused on implementation of electronic filing. These rules are the necessary result of the 2006 passage of SHB 2553; sections 1, 3, 16, 18 and 20 of the bill expressly address the filing requirements for motor vehicle service contracts - which resulted in these contracts included under chapter 48.110 RCW. The prior chapter regulating motor vehicle service contracts (chapter 48.96 RCW) was repealed as part of this legislation.

Despite this difference in intent, there is ample justification for considering the adoption of the proposed new chapter 284-20C WAC as procedural in nature:

- Because these contracts are not filed electronically there are no provisions in the new proposed chapter for electronic filing. In almost every other aspect, the proposed rules for these service contracts strongly parallel those for other similar filings.
- The basis for these proposed new rules can be found in RCW 48.110.150 (which gives the office of insurance commissioner the authority to "adopt rules to implement and administer," chapter 48.110 RCW); the proposed new rules do not add major new definitions or significantly alter the processes described in the implementation bill. These new rules are not replacing any prior rules but are solely focused on implementation of the 2006 legislation.
- The primary new compliance requirement in the proposed chapter - a compliance checklist to be filled out by motor vehicle service contract providers - will assist contract providers in complying with the law and avoiding penalties under the Consumer Protection Act. The information to be supplied on the checklists is consistent with the compliance information published in the product locator at the NAIS commissioners web site; many insurance companies already use the product locator to make sure their filings are compliant with state laws and rules. The worksheets provide motor vehicle service contractors with a comparable tool to ensure their service contracts contain provisions that are legal under chapter 48.110 RCW.

Because the new rules are only procedural in nature and any costs imposed are the result of law (and not these proposed rules) no small business economic impact statement is needed.

A cost-benefit analysis is required under RCW 34.05.328. [No further information supplied by agency.]

June 25, 2008

Mike Kreidler

Insurance Commissioner

Chapter 284-20B WAC

RULES FOR FILING PROPERTY AND CASUALTY FORMS

NEW SECTION

WAC 284-20B-005 Definitions that apply to this chapter. The definitions in this section apply throughout this chapter:

(1) "Advisory organization" means an entity not licensed under RCW 48.19.180 that files advisory forms with the commissioner.

(2) "Complete filing" means a package of information containing insurance forms, supporting information, documents and exhibits submitted to the commissioner electronically using the System for Electronic Rate and Form Filing (SERFF).

(3) "Date filed" means the date a complete filing has been received and accepted by the commissioner.

(4) "Filer" means a person, organization or other entity that files insurance forms with the commissioner for an insurer.

(5) "Insurance" means the same as in RCW 48.01.040.

(6) "Insurer" means an insurer defined in RCW 48.01.-050 to which the commissioner has issued a certificate of authority under chapter 48.05 RCW.

(7) "Member" or "subscriber" means an insurer that has granted filing authority to a rating organization under RCW 48.19.050, and includes service purchasers.

(8) "NAIC" means the National Association of Insurance Commissioners.

(9) "Objection letter" means correspondence created in SERFF and sent by the commissioner that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a form under RCW 48.18.110.

(10) "Property and casualty insurance" means all types of:

(a) Property insurance defined in RCW 48.11.040;

(b) Marine and transportation insurance defined in RCW 48.11.050;

(c) Vehicle insurance defined in RCW 48.11.060;

(d) General casualty insurance defined in RCW 48.11.070; and

(e) Title insurance defined in RCW 48.11.100.

(11) "Rating organization" or "bureau" means an entity licensed under RCW 48.19.180 that files forms on behalf of its members, subscribers, and service purchasers.

(12) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary NAIC computer-based application that allows filers to create and submit rate, rule and form filings electronically to the commissioner.

(13) "Type of insurance" means a specific type of insurance listed in the *Uniform Property and Casualty Product Coding Matrix* published by the NAIC and available at www.naic.org.

NEW SECTION

WAC 284-20B-010 Purpose and scope of this chapter. (1) The purpose of this chapter is to adopt processes and procedures for insurers and filers to use when they submit property and casualty insurance forms to the commissioner under chapter 48.18 RCW.

(2) This chapter applies to insurers, advisory organizations and rating organizations that file property and casualty insurance forms under RCW 48.18.100 and 48.18.103.

(3) This chapter is effective on January 1, 2009. All form filings received on or after January 1, 2009, must comply with this chapter.

NEW SECTION

WAC 284-20B-020 Filing instructions that are incorporated into this chapter. SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner must incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* posted on the SERFF web site (www.serff.com); and

(2) The *Washington State SERFF Property and Casualty Form Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

NEW SECTION

WAC 284-20B-030 General form filings rules. Filers must submit complete filings that comply with the *SERFF Industry Manual* posted on the SERFF web site (www.serff.com) and *Washington State SERFF Property and Casualty Form Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov). All form filings must comply with these rules:

(1) Insurers must file property and casualty insurance forms under RCW 48.18.100(1) or 48.18.103(3). Filers may not use the certification process described in RCW 48.18.100 (2) to file property and casualty insurance forms.

(2) Filers must submit all insurance forms and related documents to the commissioner electronically using SERFF.

(a) Every form filed in SERFF must be attached to the form schedule.

(b) All written correspondence related to a form filing must be sent in SERFF.

(3) Filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit forms to the commissioner for review in:

(a) Final printed form or printer's proof format; and

(b) Ten-point or larger type.

(4) Each form must have a unique identifying number and a way to distinguish it from other editions of the same form.

(5) Filers must not submit combined rate and form filings.

NEW SECTION

WAC 284-20B-040 The commissioner may reject filings. (1) The commissioner may reject and close any filing that does not comply with WAC 284-20B-030. If the commissioner rejects a filing, the insurer has not filed forms with the commissioner.

(2) If the commissioner rejects a filing and the filer resubmits it as a new filing, the date filed will be the date the commissioner receives the new filing.

NEW SECTION

WAC 284-20B-050 Rules for rejected filings made under RCW 48.18.103. RCW 48.18.103(3) says an insurer must file forms within thirty days after the insurer issues them. If the commissioner rejects a filing under WAC 284-20B-040, the insurer has not filed forms with the commissioner. If the commissioner rejects a filing submitted under RCW 48.18.103, the:

(1) Filer must promptly send a new filing to the commissioner within the original thirty-day use and file period in RCW 48.18.103(3); or

(2) Insurer must stop issuing policies using forms sent with the rejected filing and amend policies using approved forms.

NEW SECTION

WAC 284-20B-060 Filing authorization rules. An insurer may authorize a rating organization or a third-party filer to file forms on its behalf. For the purposes of this section, a "third-party filer" means a person or entity in the business of providing insurance regulatory compliance services.

(1) If an insurer delegates filing authority to a third-party filer, each filing must include a letter as supporting documentation signed by an officer of the insurer authorizing the third-party filer to make filings on behalf of the insurer.

(2) The insurer may not delegate responsibility for the content of a filing to a third-party filer. The commissioner will consider errors and omissions made by the third-party filer to be errors and omissions of the insurer.

(3) If third-party filer has a pattern of making filings that do not comply with this chapter, the commissioner may reject a delegation of filing authority from the insurer.

NEW SECTION

WAC 284-20B-070 Rating organization "bureau" rules. Under RCW 48.19.050, an insurer may authorize a bureau to file forms on its behalf. This section applies to members or subscribers that have granted filing authority to a bureau. Bureau members or subscribers must follow instructions provided by the bureau when they implement, delay or nonadopt a bureau form filing that has been approved by the commissioner. The insurer must make a filing with the commissioner if it delays the effective date, nonadopts or changes the bureau filing in any way. The filing must:

(1) Include a statement of changes proposed by the insurer;

(2) Provide the filing number used by the bureau when it filed the forms; and

(3) Be received by the commissioner in a timely manner.

(4) For purposes of this section, "timely" means:

(a) Before the bureau effective date if the filing is made under RCW 48.18.100; or

(b) Thirty days after the bureau effective date if the filing is made under RCW 48.18.103.

NEW SECTION

WAC 284-20B-080 Use of rating organization "bureau" forms—No filing authorization. If a member or subscribing insurer has not authorized a bureau to file forms on its behalf, the insurer must make a filing with the commissioner to use bureau forms.

(1) If the forms are identical to the bureau forms, the filing must include this information:

(a) A statement by the insurer of its intent to use the bureau forms; and

(b) The filing number used by the bureau when it filed the forms.

(2) Insurers must independently file any forms that are not identical in content to approved bureau forms.

NEW SECTION

WAC 284-20B-090 Advisory organization rules. (1) Advisory organizations may file insurance forms with the commissioner. The commissioner will review advisory forms using the same standards that apply to insurers and rating organizations. If the forms comply with RCW 48.18.110, the commissioner will approve the forms on an advisory basis.

(2) If an insurer decides to use approved advisory forms, the insurer must make an independent form filing. The filing must include:

(a) A statement by the insurer of its intent to use the advisory forms;

(b) The filing number used by the advisory organization when it filed the forms; and

(c) Copies of the advisory forms attached to form schedule.

NEW SECTION

WAC 284-20B-100 Rules for responding to an objection letter. An objection letter may ask the filer to revise a noncompliant form or provide clarification or additional information about the form. If a form contains provisions that are contrary to RCW 48.18.110, the objection letter will state the reason(s) for disapproval, including relevant case law, statutes and administrative rules. Filers must:

(1) Provide a complete response to an objection letter. A complete response includes:

(a) A separate response to each objection; and

(b) A description of changes proposed to noncompliant forms, and, if applicable, a replacement form or amendatory endorsement attached to the form schedule.

(2) Respond to the commissioner in a timely manner.

NEW SECTION

WAC 284-20B-110 Applications and policyholder notices. RCW 48.18.190 says each form that conflicts with, modifies, or extends a contract of insurance must be in writing and made a part of the policy. Insurers must file these forms under RCW 48.18.100 or 48.18.103. Insurers must file applications and policyholder notices if the:

(1) Application will be used under RCW 48.18.080; or

(2) Policyholder notice amends or modifies policy provisions.

NEW SECTION

WAC 284-20B-120 Rules for replacement forms. If an insurer files a revised or replaced form, the filer must provide the supporting documentation described below:

(1) A detailed explanation of all material changes to the previously approved form; and

(2) An exhibit that marks and identifies each change or revision to the obsolete form using one of these methods:

(a) A draft form that strikes out deletions and underlines additions or changes in the form;

(b) A draft form that includes comments in the margins explaining the changes in the forms; or

(c) A side-by-side comparison of current and proposed language.

NEW SECTION

WAC 284-20B-130 Effective date rules. (1) Filers must include a common effective date for all forms submitted in a filing. The insurer may use different effective dates for new and renewal policies if the filing includes this request and the policy includes a liberalization clause or condition.

(2) The proposed effective date must be a specific date.

(a) Vague statements, such as one that says the insurer will implement the filing thirty days after the commissioner's approval is not specific, and does not comply with this rule.

(b) If an insurer is filing a new program or optional endorsement, the filer may request an effective date concurrent with the commissioner's approval.

(3) The proposed effective date must be consistent with the law. Forms filed under RCW 48.18.103 must propose an effective date no more than thirty days before the date filed.

(4) If an insurer revises the effective date, the commissioner must receive this request in SERFF before the original effective date of the filing.

NEW SECTION

WAC 284-20B-140 Reference copies of amendatory endorsements. If an insurer will use a previously approved Washington amendatory endorsement with a new form, the filer must:

(1) Provide a copy of the amendatory endorsement attached as supporting documentation; and

(2) Explain how the insurer will use the amendatory endorsement with the new form.

NEW SECTION

WAC 284-20B-150 Rules for insurance forms translated from English to another language. If an insurer translates an insurance form from English to another language, the filer must:

- (1) File both the translated and English versions of the form.
- (2) Provide certification by a person certified by the American Translators Association or a comparable organization that the:
 - (a) Translation is accurate; and
 - (b) Translated version provides as much coverage as the English version.
- (3) Provide certification by an officer employed by the insurer that it will interpret the translated form based on the version most favorable to the policyholder.

NEW SECTION

WAC 284-20B-160 Exemption for unauthorized insurers. Chapter 48.15 RCW applies to insurance transactions involving unauthorized surplus line insurers. Under RCW 48.18.100 (1)(e), insurance forms issued by unauthorized surplus line insurers are exempt from filing.

NEW SECTION

WAC 284-20B-170 Exemption for insurance forms issued to large commercial property and casualty accounts. (1) Under RCW 48.18.103 (3)(a), the commissioner exempts forms issued to insure a large commercial property and casualty account from filing requirements under chapter 48.18 RCW.

(2) For purposes of this section, "large commercial property and casualty account" means property and casualty insurance as defined in WAC 284-24-001(10) that is purchased by a business, not-for-profit organization, or public entity with enough insurance buying experience to negotiate with insurers in a largely unregulated environment and meets any two of the following criteria:

- (a) Annual premiums of one hundred thousand dollars or more, excluding workers compensation insurance issued by the department of labor and industries and types of insurance listed in subsection (3) of this section;
- (b) Net revenues or sales in excess of one hundred million dollars;
- (c) More than two hundred employees;
- (d) Net worth over fifty million dollars;
- (e) Is a not-for-profit organization or public entity with an annual budget or assets of at least forty-five million dollars;
- (f) Is a municipality with a population over fifty thousand.

(3) The exemption provided by this section does not apply to:

- (a) Professional liability insurance policies, including all types of malpractice and errors and omissions insurance;
- (b) Reimbursement insurance policies that indemnify service contract providers or protection product guarantee

providers for contractual obligations assumed under a service contract or protection product guarantee; and

(c) Master policies under which insurers issue certificates of coverage to individual consumers, households, businesses, or other organizations.

(4) Before an insurer issues an insurance policy under this section, the insurer or its insurance producer must send written notice to the insured that says the:

- (a) Insurer has not filed the forms with the commissioner; and
- (b) Commissioner has not reviewed and approved the forms.

(5) The Washington insurance examining bureau will not audit property forms used to insure large commercial property and casualty accounts under WAC 284-20-006.

(6) If grounds exist under RCW 48.18.110(1), the commissioner may disapprove a form used to insure a large commercial property and casualty account. If the commissioner disapproves a form under RCW 48.18.110(1), the insurer must construe the form under the provisions of RCW 48.18.510.

(7) Each insurer must keep copies of forms used to insure large commercial property and casualty accounts for at least six years after the date the insurer issues a policy under this section. The insurer must make these records available to the commissioner upon request.

Chapter 284-20C WAC**RULES FOR FILING MOTOR VEHICLE SERVICE CONTRACTS**NEW SECTION

WAC 284-20C-005 Definitions that apply to this chapter. The definitions in this section apply throughout this chapter:

(1) "Complete filing" means a package of information containing motor vehicle service contracts, supporting information, documents and exhibits.

(2) "Contract" means a service contract covering motor vehicles, as described in chapter 48.110 RCW. Under this definition:

- (a) "Motor vehicle" means the same as in RCW 48.110.020(11), and only includes vehicles that are self-propelled by a motor; and
- (b) "Service contract" means the same as in RCW 48.110.020(16).

(3) "Date filed" means the date a complete motor vehicle service contract filing has been received and accepted by the commissioner.

(4) "Filer" means a person, organization or other entity that files motor vehicle service contracts with the commissioner.

(5) "Objection letter" means correspondence sent by the commissioner to the filer that:

- (a) Requests clarification, documentation or other information;
- (b) Explains errors or omissions in the filing; or

(c) Disapproves a motor vehicle service contract under RCW 48.110.073.

(6) "Service contract provider" or "provider" means the same as in RCW 48.110.020(18).

NEW SECTION

WAC 284-20C-010 Purpose of this chapter. (1) The purpose of this chapter is to adopt processes and procedures for providers and filers to use when they submit motor vehicle service contracts to the commissioner under RCW 48.110.073.

(2) This chapter is effective on January 1, 2009. All motor vehicle service contract filings received on or after January 1, 2009, must comply with this chapter.

NEW SECTION

WAC 284-20C-020 General motor vehicle service contract filing rules. Filers and providers must submit filings that comply with these rules:

(1) Filers must submit complete filings that comply with the filing instructions and procedures in the *Washington State Motor Vehicle Service Contract Filing Instructions* posted on the commissioner's web site (www.insurance.wa.gov), which the commissioner incorporates into this section by reference.

(2) Filers must submit every service contract to the commissioner in paper format with a completed motor vehicle service contract transmittal form.

(3) Filers must not combine "prior approval" and "use and file" contracts in one filing. Filers must file these types of contracts separately:

(a) Contracts filed under RCW 48.110.073(2); or

(b) Contracts filed under RCW 48.110.073(3).

(4) Contracts must be legible for both commissioner review and retention as a public record. Filers must submit contracts to the commissioner for review in:

(a) Final printed form or printer's proof format; and

(b) Ten-point or larger type.

(5) Each contract must have a unique identifying number and a way to distinguish it from other editions of the same contract.

(6) Filers must submit a completed compliance checklist with each new motor vehicle service contract. If the filing includes more than one new contract, the filer may:

(a) Complete a separate checklist for each motor vehicle service contract; or

(b) Complete one checklist and submit an explanatory memorandum that lists any material differences between the filed contracts.

NEW SECTION

WAC 284-20C-030 Commissioner may reject motor vehicle service contract filings. (1) The commissioner may reject and close any filing that does not comply with WAC 284-20C-020. If the commissioner rejects a filing, the provider has not filed the service contract(s) with the commissioner.

(2) If the commissioner rejects a filing and the filer resubmits it as a new filing, the date filed will be the date the commissioner receives the new filing.

NEW SECTION

WAC 284-20C-040 Rules for rejected filings made under RCW 48.110.073(3). (1) RCW 48.110.073(3) says contracts must be filed with the commissioner within sixty days after the provider first issues the contract to a consumer. If the commissioner rejects a filing under WAC 284-20C-030, the provider has not filed contracts with the commissioner.

(2) If the commissioner rejects a filing submitted under RCW 48.110.073(3) the:

(a) Filer must promptly send a new filing to the commissioner within the original sixty-day use and file period in RCW 48.110.073(3); or

(b) Provider must stop issuing motor vehicle service contracts sent with the rejected filing.

NEW SECTION

WAC 284-20C-050 Filing authorization rules. (1) A provider may authorize a third-party filer to file contracts on its behalf. Under this section, a "third-party filer" means:

(a) An administrator as defined in RCW 48.110.020(1);

(b) An insurer; or

(c) A person or entity in the business of providing regulatory compliance services to providers.

(2) If a provider delegates filing authority to a third-party filer, each filing must include a letter signed by an employee of the provider authorizing the third-party filer to make filings on behalf of the provider.

(3) The provider may not delegate responsibility for the content of a filing to a third-party filer. The commissioner will consider errors and omissions made by the third-party filer to be errors and omissions of the provider.

(4) If a third-party filer has a pattern of making filings that do not comply with this chapter, the commissioner may reject a delegation of filing authority from the provider.

NEW SECTION

WAC 284-20C-060 Rules for replacement motor vehicle service contracts. If a provider revises or replaces a currently approved contract, the filer must:

(1) Provide a detailed explanation of all material changes; and

(2) Mark and identify each change or revision to the contract with one of these types of exhibits:

(a) A draft contract that brackets deletions and underlines additions or changes in the contract;

(b) A draft contract that includes comments in the margins explaining the changes in the contract; or

(c) An exhibit that compares current and proposed contract language.

NEW SECTION

WAC 284-20C-070 Effective date rules. (1) Filers must include a common effective date for all contracts submitted in a filing.

(2) The proposed effective date must be a specific date.

(a) Vague statements, such as one that says the provider will implement a filing thirty days after the commissioner's approval is not specific, and does not comply with this rule.

(b) If a provider is filing a new program or optional coverage form, the filer may request an effective date concurrent with the commissioner's approval.

(3) The proposed effective date must be consistent with the law. Contracts filed under RCW 48.110.073(3) must propose an effective date no more than sixty days before the date filed.

(4) If the provider revises the effective date, the commissioner must receive the request before the original effective date of the filing.

NEW SECTION

WAC 284-20C-080 Reference copies of amendatory forms. If a provider will use a previously approved Washington amendatory form with a new contract, the filer must:

(1) Provide a copy of the amendatory form as supporting documentation; and

(2) Explain how the provider will use the amendatory form with the new contract.

NEW SECTION

WAC 284-20C-090 Rules for responding to an objection letter. An objection letter may ask the filer to revise non-compliant contracts or provide clarification or additional information about the contract. If the commissioner finds that a contract contains provisions that are contrary to RCW 48.110.073, the objection letter will state the reason(s) for disapproval, including relevant case law, statutes and administrative rules. Filers must:

(1) Provide a complete response to an objection letter. A complete response includes:

(a) A separate response to each objection; and

(b) A description of changes proposed to noncompliant contracts, and, if applicable, a replacement contract or amendatory form.

(2) Respond to the commissioner in a timely manner.

NEW SECTION

WAC 284-20C-110 Rules for motor vehicle service contracts translated from English to another language. If a provider translates a contract from English to another language, the filer must:

(1) File both the translated and English versions of the contract.

(2) Provide certification by a person certified by the American Translators Association or a comparable organization that the:

(a) Translation is accurate; and

(b) Translated version provides as much coverage as the English version.

(3) Provide certification by an officer employed by the provider that it will interpret the translated contract based on the version most favorable to the contract holder.

NEW SECTION

WAC 284-24-001 Definitions that apply to this chapter. Unless otherwise specified in rule, the definitions in this section apply throughout this chapter:

(1) "Advisory organization" means an entity not licensed under RCW 48.19.180 that files advisory rates with the commissioner.

(2) "Complete filing" means a package of information containing rates, supporting information, documents and exhibits submitted to the commissioner electronically using the System for Electronic Rate and Form Filing (SERFF).

(3) "Date filed" means the date a complete filing has been received and accepted by the commissioner.

(4) "Filer" means a person, organization or other entity that files insurance rates with the commissioner for an insurer.

(5) "Insurance" means the same as in RCW 48.01.040.

(6) "Insurer" means an insurer defined in RCW 48.01.-050 to which the commissioner has issued a certificate of authority under chapter 48.05 RCW.

(7) "Member" or "subscriber" means an insurer that has paid a rating organization for services under RCW 48.19.050, and includes service purchasers.

(8) "NAIC" means the National Association of Insurance Commissioners.

(9) "Objection letter" means correspondence created in SERFF and sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves the filing under RCW 48.19.100.

(10) "Property and casualty insurance" means these types of insurance:

(a) Property insurance defined in RCW 48.11.040;

(b) Marine and transportation insurance defined in RCW 48.11.050;

(c) Vehicle insurance defined in RCW 48.11.060;

(d) General casualty insurance defined in RCW 48.11.070; and

(e) Surety insurance defined in RCW 48.11.080.

(11) "Rate" or "rates" means all classification manuals, loss costs, rate or rule manuals, rating plans, rating schedules, minimum rates, class rates, and rating rules that insurers must file under RCW 48.19.040 and 48.19.043.

(12) "Rating organization" or "bureau" means an entity licensed under RCW 48.19.180 that files rates on behalf of its members, subscribers, or service purchasers.

(13) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary NAIC computer-based application that allows insurers and other entities to create and submit rate, rule and form filings electronically to the commissioner.

(14) "Type of insurance" means a specific type of insurance listed in the *Uniform Property and Casualty Product Coding Matrix* published by the NAIC and available at www.naic.org.

AMENDATORY SECTION (Amending Matter No. R 98-4, filed 10/7/98, effective 11/7/98)

WAC 284-24-005 ~~((Transmittal form required.))~~
Purpose and scope of this chapter. ~~((Each rate filing submitted by an insurer shall be submitted with the filing transmittal form prescribed by and available from the commissioner. The insurer shall complete the form in its entirety before it submits the filing.))~~ The purpose of this chapter is to adopt processes and procedures for insurers and filers to use when they submit property and casualty insurance rates and rules with the commissioner under chapter 48.19 RCW. This chapter:

(1) Applies to insurers, advisory organizations and rating organizations that file property or casualty insurance rates under RCW 48.19.040 and 48.19.043; and

(2) Does not apply to insurers or insurance scoring model vendors that file insurance scoring models under RCW 48.19.035 and chapter 284-24A WAC.

NEW SECTION

WAC 284-24-007 Filing documents incorporated by reference into this chapter. SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* posted on the SERFF web site (www.serff.com); and

(2) The *Washington State SERFF Property and Casualty Rate Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

NEW SECTION

WAC 284-24-011 General rate filing rules. Effective January 1, 2009, filers must submit complete rate filings that comply with the *SERFF Industry Manual* posted on the SERFF web site (www.serff.com) and the *Washington State SERFF Property and Casualty Rate Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov). All rate filings must comply with these rules:

(1) Filers must submit all rate filings and related documents to the commissioner electronically using SERFF.

(2) Filers must send all written correspondence related to a rate filing in SERFF.

(3) Each rate filing must be:

(a) Accurate and internally consistent; and

(b) Submitted separately by type of insurance.

(4) Filers must not submit combined rate and form filings.

NEW SECTION

WAC 284-24-016 Commissioner may reject filings.

(1) The commissioner may reject and close any filing that does not comply with WAC 284-24-011. If the commissioner rejects a filing, the insurer has not filed rates with the commissioner.

(2) If the commissioner rejects a filing and the filer resubmits it as a new filing, the date filed will be the date the commissioner receives the new filing.

NEW SECTION

WAC 284-24-021 Rules for rejected rate filings made under RCW 48.19.043. RCW 48.19.043(2) says an insurer must file rates within thirty days after the date the insurer first uses them. If the commissioner rejects a filing under WAC 284-24-016, the insurer has not filed rates with the commissioner. If the commissioner rejects a filing submitted under RCW 48.19.043, the:

(1) Filer must promptly send a new rate filing to the commissioner within the original thirty-day use and file period in RCW 48.19.043(2); or

(2) Insurer must stop using the rates sent with the rejected filing and amend policies using approved rates.

NEW SECTION

WAC 284-24-041 Filing authorization rules. An insurer may authorize a rating organization or third-party filer to file rates on its behalf. For the purposes of this section, a "third-party filer" means a person or entity in the business of providing insurance regulatory compliance services.

(1) If an insurer delegates filing authority to a third-party filer, each filing must include a letter as supporting documentation signed by an officer of the insurer authorizing the third-party filer to make filings on behalf of the insurer.

(2) The insurer may not delegate responsibility for the content of a filing to a third-party filer. The commissioner will consider errors and omissions made by the third-party filer to be errors and omissions of the insurer.

(3) If a third-party filer has a pattern of making filings that do not comply with this chapter, the commissioner may reject a delegation of filing authority from the insurer.

NEW SECTION

WAC 284-24-046 Rating organization "bureau" rules. Under RCW 48.19.050, an insurer may authorize a bureau to file rates on its behalf. This section applies to members or subscribers that have granted filing authority to a bureau.

(1) Bureau members or subscribers must follow instructions provided by the bureau when they implement, delay or nonadopt a bureau rate filing that has been approved by the commissioner.

(2) If the insurer has authorized the rating organization to make filings on its behalf, the insurer is not required to file new bureau rates with the commissioner, except as provided under WAC 284-24-062.

(3) The insurer must make a filing with the commissioner if an insurer delays the effective date, nonadopts or changes a filing in any way. The filing must:

- (a) Include a statement of the changes proposed by the insurer;
 - (b) Provide the filing number used by the bureau when it filed rates with the commissioner; and
 - (c) Be received by the commissioner in a timely manner.
- (4) Under this section, "timely" means:
- (a) Before the bureau effective date if the filing is made under RCW 48.19.040; or
 - (b) Thirty days after the bureau effective date if the filing is made under RCW 48.19.043.

NEW SECTION

WAC 284-24-049 Rules that apply to advisory organizations. (1) Advisory organizations may file rates with the commissioner. The commissioner will review the advisory rates using the same standards that apply to insurers and rating organizations. If the rates comply with chapter 48.19 RCW, the commissioner will approve the rates on an advisory basis.

(2) If an insurer wants to use approved advisory rates, the insurer must make a rate filing that includes:

- (a) A statement by the insurer of its intent to use the advisory rates;
- (b) The filing number used by the advisory organization when it submitted the filing; and
- (c) Statistical and actuarial support for each component of the rate filing that is not part of the advisory filing.

NEW SECTION

WAC 284-24-051 Rules for responding to objection letters. If the commissioner disapproves a filing under RCW 48.19.100, the objection letter will state the reason(s) for disapproval, including relevant law and administrative rules. Filers must:

- (1) Provide a complete response to an objection letter. A complete response includes:
 - (a) A separate response to each objection; and
 - (b) If appropriate, revised exhibits and supporting documentation.
- (2) Respond to the commissioner in a timely manner.

AMENDATORY SECTION (Amending Matter No. R 98-4, filed 10/7/98, effective 11/7/98)

WAC 284-24-060 Suspension of filing requirements for surplus lines insurance. Under RCW 48.19.080, the rate filing requirements in chapter 48.19 RCW are suspended ~~((with respect to))~~ for surplus line coverages. Insurers ~~((do not need))~~ are not required to file rates ~~((with respect to))~~ for surplus line ~~((coverages))~~ insurance policies placed in this state under chapter 48.15 RCW.

AMENDATORY SECTION (Amending Matter No. R 98-4, filed 10/7/98, effective 11/7/98)

WAC 284-24-062 ~~((Modification of filing requirements--))~~ Loss cost filing~~((s))~~ rule. (1) The following definitions apply to this rule:

(a) "Prospective loss cost" means that portion of a rate that:

(i) Provides only for losses and loss adjustment expenses;

(ii) Does not provide for expenses or profit; and

(iii) Is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

(b) "Loss cost adjustment" means a factor by which prospective loss costs are multiplied to obtain final rates. A loss cost adjustment must take into account:

(i) Operating expenses;

(ii) Underwriting profit (or loss) and contingencies;

(iii) Investment income;

(iv) Dividends, savings, or unabsorbed premium deposits allowed or returned to policyholders, members, or subscribers;

(v) Variations in loss experience unique to the insurer making the filing; and

(vi) Other relevant factors, if any.

(c) "Rate" means the cost of insurance per exposure unit, whether expressed as a single number or separately as prospective loss cost and loss cost adjustment, before application of individual risk variations permitted under WAC 284-24-100. Under this definition, a rate does not include minimum premiums or supplementary rating information.

(d) "Supplementary rating information":

(i) Means any manual or plan of policy writing rules, rating rules, classification system, territory codes and descriptions, rating plans, or any other similar information needed to determine the premium that applies to an insured; and

(ii) Includes factors and relativities, such as increased limits factors, package modification factors, classification relativities, and deductible relativities.

(2) Under RCW 48.19.080, the commissioner may modify the rate filing requirements in chapter 48.19 RCW ~~((are modified as follows:~~

~~((a) Rating organizations may))~~. This rule modifies the rate filing requirements to permit rating and advisory organizations to make reference filings of prospective loss costs.

~~((The))~~ (a) Prospective loss costs filings ~~((shall))~~ must contain ~~((the))~~ statistical data and supporting information for all calculations and assumptions underlying the prospective loss costs, but do not need to provide the information required by RCW 48.19.040 (2)(b) and (c). ~~((Filings of))~~ Prospective loss costs filings must be approved by the commissioner ~~((prior to))~~ before use by any insurer as a reference document.

(b) To use rates based on loss costs, a member or ~~((subscribing insurer of a rating organization))~~ subscriber must make a loss cost adjustment filing, ~~((which is subject to))~~ under the applicable provisions of RCW 48.19.040 ~~((and))~~ or ~~((RCW))~~ 48.19.043. The ~~((filing shall include the following forms, completed in their entirety, prescribed by and~~

available from the commissioner)) filer must attach completed copies of these forms to the supporting documentation tab:

(i) A Washington Reference Filing Adoption Form;
 (ii) ~~((For each loss cost adjustment,))~~ A Washington Summary of Supporting Information Form for each loss cost adjustment factor; and

(iii) For each loss cost adjustment with which an expense constant is used, a Washington Expense Constant Supplement.

(c) A member or ~~((subscribing insurer of a rating organization))~~ subscriber may use rates based on the bureau's or advisory organization's prospective loss costs ((filed by the rating organization and approved by the commissioner as a reference document)) without complying with the requirements of RCW 48.19.040 and 48.19.043 if the:

(i) ~~((The))~~ Commissioner has approved the loss cost reference document:

(ii) Insurer has an approved loss cost adjustment on file with the commissioner and proposes no changes to it; and

~~((ii))~~ (iii) Insurer will begin using the prospective loss costs on the date proposed by the rating organization and approved by the commissioner.

(d) ~~((Once they have been approved and have))~~ After the commissioner has approved a loss cost reference document filing for an advisory organization or bureau and the filing has become effective, the ((latest)) new prospective loss costs ((filed by a rating organization are considered to)) supersede all earlier loss cost filings by that ~~((rating))~~ organization. Insurers ~~((are))~~ must not ((permitted to)) make loss cost adjustment filings using prospective loss costs that have been superseded.

~~((2))~~ For purposes of this section, the following definitions apply:

(a) ~~"Rating organization"~~ means an organization licensed under RCW 48.19.180.

(b) ~~"Member or subscribing insurer"~~ means an insurer that has granted filing authority to a rating organization under RCW 48.19.050 or has purchased loss cost services from a rating organization.

(c) ~~"Prospective loss cost"~~ means that portion of a rate that provides only for losses and loss adjustment expenses and does not include provisions for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

(d) ~~"Loss cost adjustment"~~ means a factor by which prospective loss costs are multiplied to obtain final rates. It takes into account:

- (i) Operating expenses;
- (ii) Underwriting profit (or loss) and contingencies;
- (iii) Investment income;
- (iv) Dividends, savings, or unabsorbed premium deposits allowed or returned to policyholders, members, or subscribers;
- (v) Variations in loss experience unique to the insurer making the filing; and
- (vi) Other relevant factors, if any.

(e) ~~"Rate"~~ means the cost of insurance per exposure unit, whether expressed as a single number or separately as prospective loss cost and loss cost adjustment, prior to any application of individual risk variations as permitted by WAC 284-24-100, and does not include minimum premiums or supplementary rating information.

(f) ~~"Supplementary rating information"~~ means any manual or plan of policy writing rules, rating rules, classification system, territory codes and descriptions, rating plans, and any other similar information needed to determine the applicable premium for an insured. It includes factors and relativities, such as increased limits factors, package modification factors, classification relativities, and deductible relativities.

AMENDATORY SECTION (Amending Matter No. R 2003-05, filed 10/31/05, effective 1/1/06)

WAC 284-24-065 Demonstration that rates satisfy the requirements of RCW 48.19.020.

(1) When an insurer or rating organization files rates with the commissioner, it must demonstrate that the proposed rates satisfy the requirements of chapter 48.19 RCW. RCW 48.19.020 requires that premium rates for insurance ~~((shall))~~ are not ((be)) excessive, inadequate, or unfairly discriminatory. A rate is reasonable and not excessive, inadequate, or unfairly discriminatory if it is an actuarially sound estimate of the expected value of all future costs associated with an individual risk transfer. Such costs include claims, claim settlement expenses, operational and administrative expenses, and the cost of capital.

(2) For the purposes of this section, "operating ratio" means the sum of after-tax underwriting profit (or loss) and after-tax investment income on assets corresponding to unearned premium reserves and loss and loss adjustment expense reserves, divided by premium.

(3) For liability insurance, if the increased limits factors include risk loads, the proportion of the expected premium (net of expenses) arising from the risk loads for all policy limits ~~((shall))~~ must be included in the expected underwriting profit or loss.

(4) ~~((Rates are not considered))~~ The commissioner will not consider rates excessive if the expected operating ratio corresponding to the proposed rate level is less than or equal to five percent.

(5) ~~((Rates are not considered))~~ The commissioner will not consider rates inadequate if the expected operating ratio corresponding to the proposed rate level is greater than or equal to zero.

(6) When an insurer, advisory organization, or rating organization files rates for which the expected operating ratio corresponding to the proposed rate level is less than zero or greater than five percent, it must demonstrate that the proposed rates are consistent with the principles stated in subsection (1) of this section. In other words, the insurer or rating organization must show how it has accounted for all expected costs, including claims, claim settlement expenses, operational and administrative expenses, and the cost of capital.

AMENDATORY SECTION (Amending Matter No. R 98-4, filed 10/7/98, effective 11/7/98)

WAC 284-24-070 (~~Modification of filing requirements—Refer to company rating~~) Rules for risks if there are no rate manuals. (1) Under RCW 48.19.080, the commissioner may waive insurance rate filing requirements in chapter 48.19 RCW (~~are modified as to classes of policies~~). Except as described in subsection (2) of this section, the commissioner will waive rate filing requirements for individual risks or classes of insurance for which the insurer has no classification plan, rate, guide rate, range of rates or rating rule (~~except as described in subsection (2) of this section. These classes may include~~). This section applies to these classes of insurance:

(a) A class in which risks are so different from each other that no rate or range of rates could be representative of all;

(b) A class that does not develop enough loss experience to warrant any credibility for ratemaking purposes; (~~and~~) or

(c) Policies involving a new product or coverage for which there is no appropriate analogy to similar exposures for ratemaking purposes.

(2) (~~Every~~) A rating rule for (~~such classes of policies shall~~) the classes of insurance described in subsection (1) of this section must be (~~included in an appropriate rate manual and~~) filed with the commissioner. (~~Such a~~) The rating rule (~~shall consist only of a notation of~~) must display the symbol "(a)" or include a statement that risks in the class (~~shall~~) must be submitted to the insurer for rating.

(3) The insurer's rating of a refer-to-company risk (~~shall~~) must be based on a documented underwriting analysis of:

(a) Specific (~~definable~~) characteristics related to potential for loss (~~potential characteristics~~);

(b) Analogy to similar exposures(;) and

(c) Available loss frequency and severity data.

(4) Examples of unclassified risks for which "(a)" or refer-to-company rating is appropriate (~~refer to company~~) risks include but are not limited to:

(a) Manufacturing and construction risks, such as:

(i) Ammunition manufacturing(;) and

(ii) Dam construction(;) and

(iii) Irrigation works operation(;) and

(iv) Logging railroad—operation and maintenance.

(b) Owners, landlord and tenants risks, such as:

(i) Amusement devices, designed for small children only, not otherwise classified (NOC)(;) and

(ii) Christmas tree lots—open air(;) and

(iii) Bleachers or grandstands(;) and

(iv) Dude ranches(;) and

(v) Firing ranges—indoor(;) and

(vi) Parks or playgrounds(;) and

(vii) Zoos.

(c) Product risks, such as:

(i) Aircraft or aircraft parts manufacturing(;) and

(ii) Ball or roller bearing manufacturing(;) and

(iii) Chemical manufacturing—household—NOC(;) and

(iv) Discontinued operations—products(;) and

(v) Electronic component manufacturing(;) and

(vi) Firearms manufacturing—over .50 caliber; and

(vii) Instrument manufacturing—NOC(;) and

(viii) Levee construction(;) and

(ix) Machinery or machinery parts manufacturing(;) and

(x) Pharmaceutical or surgical goods manufacturing(;) and

(xi) Products—NOC(;) and

(xii) Sign manufacturing—NOC(;) and

(xiii) Tank manufacturing—metal—not pressurized(;) and

(xiv) Textile coating or impregnating(;) and

(xv) Tool manufacturing—hand type—powered(;) and

(xvi) Valves manufacturing(;) and

(xvii) Wheels manufacturing(;) and

(xviii) Wire goods manufacturing—NOC(;) and

(xix) Wood products manufacturing—NOC.

(5) Insurers writing risks subject to this (~~regulation shall maintain~~) section must keep separate documentation, including loss experience, on each risk written and (~~shall be prepared to~~) must provide (~~such~~) the documentation to the (~~insurance~~) commissioner upon request.

AMENDATORY SECTION (Amending Matter No. R 98-4, filed 10/7/98, effective 11/7/98)

WAC 284-24-080 Rate filings (~~required for certain~~) rule for inland marine risks. Under RCW 48.19.030 and 48.19.070 (~~recognize that~~), insurers are not required to file rates with the commissioner for certain inland marine risks that are (~~by general custom of the business~~) not written according to manual rates or rating plans. The following inland marine classes of risks, which are (~~however, by general custom of the business~~) characterized by large numbers of insureds and homogeneous loss exposure, are written according to manual rates or rating plans (~~and, therefore, manual~~) and must be filed under chapter 48.19 RCW. Manual rates, classification or rating plans (~~applicable~~) that apply to the following types of risks (~~shall~~) must be filed with the commissioner:

(1) Accounts receivable (~~and valuable papers and records~~) coverage;

(2) Agricultural machinery, farm equipment and livestock (~~floaters~~) coverage;

(3) Bicycle floater(;) and

(4) Boatowners' insurance or coverage for pleasure boats twenty-six feet and under in length;

(5) Camera(;) floater;

(6) Camera and musical instrument dealers(;) and

(7) Commercial articles coverage (photographic equipment and musical instruments);

(8) Communications equipment, including cell phones, pagers, and portable personal computers;

(9) Equipment dealers(;) coverage;

(10) Film coverage form;

(11) Fine arts private collections;

(12) Fine arts dealers;

(13) Floor plan merchandise coverage;

(14) Fur dealers;

(15) Hardware (~~and implement dealers floater~~) dealers;

(16) Implement dealers (~~stock floater~~;

(17) Fine arts (private collections);

(18) First class mail;

(19) Floor plan;

- ~~(12) Furriers' block;~~
~~(13) Furriers' customers;);~~
~~((14)) (17) Garment contractors(;;);~~
~~((15)) (18) Golfer's equipment floater(;;);~~
~~(16) Musical instruments;~~
~~(17) Negative film floater;~~
~~(18) Neon signs;);~~
~~(19) Jewelry dealers;~~
~~(20) Mail coverage;~~
~~(21) Personal articles floater(;;);~~
~~((20)) (22) Personal effects(;;) floater;~~
~~((21)) (23) Personal furs or fur floater(;;);~~
~~((22)) (24) Personal jewelry or jewelry floater(;;);~~
~~((23)) (25) Personal property floater(;;);~~
~~((24)) (26) Physicians' and surgeons' equipment ((floater;)) coverage;~~
~~((25) Registered mail;)) (27) Signs coverage;~~
~~((26)) (28) Silverware floater(;;);~~
~~((27)) (29) Stamp and coin collection floater(;;);~~
~~(28) Theatrical floater;~~
~~(29) Tourist baggage;);~~
~~(30) Travel ((baggage (issued in combination with)) coverage other than accident and sickness ((insurance;));~~
~~(31) ((Wedding presents;)) Valuable papers and records; and~~
~~(32) ((Boatowners' and/or boats twenty-six feet and under in length that are used for pleasure;)) Wedding presents.~~

AMENDATORY SECTION (Amending Matter No. R 98-4, filed 10/7/98, effective 11/7/98)

WAC 284-24-100 ((Standards for)) Schedule rating plan(s) rules. (1) An insurer may file a schedule rating plan ((shall apply only to those classes of insurance (-)) for the following monoline or packaged((-) commonly known as commercial vehicle, commercial general casualty, commercial inland marine, commercial fidelity, surety, commercial crime, and commercial property)) types or subtypes of insurance:

- (a) Commercial automobile;
- (b) Commercial crime;
- (c) Commercial fidelity and surety;
- (d) Commercial general liability;
- (e) Commercial inland marine;
- (f) Commercial multiperil; and
- (g) Commercial property.

(2) A schedule rating plan ~~((shall))~~ must provide for no more than a twenty-five percent credit (reduction) or debit (charge). A schedule rating plan ~~((shall))~~ must not be combined with other rating plans or rating rules in such a way that the schedule rating affects the premium by more than twenty-five percent.

(3) ~~((Any))~~ If an expense modification rule ((which)) does not prescribe specific credits or debits for particular situations ((is considered to be)) the commissioner will consider it similar to schedule rating. In ((such a)) this case, the combined effect of schedule and expense modifications ((shall)) must not exceed twenty-five percent.

(4) If an expense modification plan prescribes specific credits for particular situations, ~~(())~~ such as various premium size ranges or commission levels~~((;))~~, the insurer is not required to include these credits or debits ((are not included)) in the twenty-five percent schedule rating maximum.

(5) A schedule rating plan must provide for an objective analysis or risk by the insurer ~~((of the risk))~~ and be based on specific ~~((factual))~~ information ~~((supporting))~~ that support the rating decision. ((Items such as the following may be considered;)) An insurer may consider these types of risk factors:

- (a) Management capacity for loss control and risk improvement, including financial and operating performance.
- (b) Condition and upkeep of premises and equipment.
- (c) Location of risk and suitability of occupancy.
- (d) Quality of fire and police protection.
- (e) Employee training, selection, supervision, or similar elements.
- (f) Type of equipment.
- (g) Safety programming.
- (h) Construction features and maintenance.
- (i) Classification variances, including differences from average hazards.

(6) If a risk is rated below average (debited) under a schedule rating plan, the insurer must advise an insured or applicant, upon timely request, ((will be advised by the insurer)) of the factors ((which resulted in)) that led to the adverse rating so that the insured or applicant ((will be fairly apprised of any)) can take appropriate corrective action ((that might be appropriate with respect to the insurance risk)).

(7) ~~((A))~~ The insurer must administer each schedule rating plan ((shall be administered)) equitably and ((applied)) apply it fairly to every eligible ((risk which an insurer elects to insure)) applicant or insured.

~~((Records supporting))~~ (8) The insurer must keep documentation that supports the development of individual risk modifications ((shall be retained by the insurer)) for ((a minimum)) the later of three years or ((until)) the ((conclusion)) end of the next regular examination conducted by ((the)) its home state insurance ((department of its domicile, whichever is later, and made)) regulator.

(a) The insurer must make these documents available ((at all reasonable times)) for ((the commissioner's)) examination by the commissioner upon request.

(b) The records must include copies of all documentation used in ((making each particular determination)) the development of each individual risk modification, even ((though)) if a credit or debit ((may)) does not result.

AMENDATORY SECTION (Amending Matter No. R 98-4, filed 10/7/98, effective 11/7/98)

WAC 284-24-110 ((Effect of changes to)) An insurer must make a rate filing to change zip code boundaries. (1) An insurer ((shall)) must not change an insured's rates solely because the insured's zip code has been changed by the United States Postal Service. This section ((shall)) does not ((be construed to)) prohibit insurers from using zip codes to define rating territories. ((However;))

~~(2) The zip code boundaries ((in effect at the time an insurer makes a rate filing defining the territories shall)) approved by the commissioner determine the physical boundaries of ((these territories)) each territory. ((These)) The insurer must make a new rate filing to change the physical boundaries ((can be changed only by the insurer's subsequent rate filings)) of a rating territory.~~

NEW SECTION

WAC 284-24-115 Effective date rules. (1) Filers must include a common effective date for all rates submitted in a filing. If a filer includes a request in the filing, an insurer may use a different effective date for renewal policies, subject to a maximum interval of forty-five days.

(2) The proposed effective date must be a specific date.

(a) Vague statements, such as one that says the insurer will implement a filing thirty days after approval is not specific, and does not comply with this section.

(b) If an insurer is filing a new program or optional coverage, the filer may request an effective date concurrent with the commissioner's approval.

(3) The proposed effective date must be consistent with Washington law. Rates filed under RCW 48.19.043 must propose an effective date no more than thirty days before the date filed.

(4) If an insurer revises the effective date of a filing, the commissioner must receive the request in SERFF before the original effective date of the filing.

AMENDATORY SECTION (Amending Matter No. R 2006-12, filed 4/17/07, effective 5/18/07)

WAC 284-24-120 ((Suspension of)) Rate filing requirements((—)) are suspended for large commercial accounts. (1) Under RCW 48.19.080, the commissioner will suspend the rate filing requirements in chapter 48.19 RCW ((are suspended with respect to)) for large commercial property and casualty accounts.

(2) For purposes of this section, "large commercial property and casualty account" means property and casualty insurance ((coverage)) as defined in WAC 284-24-001(10) that((-

~~((a)) involves the lines of property and casualty insurance defined in RCW 48.11.040, 48.11.050, 48.11.060, 48.11.070, and/or 48.11.080; and~~

~~((b)) is purchased by a business, not-for-profit organization, or public entity with enough insurance buying experience to negotiate with insurers in a largely unregulated environment and that meets any two of the following criteria:~~

~~((i)) (a) Annual premiums of one hundred thousand dollars or more, excluding workers compensation insurance issued by the department of labor and industries and types of insurance listed in subsection (6) of this section;~~

~~((ii)) (b) Net revenues or sales in excess of one hundred million dollars;~~

~~((iii)) (c) More than two hundred employees;~~

~~((iv)) (d) Net worth over fifty million dollars;~~

~~((v)) (e) Is a not-for-profit organization or public entity with an annual budget or assets of at least forty-five million dollars;~~

~~((vi)) (f) Is a municipality with a population over fifty thousand.~~

(3) Before an insurer issues coverage ~~((in reliance on))~~ under this section, the insurer or its ~~((agent shall))~~ insurance producer must notify the insured in writing that the rates have not been and will not be filed ~~((for the commissioner's))~~ with the commissioner for approval.

(4) ~~((Property))~~ The Washington Insurance Examining Bureau will not audit rates used on large commercial property casualty accounts ~~((will not be audited by the Washington Insurance Examining Bureau))~~ under WAC 284-20-006.

(5) The commissioner ~~((retains the right and ability to))~~ may examine ~~((the))~~ rates used ~~((on))~~ for pricing large commercial property and casualty accounts to ~~((ascertain whether))~~ determine if they meet the requirements of ~~((RCW 48.19.020 and other statutes))~~ chapter 48.19 RCW and Title 284-24 WAC. ~~((The insurer shall maintain records supporting))~~ If an insurer relies on this section to issue a policy, the insurer must keep supporting documentation for the ~~((rating))~~ underlying rates and final premium determination ~~((of each policy issued in reliance on this section. These records shall be retained by the insurer))~~ for a minimum of three years after the policy is issued and ~~((made))~~ make it available ~~((at all reasonable times for))~~ to the commissioner ~~((s examination))~~ upon request.

(6) Subsection (1) of this section does not apply to:

(a) Professional liability insurance, including ~~((medical malpractice))~~ all types of malpractice and errors and omissions insurance;

(b) ~~((Directors' and officers' liability insurance purchased by individuals;~~

~~((e))~~ Reimbursement insurance policies that ~~((reimburse))~~ indemnity service contract providers or protection product guarantee providers for contractual obligations assumed under a service contract or protection product guarantee; and

~~((d))~~ (c) Master policies under which certificates of coverage are issued to individual consumers, households, businesses, or other organizations.

Chapter 284-58 WAC

**~~((REGULATIONS PERTAINING TO))~~
LIFE AND DISABILITY FORM
AND RATE FILINGS**

NEW SECTION

WAC 284-58-005 Definitions that apply to this chapter. The definitions in this section apply throughout this chapter.

(1) "Complete filing" means a package of information containing insurance forms, supporting information, documents and exhibits submitted to the commissioner electronically using the System for Electronic Rate and Form Filing (SERFF).

(2) "Credit insurance" means the types of insurance defined in RCW 48.34.030 (1) and (2).

(3) "Date filed" means the date a complete filing has been received and accepted by the commissioner.

(4) "Disability insurance" means the same as in RCW 48.11.030.

(5) "Filer" means a person, organization or other entity that files insurance forms or rates with the commissioner for an insurer.

(6) "Insurance" means the same as in RCW 48.01.040.

(7) "Insurer" means an insurer defined in RCW 48.01.050 that has been issued a certificate of authority by the commissioner under chapter 48.05 RCW.

(8) "Life insurance" means the same as in RCW 48.11.020.

(9) "NAIC" means the National Association of Insurance Commissioners.

(10) "Objection letter" means correspondence created in SERFF and sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a form under RCW 48.18.110.

(11) "Rate" or "rates" means all classification manuals, rate or rule manuals, rating plans, rating schedules, minimum rates, class rates, and rating rules that insurers must file under RCW 48.19.010(2) and 48.34.100.

(12) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary NAIC computer-based application that allows insurers and other entities to create and submit rate, rule and form filings electronically to the commissioner.

(13) "Type of insurance" means a specific type of insurance listed in the *Uniform Life, Accident and Health, Annuity and Credit Coding Matrix* published by the NAIC and available at www.naic.org.

AMENDATORY SECTION (Amending Matter No. R 98-11, filed 6/16/98, effective 7/17/98)

WAC 284-58-010 (~~(Title and)~~) **Purpose of this chapter.** ~~((1))~~ This chapter (~~(, WAC 284-58-010 through 284-58-260, shall be known and may be cited as)~~) contains the Washington state life, disability and credit insurance form and rate filing requirements.

~~((2))~~ The purpose of this chapter is to adopt processes and procedures for insurers and filers to use when submitting life, disability and credit insurance products with the commissioner. Rules in this chapter:

~~((a))~~ (1) Establish the necessary contents of a form filing (~~(, including the documents to be used in connection with a form filing;~~

(b) ~~Designate the types of policy forms which may not be filed by certification under RCW 48.18.100(2); and~~

(c) ~~With respect to disability insurance;~~);

(2) ~~Establish the filing requirements ((with respect to manuals of classification, manual of rules and rates, and modifications thereof))~~ for credit and disability insurance classification plan and rate and rule manuals; and

(3) ~~Effective January 1, 2009, designate SERFF as the method by which filers must submit life, credit and disability filings to the commissioner.~~

AMENDATORY SECTION (Amending Matter No. R 98-11, filed 6/16/98, effective 7/17/98)

WAC 284-58-020 **Scope of this chapter.** (1) This (~~(regulation))~~ chapter applies to all life and disability insurers ((and to all forms required to be filed with the commissioner)) that must file forms and rates under RCW 48.18.100, ((and to all manuals of classification, manuals of rules and rates and modifications required to be filed with respect to disability insurance under RCW)) 48.19.010(2) and 48.34.100.

(2) ~~Under RCW 48.18.100 ((establishes three basic types of form filings. The first type contemplates the approval of the commissioner. The second type contemplates a filing containing a certification, which permits the insurer to use the form without approval, immediately after the filing. The third type, for commercial property casualty forms, permits the insurer to use forms thirty days before filing. The first, or approval, type of filing requires the commissioner to act within thirty (or forty-five days, if extended under RCW 48.18.100(3)), and, if the form has not been either approved or disapproved during such time period, the form is deemed approved and may be used by the insurer. In either case)), the commissioner is required to act within thirty days to approve or disapprove a form. The commissioner may extend the review period to forty-five days under RCW 48.18.100(3). If the commissioner does not act within the review period, the form is deemed approved and the insurer may use the form. The commissioner may subsequently withdraw approval ((or stop the use)) of a form ((for cause)).~~

NEW SECTION

WAC 284-58-023 **Certification process does not apply to life, disability or credit insurance forms.** Insurers may not use the certification process described in RCW 48.18.100(2) to file life, disability or credit insurance forms. Insurers must file these forms under RCW 48.18.100(1) or 48.34.100.

NEW SECTION

WAC 284-58-025 **Filing instructions that are incorporated into this chapter.** SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* posted on the SERFF web site (www.serff.com); and

(2) The *Washington State SERFF Life and Disability Rate and Form Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

AMENDATORY SECTION (Amending Matter No. R 96-1, filed 5/2/96, effective 6/2/96)

WAC 284-58-030 **General ((contents of all life and disability)) form and ((disability)) rate filing((s)) rules.** (1)

Each credit, life or disability insurance form or rate filing must be submitted to the commissioner (~~(whether for approval or by certification, shall be submitted with the filing transmittal form prescribed by and available from the commissioner. Use of a standardized transmittal form makes it easier for the commissioner to identify filings, issuers, and other important identifying information; permits more efficient tracking of filings; and makes it less difficult to provide status reports of filings to persons outside the office. The form will include the name of the filing entity, its address, identification number, the type of filing being submitted, the form name or group name and number, and other relevant information. In addition, the filing shall include:~~

~~(1) One filing report as required by WAC 284-58-040 and, if applicable, a certification prepared pursuant to WAC 284-58-190 or 284-58-210, as appropriate.~~

~~(2) The printed form or forms, completed in John Doe fashion if appropriate.~~

~~(3) Rates, manuals of classification, manuals of rules and rates and modifications thereof, if appropriate.~~

~~(4) Actuarial memorandum of nonforfeiture values, if appropriate.~~

~~(5) Actuarial demonstration of anticipated loss ratio, if appropriate.~~

~~(6) Any additional data or information requested by the commissioner)~~ electronically using SERFF.

(a) Every form filed in SERFF must be attached to the form schedule.

(b) Filers must send all written correspondence related to a form or rate filing in SERFF.

(2) Filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit forms to the commissioner for review in:

(a) Ten-point or larger type; and

(b) Final printed form or printer's proof format.

(3) Filers must submit complete filings that comply with the SERFF Industry Manual posted on the SERFF web site (www.serff.com) and the Washington State Life and Disability Form Filing General Instructions posted on the commissioner's web site (www.insurance.wa.gov).

(4) Filers must submit separate filings for each type of insurance. This section does not apply to credit insurance filings made under RCW 48.34.040.

NEW SECTION

WAC 284-58-033 Specific rate filing rules. If a rate filing is required under RCW 48.19.010(2) or 48.34.100, it must:

(1) Be submitted separate from but concurrent with the corresponding form filing; and

(2) Include, if appropriate:

(a) Rates, manuals of classification, manuals of rules and rates and modifications thereof;

(b) Actuarial memorandum of nonforfeiture values;

(c) Actuarial demonstration of anticipated loss ratio; and

(d) Any additional data or information requested by the commissioner.

NEW SECTION

WAC 284-58-037 Commissioner may reject filings.

(1) The commissioner may reject and close any filing that does not comply with WAC 284-58-030 or 284-58-033. If the commissioner rejects a filing, the insurer has not filed forms or rates with the commissioner.

(2) If the commissioner rejects a filing and the filer resubmits it as a new filing, the date filed will be the date the commissioner receives the new filing.

NEW SECTION

WAC 284-58-043 Filing authorization rules. An insurer may authorize a third-party filer to file forms or rates on its behalf. For the purposes of this section, a "third-party filer" means a person or entity in the business of providing insurance regulatory compliance services.

(1) If an insurer delegates filing authority to a third-party filer, each filing must include a letter as supporting documentation signed by an officer of the insurer authorizing the third-party filer to make filings on behalf of the insurer.

(2) The insurer may not delegate responsibility for the content of a filing to a third-party filer. The commissioner will consider errors and omissions made by the third-party filer to be errors and omissions of the insurer.

(3) If a third-party filer has a pattern of making filings that do not comply with this chapter, the commissioner may reject a delegation of filing authority from the insurer.

NEW SECTION

WAC 284-58-047 Rules for responding to an objection letter. An objection letter may ask the filer to revise a noncompliant form or rate filing or provide clarification or additional information. The objection letter will state the reason(s) for disapproval, including relevant case law, statutes and rules. Filers must:

(1) Provide a complete response to an objection letter. A complete response must include:

(a) A separate response to each objection, and if appropriate;

(b) A description of changes proposed to noncompliant forms, and a replacement form attached to the form schedule; or

(c) Revised exhibits and supporting documentation.

(2) Respond to the commissioner in a timely manner.

NEW SECTION

WAC 284-58-053 Rules for replacement forms. If an insurer files a replacement form, the filer must provide the supporting documentation described below:

(1) A detailed explanation of all material changes to the previously approved form; and

(2) An exhibit that marks and identifies each change or revision to the obsolete form using one of these methods:

(a) A draft form that strikes deletions and underlines additions or changes in the form;

(b) A draft form that includes comments in the margins explaining the changes in the forms; or

(c) A side-by-side comparison of current and proposed policy language.

NEW SECTION

WAC 284-58-057 Effective date rules. (1) Filers must include a common approval date for all forms or rates submitted in a filing.

(2) The proposed approval date must be a specific date.

(3) Filers may submit a request to change the approval date of a filing as a note to reviewer.

NEW SECTION

WAC 284-58-061 Reference copies of amendatory endorsements. If an insurer will use a previously approved Washington amendatory endorsement with a new form, the filer must:

(1) Provide a copy of the amendatory endorsement attached as supporting documentation; and

(2) Explain how the insurer will use the amendatory endorsement with the new form.

NEW SECTION

WAC 284-58-066 Rules that apply to insurance forms translated from English to another language. An insurer may issue forms written in languages other than English. If an insurer decides to issue forms in a language other than English, the filer must:

(1) File both the translated and English versions of the form.

(2) Provide written certification by a person certified by the American Translators Association or a comparable organization that the:

(a) Translation is accurate; and

(b) Translated version provides as much coverage as the English version.

(3) Provide written certification from an officer employed by the insurer that it will interpret the translated form based on the version most favorable to the policyholder.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-58-070 General designation of life and disability forms which may not be filed by certification.

WAC 284-58-080 Individual disability insurance forms, certification not permitted.

WAC 284-58-090 Group disability insurance forms, certification not permitted.

WAC 284-58-100 Group disability insurance forms which may be filed by certification.

WAC 284-58-110 Blanket disability insurance forms, certification not permitted.

WAC 284-58-120 Blanket disability insurance forms which may be filed by certification.

WAC 284-58-130 Individual life insurance and annuity forms, certification not permitted.

WAC 284-58-140 Individual life insurance and annuity forms which may be filed by certification.

WAC 284-58-150 Group life insurance and annuity contract forms, certification not permitted.

WAC 284-58-160 Group life insurance and annuity forms which may be filed by certification.

WAC 284-58-170 Credit insurance forms, certification not permitted.

WAC 284-58-180 Fraternal benefit society forms.

WAC 284-58-190 Certification form to be used for disability insurance form filings.

WAC 284-58-200 Form to be used for certification of disability insurance form or rate filings.

WAC 284-58-210 Certification form to be used for life insurance and annuity form filings.

WAC 284-58-220 Form to be used for certification of life insurance or annuity form filings.

WAC 284-58-250 General contents of a form filing for property and casualty insurance and kinds of insurance other than life and disability.

WAC 284-58-260 Designation of forms for insurances which may not be filed by certification.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-20-100 Modification of form filing requirements.

WAC 284-20-150 Rules that exempt certain commercial property casualty forms from filing requirements.

WSR 08-14-065
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed June 25, 2008, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-15-024 and 07-21-121.

Title of Rule and Other Identifying Information: Chapter 388-97 WAC, Nursing homes.

- The department is renumbering the entire chapter to four digits for ease of reading and reference.
- The WAC revisions shown below have been made and will be incorporated into the renumbered chapter.
- The department is adding WAC 388-97-0380 Electronic monitoring equipment—Audio monitoring and video monitoring and 388-97-0400 Electronic monitoring equipment—Resident requested use.
- The department is repealing WAC 388-97-565 Department review of nursing home license renewal.

The department has made revisions to WAC 388-97-005 Definitions, 388-97-027 Nursing facility admission, 388-97-047 Discharge or leave of a nursing facility resident, 388-97-07015 Protection of resident funds, 388-97-077 Resident protection program, chunking into ten new sections, 388-97-147 Surveillance, management and early identification of individuals with active tuberculosis, chunking into twelve new sections, 388-97-155 Care of residents with active tuberculosis, 388-97-160 General administration, 388-97-162 Required notification and reporting, 388-97-180 Clinical records, 388-97-29510 New construction compliance, 388-97-29520 Fire standards and approval, 388-97-32550 Utility service rooms, 388-97-32580 Janitors closets, 388-97-33050 Resident room size variance, 388-97-347 Laundry services, 388-97-36040 Illumination levels in new buildings and additions, 388-97-36050 Night lights in new construction, 388-97-35060 Special egress control devices on a dementia care unit, 388-97-385 Sewage and liquid waste disposal, 388-97-40010 Preliminary new construction documents, 388-97-401 Final new construction documents, 388-97-405 Exemptions to new construction requirements, 388-97-410 State building code in new construction, 388-97-415 Electrical codes, 388-97-420 Elevator codes, 388-97-430 Entrances and exits, 388-97-47020 Ventilation systems, 388-97-555 Nursing home license renewal, 388-97-595 Relocation of resident, 388-97-615 Acceptable and unacceptable plans of correction, 388-97-620 Informal department review, and 388-97-625 Notice and appeal rights.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on August 26, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 27, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery

4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on August 26, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by August 19, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to:

- Update references to reflect current standards, codes and federal requirements;
- Chunk larger sections into smaller sections;
- Simplify and clarify resident protection program sections;
- Add language on electronic monitoring;
- Delete and update sections on department review of nursing home renewal licenses; and
- Renumber and make WAC sections four digit numbers for clearer order and reference as requested by stakeholders.

Reasons Supporting Proposal: The reasons for these proposed rule changes are to make the rules:

- Clearer, easier to read, understand and apply;
- Easier to find information by chunking larger sections; and
- Up-to-date with current practices.

Statutory Authority for Adoption: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52.

Statute Being Implemented: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Judy Johnson, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, (360) 725-2591; Implementation and Enforcement: Lori Melchiori, Assistant Director, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Residential care services has analyzed the proposed rules and concludes that there are no new requirements in these rules that will impose more than minor costs, if any new costs at all, on nursing homes. The primary purposes of the proposed rules are to clarify preexisting requirements and to update existing rules to changes in procedures, or in state or federal laws. In addition, the department has included clarification of the use of electronic monitoring equipment.

As a result, the preparation of a small business economic impact statement is not required.

A copy of the statement may be obtained by contacting Judy Johnson, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, phone (360) 725-2591, fax (360) 438-7903, e-mail johnsjm1@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be

obtained by contacting Judy Johnson, P.O. Box 45600, Mail-stop 45600, Olympia, WA 98405-5600, phone (360) 725-2591, fax (360) 438-7903, e-mail johnsjm1@dshs.wa.gov.

June 20, 2008
Stephanie E. Schiller
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-15 issue of the Register.

WSR 08-14-072
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)
[Filed June 26, 2008, 9:32 a.m.]

Continuance of WSR 08-09-126.

Exempt from preproposal statement of inquiry under WSR 07-15-011.

Title of Rule and Other Identifying Information: In order to allow interested persons additional time to submit comments, the securities division is continuing the rule-making proceeding concerning the proposed amendment to its rules to provide further clarification of when a person holds himself or herself out as a "financial planner" or "investment counselor." The rules the division has proposed to amend are set forth in WAC 460-24A-040 and 460-24A-045.

Hearing Location(s): Department of Financial Institutions, 150 Israel Road S.W., Room 319, Tumwater, WA 98501, on August 5, 2008, at 1:00 p.m.

Date of Intended Adoption: August 6, 2008.

Submit Written Comments to: Faith L. Anderson, Department of Financial Institutions, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, e-mail fander-son@dfi.wa.gov, fax (360) 704-6480, by August 5, 2008.

Assistance for Persons with Disabilities: Contact Carolyn Hawkey, P.O. Box 9033, Olympia, WA 98507-9033, by July 29, 2008, TTY (360) 664-8126 or (360) 902-8774.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The securities division has proposed to amend its rules to clarify that a person who uses a term or abbreviation thereof, or engages in any conduct, that would lead a reasonable person to believe that the person is holding himself or herself out as a "financial planner" or "investment counselor" holds himself or herself out as a "financial planner" or "investment counselor" and is therefore subject to registration as an investment adviser under RCW 21.20.0040 unless that person falls within the exception set forth in WAC 460-24A-045 for those that would not otherwise be considered an investment adviser. In order to achieve this goal, the division proposed amendments to WAC 460-24A-040 to provide that a person not only holds himself or herself out as a "financial planner" or "investment counselor" when the person uses any of the terms already listed in that section, but also when the person "uses any other term or abbreviation thereof, or engages in any conduct, that would lead a reasonable person to believe that the person is holding himself or herself out as a 'financial planner' or

"investment counselor.'" The division also proposed amendments to the exception for persons that would otherwise be considered investment advisers set forth in WAC 460-24A-045 to make minor changes to accommodate the proposed amendments to WAC 460-24A-040. Text of the proposed amendments to the division's rules accompanies this notice.

Reasons Supporting Proposal: The amendments proposed by the division should be adopted to provide greater clarity regarding when a person holds himself or herself out as an investment adviser, particularly given the growing use of professional designations that state or imply that a person has special expertise, certification, or training in financial planning, including the growing use of senior designations and certifications. The division has concerns that these types of designations are being used by persons that are not registered as investment advisers.

Statutory Authority for Adoption: RCW 21.20.450, 21.20.005(6), 21.20.040(4).

Statute Being Implemented: Chapter 21.20 RCW.

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

Name of Proponent: Department of financial institutions, securities division, governmental.

Name of Agency Personnel Responsible for Drafting: Faith L. Anderson, 150 Israel Road S.W., Olympia, WA 98501, (360) 725-7825; **Implementation:** Scott Jarvis, 150 Israel Road S.W., Olympia, WA 98501, (360) 902-8700; and **Enforcement:** Michael E. Stevenson, 150 Israel Road S.W., Olympia, WA 98501, (360) 902-8824.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Securities Act of Washington, chapter 21.20 RCW, and the existing rules adopted thereunder already subject persons who hold themselves out as "financial planners" or "investment counselors" to registration as investment advisers. Therefore, the adoption of the amendments to existing rules proposed in this notice will not add any additional compliance burdens for those subject to the rules but will provide greater clarity to those subject to these rules. If any costs are borne by businesses in connection with the proposed rules, these costs will be no more than minor. As such, the agency is not required to prepare a small business economic impact statement under RCW 19.85.030.

A cost-benefit analysis is not required under RCW 34.05.328. The department of financial institutions is not one of the agencies listed in RCW 34.05.328.

June 25, 2008

Scott Jarvis
Director

AMENDATORY SECTION (Amending WSR 00-01-001, filed 12/1/99, effective 1/1/00)

WAC 460-24A-040 Use of certain terms. ~~((+))~~ For the purposes of RCW 21.20.040~~((3))~~ (4), ~~((use of any term, or abbreviation for a term, including the word))~~ a person holds himself or herself out as a "financial planner" or ~~((the word))~~ "investment counselor" ~~((is considered the same as the use of either of those terms alone.~~

(2) For the purposes of RCW 21.20.040(3), terms that are deemed similar to "financial planner" and "investment counselor" include, but are not limited to, when the person:

(1) Uses any of the following terms or abbreviations thereof:

- (a) Financial consultant;
- (b) Investment consultant;
- (c) Money manager;
- (d) Investment manager;
- (e) Investment planner;
- (f) Chartered financial consultant ((or its abbreviation)) (ChFC); or

(g) ((The abbreviation CFP.)) Certified financial planner (CFP); or

(2) Uses any other term or abbreviation thereof, or engages in any conduct, that would lead a reasonable person to believe that the person is holding himself or herself out as a "financial planner" or "investment counselor."

AMENDATORY SECTION (Amending WSR 97-16-050, filed 7/31/97, effective 8/31/97)

WAC 460-24A-045 Holding out as a financial planner or investment counselor—Exception. A person ((using a term deemed similar to "financial planner" or "investment counselor")) who would otherwise be deemed an investment adviser under WAC 460-24A-040((2)) will not be considered ((to be holding himself out as a financial planner for purposes of) an investment adviser under RCW 21.20.005(6) and 21.20.040(4) under the following circumstances:

(1) The person is not in the business of providing advice relating to the purchase or sale of securities, and would not, but for ((his)) the use of ((such a)) certain terms or abbreviations thereof as set forth in WAC 460-24A-040(1) or engaging in certain conduct set forth in WAC 460-24A-040(2), be an investment adviser required to register pursuant to RCW 21.20.040; and

(2) The person does not directly or indirectly receive a fee for providing investment advice. Receipt of any portion of a "wrap fee," that is, a fee for some combination of brokerage and investment advisory services, constitutes receipt of a fee for providing investment advice for the purpose of this section; and

(3) The person delivers to every customer, at least forty-eight hours before accepting any compensation, including commissions from the sale of any investment product, a written disclosure including the following information:

(a) The person is not registered as an investment adviser or investment adviser ((salesperson)) representative in the state of Washington;

(b) The person is not authorized to provide financial planning or investment advisory services and does not provide such services; and

(c) A brief description of the person's business which description should include a statement of the kind of products offered or services provided (e.g., the person is in the business of selling securities and insurance products) and of the basis on which the person is compensated for the products sold or services provided; and

(4) The person has each customer to whom a disclosure described in subsection (3) of this section is given sign a written dated acknowledgment of receipt of the disclosure; and

(5) The person shall retain the executed acknowledgments of receipt required by subsection (4) of this section and of the disclosure given for so long as the person continues to receive compensation from such customers, but in no case for less than three years from the date of execution of the acknowledgment;

(6) If the person received compensation from the customer on more than one occasion, the person need give the customer the disclosure described in subsection (3) of this section only on the first occasion unless the information in the disclosure becomes inaccurate, in which case the person must give the customer updated disclosure before receiving further compensation from the customer.

WSR 08-14-078

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed June 26, 2008, 2:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-108 and 08-10-093.

Title of Rule and Other Identifying Information: Amending WAC 232-16-800 Johnson/Debay's Slough Game Reserve; adopting WAC 232-28-432 2008-09 Migratory waterfowl seasons and regulations; and repealing WAC 232-28-431 2007-08 Migratory waterfowl seasons and regulations.

Hearing Location(s): Embassy Suites, 20610 44th Avenue West, Lynnwood, WA 98036, (425) 775-2500, on August 8-9, 2008, at 8:00 a.m.

Date of Intended Adoption: August 8-9, 2008.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by Wednesday, July 16, 2008.

Assistance for Persons with Disabilities: Contact Susan Yeager by August 6, 2008, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 232-16-800, this amendment corrects an error in the reserve boundary description.

WAC 232-28-432, the new WAC specifies legal season dates, bag limits, and open areas to hunt waterfowl, coot, and snipe for the 2008-09 hunting season. WAC 232-28-432 replaces WAC 232-28-431.

Reasons Supporting Proposal: WAC 232-16-800, revision of the reserve boundary description to make it understandable.

WAC 232-28-432, waterfowl seasons and regulations are developed based on cooperative management programs among states of the Pacific Flyway and the United States Fish and Wildlife Service, considering population status and other

biological parameters. The rule establishes waterfowl seasons and regulations to provide recreational opportunity, control waterfowl damage, and conserve the waterfowl resources of Washington.

Statutory Authority for Adoption: RCW 77.12.040, 77.12.047, 77.12.020, 77.12.570, 77.12.210.

Statute Being Implemented: RCW 77.12.040, 77.12.-047, 77.12.020, 77.12.570, 77.12.210.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (306) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

June 26, 2008
Loreva M. Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 98-155, filed 8/13/98, effective 9/13/98)

WAC 232-16-800 Johnson/Debay's Slough Game Reserve. In Skagit County, beginning at the intersection of Francis Road and Debay's Slough Road; then south and west along Francis Road (3090 feet) to white corner marker; then north (1265 feet) to the middle of Debay's Slough (white corner marker); then westerly (2087 feet) along the channel of Debay's Slough to the western tip of the farmed portion of Debay's Island; then northerly (1485 feet) to the south bank of the Skagit River (white corner marker); then easterly (~~((1600))~~ 3750 feet) along the south bank of the Skagit River to fence line (white corner marker); then south along fence line (855 feet) to corner post; then east along fence line (435 feet) to fence intersection; then south (300 feet) along fence line to existing tree line (white corner marker); then continue south (835 feet) to south shoreline of Debay's Slough (white corner marker); then easterly and southerly along the west shoreline of Debay's Slough (1770 feet) to the south side of Debay's Slough Road (white corner marker); then east along the south side of Debay's Slough Road to the intersection of Francis Road and the point of beginning.

NEW SECTION

WAC 232-28-432 2008-09 Migratory waterfowl seasons and regulations.

DUCKS

Statewide

Oct. 11-15, 2008 and Oct. 18, 2008 - Jan. 25, 2009.

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 20-21, 2008.

Daily bag limit: 7 ducks, to include not more than 2 hen mallard, 1 pintail, 3 scaup, 2 canvasback, 2 redhead, 1 harlequin, 4 scoter, and 4 long-tailed duck.

Possession limit: 14 ducks, to include not more than 4 hen mallard, 2 pintail, 6 scaup, 4 canvasback, 4 redhead, 1 harlequin, 8 scoter, and 8 long-tailed duck.

Season limit: 1 harlequin.

WRITTEN AUTHORIZATION REQUIRED TO HUNT SEA DUCKS.

All persons hunting sea ducks (harlequin, scoter, long-tailed duck) in Western Washington are required to obtain a written authorization and harvest report from the Washington department of fish and wildlife. Hunters who did not possess a 2007-08 authorization must submit an application form to WDFW (forms available at Washington department of fish and wildlife, Olympia and regional offices).

Immediately after taking a sea duck into possession, hunters must record in ink the information required on the harvest report. Return of the harvest report is mandatory. By February 15, 2009, hunters must return the harvest report to the Washington department of fish and wildlife, or report harvest information on the department's internet reporting system. Hunters failing to comply with reporting requirements will be ineligible to participate in the 2009-10 sea duck season.

COOT (Mudhen)

Same areas, dates (including youth hunting weekend), and shooting hours as the general duck season.

Daily bag limit: 25 coots.

Possession limit: 25 coots.

COMMON SNIPE

Same areas, dates (except youth hunting weekend), and shooting hours as the general duck season.

Daily bag limit: 8 snipe.

Possession limit: 16 snipe.

GEESE (except Brant)

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 20-21, 2008, statewide except Western Washington Goose Management Areas 2A and 2B.

Daily bag limit: 4 Canada geese.

Possession limit: 8 Canada geese.

Western Washington Goose Seasons

Goose Management Area 1

Island, Skagit, Snohomish counties.

Oct. 11, 2008 - Jan. 25, 2009 for snow, Ross', or blue geese.

Oct. 11-23, 2008 and Nov. 1, 2008 - Jan. 25, 2009 for other geese (except Brant).

Daily bag limit: 4 geese.

Possession limit: 8 geese.

WRITTEN AUTHORIZATION REQUIRED TO HUNT SNOW GESE.

All persons hunting snow geese in this season are required to obtain a written authorization and harvest report from the Washington department of fish and wildlife. Hunters who did not possess a 2007-08 authorization must submit an application form to WDFW (forms available at Washington department of fish and wildlife, Olympia and regional offices).

Immediately after taking a snow goose into possession, hunters must record in ink the information required on the harvest report. Return of the harvest report is mandatory. By February 15, 2009, hunters must return the harvest report to the Washington department of fish and wildlife, or report harvest information on the department's internet reporting system. Hunters failing to comply with reporting requirements will be ineligible to participate in the 2009-10 snow goose season.

It is unlawful to discharge a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County. While hunting snow geese on Fir Island, if a hunter is convicted of 1) trespass, 2) shooting from, across, or along the maintained part of any public highway, 3) discharging a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County, or 4) exceeding the daily bag limit for snow geese, written authorization will be invalidated for the remainder of the 2008-09 snow goose season and an authorization will not be issued for the 2009-10 snow goose season.

QUALITY HUNTING AREAS IN GOOSE MANAGEMENT AREA 1.

Hunters possessing written authorization to hunt snow geese in Goose Management Area 1 can apply for a special authorization to access private lands around Fir Island enrolled in a new quality snow goose hunting program. Hunters must apply for special authorization to hunt on these special areas by September 26, 2008, using the department's internet or mail application systems. A random drawing will select hunters for participation, and special hunt authorizations will be mailed prior to the season. Up to 3 individuals possessing snow goose authorizations can hunt with the successful applicant on each hunt day. Successful applicants must check in with the WDFW hunt coordinator at least one week prior to their first scheduled hunting day and all hunters must hunt over decoys. Special authorizations are not valid for commercial uses. Authorizations are valid for one week (only on Monday, Tuesday, Wednesday, Friday, and Saturday) during the period November 1, 2008 - January 25, 2009, and only on private lands specified by the WDFW hunt coordinator. Hunters will be assigned at random to private farms participating in the program.

Goose Management Area 2A

Cowlitz and Wahkiakum counties, and that part of Clark County north of the Washougal River.

Open in all areas except Ridgefield NWR from 8 a.m. to 4:00 p.m., Saturdays, Sundays, and Wednesdays only, Nov. 8-23, 2008 and Dec. 3, 2008 - Jan. 25, 2009. Ridgefield NWR open from 8 a.m. to 4:00 p.m. Tuesdays, Thursdays, and Saturdays only, Nov. 11-22, 2008 and Dec. 4, 2008 - Jan. 17, 2009, except closed Nov. 27 and Dec. 25, 2008, and Jan. 1, 2009.

Bag limits for Goose Management Area 2A:

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose and 2 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose and 4 cackling geese.

Season limit: 1 dusky Canada goose.

Goose Management Area 2B

Pacific County.

Open from 8 a.m. to 4:00 p.m., Saturdays and Wednesdays only, Oct. 11, 2008 - Jan. 10, 2009.

Bag limits for Goose Management Area 2B:

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose, 1 Aleutian goose, and 2 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose, 2 Aleutian geese, and 4 cackling geese.

Season limit: 1 dusky Canada goose.

Special Provisions for Goose Management Areas 2A and 2B:

A dusky Canada goose is defined as a dark-breasted (as shown in the Munsell color chart 10 YR, 5 or less) Canada goose with a culmen (bill) length of 40-50 mm. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.

The Canada goose season for Goose Management Areas 2A and 2B will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 80 geese. The fish and wildlife commission has authorized the director to implement emergency area closures in accordance with the following quotas: A total of 80 dusks, to be distributed 15 for Zone 1 (Ridgefield NWR); 25 for Zone 2 (Cowlitz County south of the Kalama River); 20 for Zone 3 (Clark County except Ridgefield NWR); 10 for Zone 4 (Cowlitz County north of the Kalama River and Wahkiakum County); and 10 for Zone 5 (Pacific County). Quotas may be shifted to other zones during the season to optimize use of the statewide quota and minimize depredation.

Hunting is only permitted by written authorization from the Washington department of fish and wildlife. New hunters and those who did not maintain a valid 2007-08 authorization must review goose identification training materials and score a minimum of 80% on a goose identification test to receive written authorization. Hunters who fail a test must wait 28

days before retesting, and will not be issued a reciprocal authorization until that time.

With written authorization, hunters will receive a harvest report. Hunters must carry the authorization card and harvest report while hunting. Immediately after taking a Canada goose (dusky, lesser/Taverner, cackling, or other subspecies) into possession, hunters must record in ink the information required on the harvest report. Hunters must go directly to the nearest check station and have geese tagged when leaving a hunt site, before 6:00 p.m. If a hunter takes the season bag limit of one dusky Canada goose or does not comply with requirements listed above regarding checking of birds and recording harvest on the harvest report, written authorization will be invalidated and the hunter will not be able to hunt Canada geese in Goose Management Areas 2A and 2B for the remainder of the season and the special late goose season. It is unlawful to fail to comply with all provisions listed above for Goose Management Areas 2A and 2B.

Special Late Goose Season for Goose Management Area 2A:

Open to Washington department of fish and wildlife master hunter program graduates and youth hunters (15 years of age or under, who are accompanied by a master hunter) possessing a valid 2008-09 southwest Washington Canada goose hunting authorization, in areas with goose damage in Goose Management Area 2A on the following days, from 7:00 a.m. to 4:00 p.m.:

Saturdays and Wednesdays only, Feb. 7 - Mar. 10, 2009.

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose, and 2 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose, and 4 cackling geese.

Season limit: 1 dusky Canada goose.

A dusky Canada goose is defined as a dark-breasted Canada goose (as shown in the Munsell color chart 10 YR, 5 or less) with a culmen (bill) length of 40-50 mm. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.

Hunters qualifying for the season will be placed on a list for participation in this hunt. Washington department of fish and wildlife will assist landowners with contacting qualified hunters to participate in damage control hunts on specific lands incurring goose damage. Participation in this hunt will depend on the level of damage experienced by landowners. The special late goose season will be closed by emergency action if the harvest of dusky Canada geese exceeds 85 for the regular and late seasons. All provisions listed above for Goose Management Area 2A regarding written authorization, harvest reporting, and checking requirements also apply to the special late season; except hunters must confirm their participation at least 24 hours in advance by calling the goose hunting hotline (listed on hunting authorization), and hunters must check out by 5:00 p.m. on each hunt day regardless of success. It is unlawful to fail to comply with all provisions listed above for the special late season in Goose Management Area 2A.

Goose Management Area 3

Includes all parts of Western Washington not included in Goose Management Areas 1, 2A, and 2B.

Oct. 11-23, 2008 and Nov. 1, 2008 - Jan. 25, 2009.

Daily bag limit: 4 geese.

Possession limit: 8 geese.

Eastern Washington Goose Seasons

Goose Management Area 4

Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla counties.

Oct. 11-13, 2008, and Saturdays, Sundays, and Wednesdays only during Oct. 18, 2008 - Jan. 18, 2009; Nov. 11, 27, and 28, 2008; Dec. 25, 26, 29, and 30, 2008; January 1, 2009; and every day Jan. 19-25, 2009.

Goose Management Area 5

Includes all parts of Eastern Washington not included in Goose Management Area 4.

Oct. 11-13, 2008, every day from Oct. 18, 2008 - Jan. 25, 2009.

Bag limits for all Eastern Washington Goose Management Areas:

Daily bag limit: 4 geese.

Possession limit: 8 geese.

BRANT

Open in Skagit County only on the following dates:

Jan. 15, 17, 18, 20, 22, 24, and 25, 2009.

If the 2008-09 pre-season brant population in Skagit County is below 6,000 (as determined by the early January survey), the brant season in Skagit County will be canceled.

Open in Pacific County only on the following dates:

Jan. 10, 11, 13, 15, 17, 18, 20, 22, 24, and 25, 2009.

WRITTEN AUTHORIZATION REQUIRED:

All hunters participating in this season are required to obtain a written authorization and harvest report from the Washington department of fish and wildlife. Hunters who did not possess a 2007-08 authorization must submit an application form to WDFW (forms available at Washington department of fish and wildlife regional offices).

Immediately after taking a brant into possession, hunters must record in ink the information required on the harvest report. Return of the harvest report is mandatory. By February 15, 2009, hunters must return the harvest report to the Washington department of fish and wildlife, or report harvest information on the department's internet reporting system. Hunters failing to comply with reporting requirements will be ineligible to participate in the 2009-10 brant season.

Bag limits for Skagit and Pacific counties:

Daily bag limit: 2 brant.

Possession limit: 4 brant.

SWANS

Season closed statewide.

FALCONRY SEASONS

DUCKS, COOTS, AND SNIPE (Falconry)

(Bag limits include geese and mourning doves.)

Oct. 11-15, 2008 and Oct. 18, 2008 - Jan. 25, 2009 statewide.

Daily bag limit: 3, straight or mixed bag with geese and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese and mourning doves during established seasons.

GEESE (Falconry)

(Bag limits include ducks, coot, snipe, and mourning doves.)

Goose Management Area 1: Oct. 11, 2008 - Jan. 25, 2009 for snow, Ross', or blue geese. Oct. 11-23, 2008 and Nov. 1, 2008 - Jan. 25, 2009 for other geese.

Goose Management Area 2A: Saturdays, Sundays, and Wednesdays only, Nov. 8-23, 2008 and Dec. 3, 2008 - Jan. 25, 2009.

Goose Management Area 2B: Saturdays and Wednesdays only, Oct. 11, 2008 - Jan. 10, 2009.

Goose Management Areas 3, 4, and 5: Oct. 11-23, 2008 and Nov. 1, 2008 - Jan. 25, 2009.

Daily bag limit for all areas: 3 geese (except brant), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.

Possession limit for all areas: 6 geese (except brant), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-431	2007-08 Migratory water-fowl seasons and regulations.
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WSR 08-14-121

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed July 1, 2008, 8:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-10-063.

Title of Rule and Other Identifying Information: The department is amending chapter 388-106 WAC, Long-term care services.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on August 5, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 6, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 5, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 29, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making amends chapter 388-106 WAC to phase in a new seventeen level CARE assessment payment system effective July 1, 2008, as directed by chapter 329, Laws of 2008 (ESHB 2687) Washington state supplemental operating budget.

Currently, the department assigns a home and community residential client to one of twelve CARE classifications. The development of the seventeen CARE classifications for home and community residential clients will allow the department to tie payment more closely to acuity. Each of the seventeen levels of CARE classifications will be assigned a payment rate.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: Chapter 329, Laws of 2008 (ESHB 2687) Washington state supplemental operating budget.

Statute Being Implemented: Chapter 329, Laws of 2008 (ESHB 2687) Washington state supplemental operating budget.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Engels, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2353.

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

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(vii), relating only to client medical or financial eligibility.

June 26, 2008

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0080 How is the amount of long-term care services I can receive in my own home or in a residential facility determined? The amount of long-term care services you can receive in your own home or in a residential facility is determined through a classification system. ~~((Twelve))~~ Seventeen classifications apply to clients served in residential and in-home settings. ~~((Two additional exceptional care groups apply to clients served in in-home settings.))~~ The department has assigned each classification a residential facility daily rate or a base number of hours you can receive in your own home.

AMENDATORY SECTION (Amending WSR 08-10-022, filed 4/25/08, effective 5/26/08)

WAC 388-106-0110 How does the CARE tool evaluate me for the exceptional care classification of ~~((in-home care))~~ the E Group? CARE places you in the exceptional care E Group classifications ~~((for the in-home setting))~~ when the following criteria are met in either diagram 1 or 2:

Diagram 1
You have an ADL score of greater than or equal to 22.
AND
You need a Turning/repositioning program.
AND
You ((require)) <u>need</u> at least one of the following: <ul style="list-style-type: none"> ■ External catheter; ■ Intermittent catheter; ■ Indwelling catheter care; ■ Bowel program; ■ Ostomy care; or ■ Total in Self Performance for Toilet Use.
AND
You need one of the following services provided by an individual provider, agency provider, a private duty nurse, or through self-directed care <u>when in the in home setting, or provided by AFH/boarding home staff, facility RN/LPN, facility staff or private duty nursing when living in a residential setting:</u> <ul style="list-style-type: none"> ■ Active range of motion (AROM); or ■ Passive range of motion (PROM).

Diagram 2
You have an ADL score of greater than or equal to 22.
AND
You need a Turning/repositioning program.
AND

You need one of the following services provided by an individual provider, agency provider, a private duty nurse, or through self-directed care <u>when in the in home setting, or provided by AFH/boarding home staff, facility RN/LPN, facility staff or private duty nursing when living in a residential setting:</u> <ul style="list-style-type: none"> ■ Active range of motion (AROM); or ■ Passive range of motion (PROM).
AND
All of the following apply: <ul style="list-style-type: none"> ■ You require IV nutrition support or tube feeding; ■ Your total calories received per IV or tube was greater than 50%; and ■ Your fluid intake by IV or tube is greater than 2 cups per day.
AND
You need assistance with one of the following, provided by an individual provider, agency provider, a private duty nurse, or through self-directed care <u>when in the in home setting or provided by AFH/boarding home staff, facility RN/LPN, facility staff, a private duty nurse or nurse delegation when living in a residential setting:</u> <ul style="list-style-type: none"> ■ Dialysis; or ■ Ventilator/respirator.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0115 How does CARE use ~~((the))~~ criteria ~~((of cognitive performance as determined under WAC 388-106-0090, clinical complexity as determined under WAC 388-106-0095, mood/behaviors as determined under WAC 388-106-0100, and ADLs as determined under WAC 388-106-0105))~~ to place me in a classification group for residential facilities? The CARE tool uses the criteria of cognitive performance as determined under WAC 388-106-0090, clinical complexity as determined under WAC 388-106-0095, mood/behaviors as determined under WAC 388-106-0100, ~~((and))~~ ADLs as determined under WAC 388-106-0105 and exceptional care under WAC 388-106-0110 to place you into one of the following ~~((twelve))~~ seventeen residential classification groups:

((Classification))		((ADL Score))		((Group))
((Group D Cognitive performance score = 4-6 and Clinically complex = yes and Mood/behavior = yes or no))		((ADL Score 18-28))		((D High (12))
		((ADL Score 13-17))		((D Med (11))
		((ADL Score 2-12))		((D Low (10))
((Group C Cognitive performance score = 0-3 and Clinically complex = yes and Mood/behavior = yes or no))		((ADL Score 18-28))		((C High (9))
		((ADL Score 9-17))		((C Med (8))
		((ADL Score 2-8))		((C Low (7))
((Group B Mood & behavior = Yes and Clinically complex = no and Cognitive performance score = 0-6))		((ADL Score 15-28))		((B High (6))
		((ADL Score 5-14))		((B Med (5))
		((ADL Score 0-4))		((B Low (4))
((Group A Mood & behavior = No and Clinically complex = No and Cognitive performance score = 0-6))		((ADL Score 10-28))		((A High (3))
		((ADL Score 5-9))		((A Med (2))
		((ADL Score 0-4))		((A Low (1))

CARE classification is determined first by meeting criteria to be placed into a group, then you are further classified based on ADL score or behavior point score into a classification sub-group following a classification path of highest possible group to lowest qualifying group.

(1) If you meet the criteria for exceptional care, then CARE will place you in Group E. CARE then further classifies you into:

- (a) Group E High if you have an ADL score of 26-28; or
- (b) Group E Medium if you have an ADL score of 22-25.

(2) If you meet the criteria for clinical complexity and have a cognitive performance score of 4-6 then you are classified in Group D regardless of your mood and behavior qualification or behavior points. CARE then further classifies you into:

- (a) Group D High if you have an ADL score of 25-28; or
- (b) Group D Medium-High if you have an ADL score of 18-24; or
- (c) Group D Medium if you have an ADL score of 13-17;

or

- (d) Group D Low if you have an ADL score of 2-12.

(3) If you meet the criteria for clinical complexity and have a CPS score of less than 4, then you are classified in Group C regardless of your mood and behavior qualification or behavior points. CARE then further classifies you into:

- (a) Group C High if you have an ADL score of 25-28; or
- (b) Group C Medium-High if you have an ADL score of 18-24; or

(c) Group C Medium if you have an ADL score of 9-17; or

(d) Group C Low if you have an ADL score of 2-8.

(4) If you meet the criteria for mood and behavior qualification and do not meet the classification for C, D, or E groups, then you are classified into Group B. CARE further classifies you into:

- (a) Group B High if you have an ADL score of 15-28; or
- (b) Group B Medium if you have an ADL score of 5-14;

or

(c) Group B Low if you have an ADL score of 0-4.

(5) If you meet the criteria for behavior points and have a CPS score of greater than 2 and your ADL score is greater than 1, and do not meet the classification for C, D, or E groups, then you are classified in Group B. CARE further classifies you into:

- (a) Group B High if you have a behavior point score 12 or greater; or
- (b) Group B Medium-High if you have a behavior point score greater than 6; or
- (c) Group B Medium if you have a behavior point score greater than 4; or
- (d) Group B Low if you have a behavior point score greater than 1.

(6) If you are not clinically complex and you do not qualify under either mood and behavior criteria, then you are classified in Group A. CARE further classifies you into:

- (a) Group A High if you have an ADL score of 10-28; or

(b) Group A Medium if you have an ADL score of 5-9:

or

(c) Group A Low if you have an ADL score of 0-4.

WSR 08-14-122
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed July 1, 2008, 8:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-109.

Title of Rule and Other Identifying Information: The department is amending WAC 388-436-0045 Income deductions for CEAP, 388-436-0055 What is the disaster cash assistance program (DCAP)?, and 388-436-0060 How much money can I receive from the disaster cash assistance program (DCAP)?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on August 5, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 6, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 5, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 29, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-436-0045 Income deductions for CEAP, and create WAC 388-436-0055 What is the disaster cash assistance program (DCAP)? and 388-436-0060 How much money can I receive from the disaster cash assistance program (DCAP)? These changes are necessary in order to provide the rules for administering the disaster cash assistance program. Section 301(6), chapter 181, Laws of 2008 (SB 6950) authorized that during a state of emergency and pursuant to an order from the governor, CEAP benefits be extended to individuals and families without children.

Reasons Supporting Proposal: These rule changes are needed to create the disaster cash program authorized under section 301(6), chapter 181, Laws of 2008 (SB 6950).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, and 74.08.090 and section 301(6), chapter 181, Laws of 2008 (SB 6950).

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ian Horlor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by defining what the payment standards are for CEAP clients.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." These rules affect financial eligibility and payment amounts.

June 26, 2008

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-436-0045 Income deductions for CEAP. The following deductions are allowed when determining the CEAP assistance unit's net income:

- (1) A ninety dollar work expense from each member's earned income;
- (2) Actual payments made by a member with earned income for care of a member child up to the following maximums:

Hours Worked Per Month	Each Child Under Two Years	Each Child Two Years Older
0 - 40	\$ 50.00	\$ 43.75
41 - 80	100.00	87.50
81 - 120	150.00	131.25
121 or More	200.00	175.00

- (3) Verified expenses for members of the assistance unit during the current month as follows:

- (a) Medical bills;
- (b) Child care paid in an emergency in order to avoid abuse;
- (c) Dental care to relieve pain; or
- (d) Costs incurred in obtaining employment.
- (e) For the disaster cash assistance program (DCAP), disaster related expenses and/or losses suffered as a result of the disaster and the expense and/or loss is not anticipated to be reimbursed during the month of application.

NEW SECTION

WAC 388-436-0055 What is the disaster cash assistance program (DCAP)? Disaster cash assistance program (DCAP) is paid through the consolidated emergency assistance program (CEAP) and is designed to provide cash assis-

tance to individuals and families who face an emergency and do not have the money to meet their basic needs.

(1) DCAP is available if you meet all of the following:

(a) You suffered losses and live in an area that has been declared a disaster for individuals by the Governor.

(b) You are not able to live in your home or you cannot return to your home because of the disaster;

(c) Your home in the disaster area is your primary residence (not a vacation home) and you were living there at the time of the disaster;

(d) You are a resident of Washington state as defined in WAC 388-468-0005;

(e) Your net income is under the limits in WAC 388-436-0050(1); and

(f) You or your family is not eligible for any other program that could meet your need as stated in WAC 388-436-0030.

(2) Applicants must demonstrate a financial need for emergency funds for one or more of the following basic requirements:

(a) Food;

(b) Shelter;

(c) Clothing;

(d) Minor medical care;

(e) Utilities;

(f) Household maintenance supplies; or

(g) Necessary clothing or transportation costs to accept or retain a job.

(3) Payments under this program are limited to not more than thirty consecutive days within a period of twelve consecutive months.

NEW SECTION

WAC 388-436-0060 How much money can I receive from the disaster cash assistance program (DCAP)? The amount of money you can get from DCAP depends on your available resources, income and household size as determined below:

(1) Available resources and income are determined by using WAC 388-436-0035. Excluded resources and income is in WAC 388-436-0040.

(2) We determine your income based on gross anticipated income for the month of application.

(3) The maximum amount of money you can receive depends on the size of your household as determined by WAC 388-456-0050(2).

(4) Your household consists of anyone living with you who you have financial responsibility for or with whom you share financial responsibility for the household such as:

(a) Your spouse;

(b) Domestic partner; or

(c) Your children or step-children.

(5) How much DCAP you may receive is determined according to calculations described in WAC 388-436-0050(3).

WSR 08-14-123

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed July 1, 2008, 8:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-10-101.

Title of Rule and Other Identifying Information: The department is amending amend WAC 388-436-0050 to revise the payment standards and maximum earned income limits for the consolidated emergency assistance program (CEAP) to match the 3% increase for temporary assistance for needy families/state family assistance (TANF/SFA) and refugee cash assistance (RCA), which go into effect July 1, 2008. An increase for TANF assistance was mandated in section 207 (1)(e), chapter 329, Laws of 2008 (ESHB 2687).

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on August 5, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 6, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 5, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 29, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule change is needed to revise the payment standards and the earned income limits for CEAP.

Reasons Supporting Proposal: The department is increasing the CEAP payment to match the increase outlined in section 207 (1)(e), chapter 329, Laws of 2008 (ESHB 2687) for TANF, SFA and RCA.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ian Horlor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by defining what the payment standards are for CEAP clients.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under

RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." These rules affect financial eligibility and payment amounts.

June 26, 2008

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-436-0050 Determining financial need and benefit amount for CEAP. (1) To be eligible for CEAP assistance, the assistance unit's nonexcluded income, minus allowable deductions, must be less than ninety percent of the TANF payment standard for households with shelter costs. The net income limit for CEAP assistance units is:

Assistance Unit Members	Net Income Limit
1	\$ ((314)) <u>323</u>
2	((396)) <u>407</u>

Assistance Unit Members	Net Income Limit
3	((491)) <u>505</u>
4	((577)) <u>594</u>
5	((666)) <u>685</u>
6	((756)) <u>779</u>
7	((873)) <u>900</u>
8 or more	((967)) <u>996</u>

(2) The assistance unit's allowable amount of need is the lesser of:

(a) The TANF payment standard, based on assistance unit size, for households with shelter costs as specified under WAC 388-478-0020; or

(b) The assistance unit's actual emergent need, not to exceed maximum allowable amounts, for the following items:

Need Item: Maximum allowable amount by assistance unit size:

	1	2	3	4	5	6	7	8 or more
Food	\$((214)) <u>217</u>	\$((268)) <u>276</u>	\$((332)) <u>341</u>	\$((391)) <u>402</u>	\$((450)) <u>463</u>	\$((511)) <u>526</u>	\$((583)) <u>600</u>	\$((645)) <u>664</u>
Shelter	((258)) <u>265</u>	((325)) <u>334</u>	((404)) <u>416</u>	((476)) <u>490</u>	((548)) <u>564</u>	((621)) <u>639</u>	((719)) <u>740</u>	((795)) <u>818</u>
Clothing	((30)) <u>31</u>	((38)) <u>39</u>	((47)) <u>48</u>	((56)) <u>57</u>	((64)) <u>65</u>	((73)) <u>75</u>	((83)) <u>85</u>	((94)) <u>96</u>
Minor Medical Care	((179)) <u>184</u>	((228)) <u>335</u>	((282)) <u>290</u>	((332)) <u>341</u>	((382)) <u>393</u>	((432)) <u>444</u>	((501)) <u>516</u>	((554)) <u>570</u>
Utilities	((87)) <u>89</u>	((110)) <u>113</u>	((136)) <u>140</u>	((160)) <u>164</u>	((184)) <u>189</u>	((210)) <u>216</u>	((243)) <u>250</u>	((268)) <u>276</u>
Household maintenance	((64)) <u>65</u>	((81)) <u>83</u>	((100)) <u>103</u>	((118)) <u>121</u>	((136)) <u>140</u>	((155)) <u>159</u>	((178)) <u>183</u>	((197)) <u>202</u>
Job related transportation	((349)) <u>359</u>	((440)) <u>453</u>	((546)) <u>562</u>	((642)) <u>661</u>	((740)) <u>762</u>	((841)) <u>866</u>	((971)) <u>1000</u>	((1075)) <u>1107</u>

(3) The assistance unit's CEAP payment is determined by computing the difference between the allowable amount of need, as determined under subsection (2) of this section, and the total of:

(a) The assistance unit's net income, as determined under subsection (1) of this section;

(b) Cash on hand, if not already counted as income; and

(c) The value of other nonexcluded resources available to the assistance unit.

(4) The assistance unit is not eligible for CEAP if the amount of income and resources, as determined in subsection (3) of this section, is equal to or exceeds its allowable amount of need.

WSR 08-14-124
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed July 1, 2008, 8:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-111.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-472-0005 to correct language on reviewing denials of expedited services and remove outdated language on reporting requirements.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on August 5, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 6, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAU-RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 5, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 29, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule change is needed to correct language on reviewing denials of expedited services and remove outdated language on reporting requirements.

Reasons Supporting Proposal: This WAC is being amended to clearly state that clients can request a review of a denial of expedited services and to delete inaccurate language on reporting responsibilities.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055.

Statute Being Implemented: RCW 74.04.050, 74.04.055.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ian Horlor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses as they pertain only to clients' rights and responsibilities.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

June 24, 2008

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-14-023, filed 6/21/02, effective 7/1/02)

WAC 388-472-0005 What are my rights and responsibilities? For the purposes of this chapter, "we" and "us" refer to the department and "you" refers to the applicant or recipient.

(1) If you apply for or get cash, food or medical assistance benefits you have the right to:

(a) Have your rights and responsibilities explained to you and given to you in writing;

(b) Be treated politely and fairly no matter what your race, color, political beliefs, national origin, religion, age, gender, disability or birthplace;

(c) Request benefits by giving us an application form using any method listed under WAC 388-406-0010. You can ask for and get a receipt when you give us an application or other documents;

(d) Have your application processed as soon as possible. Unless your application is delayed under WAC 388-406-0040, we process your application for benefits within thirty days, except:

(i) If you are eligible for expedited services under WAC 388-406-0015, you get food assistance within five days. If we deny you expedited services, you have a right to ask that the decision be reviewed by the department within two working days from the date we denied your ~~((application))~~ request for expedited services;

(ii) If you are pregnant and otherwise eligible, you get medical within fifteen working days.

(iii) General assistance (GAU), alcohol or drug addiction treatment (ADATSA), or medical assistance may take up to forty-five days; and

(iv) Medical assistance requiring a disability decision may take up to sixty days.

(e) Be given at least ten days to give us information needed to determine your eligibility and be given more time if you ask for it. If we do not have the information needed to decide your eligibility, then we may deny your request for benefits;

(f) Have the information you give us kept private. We may share some facts with other agencies for efficient management of federal and state programs;

(g) Ask us not to collect child support or medical support if you fear the noncustodial parent may harm you, your children, or the children in your care;

(h) Ask for extra money to help pay for temporary emergency shelter costs, such as an eviction or a utility shutoff, if you get TANF;

(i) Get a written notice, in most cases, at least ten days before we make changes to lower or stop your benefits;

(j) Ask for a fair hearing if you disagree with a decision we make. You can also ask a supervisor or administrator to review our decision or action without affecting your right to a fair hearing;

(k) Have interpreter or translator services given to you at no cost and without delay;

(l) Refuse to speak to a fraud investigator. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. Such a request will not affect your eligibility for benefits; and

(m) Get help from us to register to vote.

(2) If you get cash, food, or medical assistance, you are responsible to:

(a) Tell us if you are pregnant, in need of immediate medical care, experiencing an emergency such as having no money for food, or facing an eviction so we can process your request for benefits as soon as possible;

(b) Report the following expenses so we can decide if you can get more food assistance:

- (i) Shelter costs;
- (ii) Child or dependent care costs;
- (iii) Child support that is legally obligated;
- (iv) Medical expenses; and
- (v) Self-employment expenses.

(c) Report changes as required under WAC 388-418-0005 and 388-418-0007. ~~(If you get:~~

- ~~(i) Cash or food assistance, changes must be reported within ten days from the date you learn of the change; or~~
- ~~(ii) Medical assistance, changes must be reported within twenty days from the date you learn of the change.)~~

(d) Give us the information needed to determine eligibility;

(e) Give us proof of information when needed. If you have trouble getting proof, we help you get the proof or contact other persons or agencies for it;

(f) Cooperate in the collection of child support or medical support unless you fear the noncustodial parent may harm you, your children, or the children in your care;

(g) Apply for and get any benefits from other agencies or programs prior to getting cash assistance from us;

(h) Complete reports and reviews when asked;

(i) Look for, get, and keep a job or participate in other activities if required for cash or food assistance;

(j) Give your medical identification card or letter of eligibility from us to your medical care provider; and

(k) Cooperate with the quality control review process.

(3) If you are eligible for necessary supplemental accommodation (NSA) services under chapter 388-472 WAC, we help you comply with the requirements of this section.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 29, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-310-2100 in order to allow support services to clients who received diversion cash assistance and have enrolled in the WorkFirst career services program.

Reasons Supporting Proposal: This WAC is being amended to provide equal access to support services for all clients enrolled in the WorkFirst career services program.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055.

Statute Being Implemented: RCW 74.04.050, 74.04.055.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ian Horlor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by defining who is eligible for support services.

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." These rules affect eligibility for the WorkFirst career services program.

June 20, 2008

Stephanie E. Schiller
Rules Coordinator

WSR 08-14-126

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed July 1, 2008, 8:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-140.

Title of Rule and Other Identifying Information: WAC 388-310-0800 WorkFirst support services.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on August 5, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 6, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail schilse@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 5, 2008.

AMENDATORY SECTION (Amending WSR 06-10-035, filed 4/27/06, effective 6/1/06)

WAC 388-310-0800 WorkFirst—Support services.

(1) Who can get support services?

People who can get support services include:

(a) WorkFirst participants who receive a TANF cash grant;

(b) Sanctioned WorkFirst participants during the required participation before the sanction is lifted or applicants who were terminated by a sanction review panel who are doing activities required to reopen cash assistance (WAC 388-310-1600);

(c) Unmarried or pregnant minors who are income eligible to receive TANF and are:

(i) Living in a department approved living arrangement (WAC 388-486-0005) and are meeting the school requirements (WAC 388-486-0010); or

(ii) Are actively working with a social worker and need support services to remove the barriers that are preventing them from living in a department approved living arrangement((s)) and/or meeting the school requirements.

(d) Former WorkFirst recipients who are working at least twenty hours or more per week for up to six months after leaving TANF if they need support services to meet a temporary emergency. This can include up to four weeks of support services if they lose a job and are looking for another one (see also WAC 388-310-1800); ((o))

(e) Diversion cash assistance (DCA) recipients who are working at least thirty hours or more per week and enrolled in WorkFirst career services if they need support services to meet a temporary emergency;

(f) American Indians who receive a TANF cash grant and have identified specific needs due to location or employment.

(2) Why do I receive support services?

Although not an entitlement, you may receive support services for the following reasons:

(a) To help you participate in work and WorkFirst activities that lead to independence.

(b) To help you to participate in job search, accept a job, keep working, advance in your job, and/or increase your wages.

(c) You can also get help in paying your child care expenses through the working connections child care assistance program. (Chapter ((388-290)) 170-290 WAC describes the rules for this child care assistance program.)

(3) What type of support services may I receive and what limits apply?

There is a limit of three thousand dollars per person per program year (July 1st to June 30th) for WorkFirst support services you may receive. Most types of support services have dollar limits.

The chart below shows the types of support services that are available for the different activities (as indicated by an "x") and the limits that apply.

Definitions:

- Work-related activities include looking for work or participating in workplace activities, such as community jobs or a work experience position.
- Safety-related activities include meeting significant or emergency family safety needs, such as dealing with family violence. When approved, safety-related support services can exceed the dollar or category limits listed below.
- Some support services are available if you need them for other required activities in your IRP.

Type of support service	Limit	• Work	•• Safety	••• Other
Reasonable accommodation for employment	\$1,000 for each request	x		
Clothing/uniforms	\$75 per adult per program year	x		
Diapers	\$50 per child per month	x		
Haircut	\$40 per each request	x		
Lunch	Same rate as established by OFM for state employees	x		
Personal hygiene	\$50 per adult per program year	x		
Professional, trade, association, union and bonds	\$300 for each fee	x		
Relocation related to employment (can include rent, housing, and deposits)	\$1,000 per program year	x		
Short-term lodging and meals in connection with job interviews/tests	Same rate as established by OFM for state employees	x		
Tools/equipment	\$500 per program year	x		
Car repair needed to restore car to operable condition	\$250 per program year	x	x	
License/fees	\$130 per program year	x	x	
Mileage, transportation, and/or public transportation	Same rate as established by OFM for state employees	x	x	
Transportation allotment	Up to: \$25 for immediate need, or \$40 twice a month if you live within 40 miles of your local WorkFirst office, or \$60 twice a month if you live more than 40 miles from your local WorkFirst office.	x	x	
Counseling	No limit	x	x	x

Type of support service	Limit	• Work	•• Safety	••• Other
Educational expenses	\$300 for each request if it is an approved activity in your IRP and you do not qualify for sufficient student financial aid to meet the cost	x		x
Medical exams (not covered by Medicaid)	\$150 per exam	x	x	x
Public transportation	\$150 per month	x	x	x
Testing-diagnostic	\$200 each	x	x	x

(4) What are the other requirements to receive support services?

Other restrictions on receiving support services are determined by the department or its agents. They will decide what support services you receive, as follows:

- (a) It is within available funds; and
- (b) It does not assist, promote, or deter religious activity; and
- (c) There is no other way to meet the cost.

(5) What happens to my support services if I do not participate as required?

The department will give you ten days notice, following the rules in WAC 388-310-1600, then discontinue your support services until you participate as required.

WSR 08-14-127

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH**

(By the Code Reviser's Office)

[Filed July 1, 2008, 9:05 a.m.]

WAC 246-225A-030, proposed by the department of health in WSR 08-01-135 appearing in issue 08-01 of the State Register, which was distributed on January 2, 2008, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 08-14-132

**PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed July 1, 2008, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-153.

Title of Rule and Other Identifying Information: Chapter 296-115 WAC, Safety requirements for charter boats.

Hearing Location(s): Department of Labor and Industries, 12806 Gateway Drive, Training Room 1, Tukwila, WA 98168-1050, on August 7, 2008, at 10:00 a.m.; and at Camp-

bell's, 104 West Woodin, Ballroom I, Chelan, WA 98816, on August 8, 2008, at 1:00 p.m.

Date of Intended Adoption: October 1, 2008.

Submit Written Comments to: Jill Saibel, Project Manager, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98507-4620, e-mail saij235@lni.wa.gov, fax (360) 902-5619, by August 15, 2008.

Assistance for Persons with Disabilities: Contact Beverly Clark by July 23, 2008, (360) 902-5516 or clah235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal would update the appeal process to more accurately reflect the intent of chapter 88.04 RCW, the Charter Boat Safety Act and chapter 49.17 RCW. The penalty language is being changed to align the charter boat penalty structure with other DOSH penalties. A few requirements are being updated to make them consistent with current United States Coast Guard requirements under 46 C.F.R. Typographical errors in a couple of references are being corrected.

NEW SECTION:

WAC 296-115-110 Appeal of decisions.

- The requirements in this section were previously under WAC 296-115-010, which has been repealed. These requirements were moved to a different location in the rule with a new section number to create a more logical organization for the rule.
- Changed the request for a hearing from the director to the assistant director and clarified the steps involved.
- Changed the appeal venue to the BIIA to be consistent with RCW 88.04.055 for all citations **except** those regarding denial of a certificate of inspection or license, or a decision on the maximum passengers, crew or total capacity of a charter boat.
- Applied clear rule-writing principles.

AMENDED SECTIONS:

WAC 296-115-005 Scope and purpose.

- Changed name from "scope and application" to "scope and purpose" to be consistent with current rule design.
- Applied clear rule-writing principles.

WAC 296-115-015 Definitions.

- Deleted definitions that are no longer in the rule.
- Added new terms (assistant director, employee, keel laid, master).

- Applied clear rule-writing principles.

WAC 296-115-025 Vessel inspection and certification.

- Changed the title from "vessel inspection and licensing" for consistency within the rule and with Coast Guard regulations.
- Applied clear rule-writing principles.

WAC 296-115-030 Master's examination and licensing.

- Removed penalty language and placed it in the penalty section (WAC 296-115-100).
- Applied clear rule-writing principles.

WAC 296-115-035 Specific inspection requirements.

- Applied clear rule-writing principles.

WAC 296-115-040 Vessel construction and arrangement.

- Applied clear rule-writing principles.

WAC 296-115-050 General requirements.

- Made life preserver requirements consistent with United States Coast Guard regulations under 46 C.F.R. 180.71 by adding requirement to provide an appropriate life jacket for each child-sized person on board.
- Made ring life buoy requirements consistent with United States Coast Guard regulations under 46 C.F.R. 180.70(d) by adding requirement for a floating water light when operating at night.
- Applied clear rule-writing principles.
- Updated fixed fire extinguishing system requirements to be consistent with United States Coast Guard regulations under 46 C.F.R. 181.115 by including vessels with wood and fiber-reinforced hulls among those needed [needing] a fixed fire extinguishing system.
- Deleted requirement for use of carbon dioxide in the fixed fire extinguishing systems since it is no longer commonly used.
- Updated fixed fire extinguishing system requirements to be consistent with United States Coast Guard regulations under 46 C.F.R. 181.410(10) by adding a requirement for an automatic shut-down device for power ventilation.
- Added Table 1, Portable Fire Extinguishers to assist in determining the correct type of fire extinguisher needed.
- Made deck railing requirements consistent with 46 C.F.R. 116.900 (c) and (g) by changing the spacing for rails from twelve inches to four inches, and clarifying that hand grabs in lieu of railings are only allowed for areas designed for crew. A typographical error in a reference was also corrected.
- Made emergency portable battery light requirements consistent with 46 C.F.R. 183.430 by clarifying minimum requirements.
- Applied clear rule-writing principles.

WAC 296-115-060 Operations.

- Made injury or casualty reporting requirements consistent with 46 C.F.R. 185.202 (a)(6) by clarifying

types of injuries that require reporting, and adding fire on board the vessel.

- Made emergency drill requirements consistent with 46 C.F.R. 185.520(f) by adding requirement for documentation.
- Applied clear rule-writing principles.

WAC 296-115-070 Rules of navigation.

- Corrected a typographical error and updated the reference number for the navigation rules.
- Updated to correct term for testing compass readings.
- Applied clear rule-writing principles.

WAC 296-115-100 Penalties for certificate of inspection and operator's license.

- Changed title for clarity.
- Changed penalty for owners of vessels who violate the certification and inspection provisions from \$200 to penalties provided under WISHA to be consistent with RCW 88.04.320(3).
- Applied clear rule-writing principles.

WAC 296-115-120 Annual fee schedule.

- Changed the term "license" to "certification" to use consistent terminology within the rules and to be consistent with United States Coast Guard requirements under 46 C.F.R.
- Applied clear rule-writing principles.

REPEALED SECTIONS:

WAC 296-115-001 Forward.

- This section was incorporated into WAC 296-115-005 Scope and purpose, to be more consistent with the structure of our other rules.

WAC 296-115-010 Appeal of decisions.

- This section was renumbered as WAC 296-115-110 for better organizational flow. See new section above.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapters 49.17, 88.04 RCW.

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

Name of Proponent: Department of labor and industries, governmental.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department considered whether these proposed rules are subject to the Regulatory Fairness Act and determined that they do not require a small business economic impact statement (SBEIS). The rule is being updated to more accurately reflect the intent of chapters 49.17 and 88.04 RCW, the Charter Boat Safety Act, and to be consistent with Coast Guard regulations in 46 C.F.R. [C.F.R.] as required in chapter 88.04 RCW. Since the rule is

incorporating without material change statutory mandates and federal rules, an SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The changes incorporate, without material change, federal and Washington state statutes, correct typographical errors, and clarify language, so a preliminary cost-benefit analysis is not required.

July 1, 2008
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-005 Scope and ((application)) purpose. This chapter generally sets requirements according to chapter 88.04 RCW to protect the safety and health of passengers and crew on board charter boats, and provides penalties for violations of these requirements. Specifically, this chapter:

(1) ~~((This chapter))~~ Applies to vessels for hire that carry seven or more passengers when operated in state waters ~~((within the jurisdiction of the state of Washington. These rules do not apply to vessels in the navigable waters of the United States subject to the jurisdiction of))~~ which are not regulated by the United States Coast Guard.

(2) ~~((Pursuant to chapter 88.04 RCW, the director of the department of labor and industries will administer this chapter.~~

(3) ~~All rules adopted by the United States Coast Guard pertaining to inland water passenger vessel service and navigation on inland waters will be applied to this chapter unless they conflict with specific provisions of this chapter or chapter 88.04 RCW.~~

(4) ~~Special consideration. In applying the provisions of this section, the director may allow departures from the specific requirements when special circumstances or arrangements warrant such departures.~~

(5) ~~The provisions of this chapter do))~~ Does not apply to:

(a) ~~((A))~~ Vessels that ~~((is a))~~ are charter boats but is being used by the documented or registered owner ~~((of the charter boat))~~ exclusively for ~~((the owner's))~~ their own non-commercial or personal pleasure purposes;

(b) ~~((A))~~ Vessels owned by ~~((a person))~~ people or corporate ~~((entity))~~ entities which ~~((is))~~ are donated and used by ~~((a person))~~ people or nonprofit organizations to transport passengers for charitable or noncommercial purposes, regardless of whether consideration is directly or indirectly paid to the owner;

(c) ~~((A))~~ Vessels that ~~((is))~~ are rented, leased, or hired by ~~((an))~~ operators to transport passengers for noncommercial or personal pleasure purposes;

(d) ~~((A))~~ Vessels used exclusively for, or incidental to, ~~((an))~~ educational purposes; or

(e) ~~((A))~~ Bare boat charter boats.

(3) Is intended to be consistent with, and prevails in the event of a conflict with, the rules adopted by the United States Coast Guard under 46 CFR Subchapters K and T, in effect at the time the vessel's keel was laid.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-115-015 Definitions ((applicable to all sections of this chapter)).

((Note: Meaning of words. Unless the context indicates otherwise, words used in this chapter will have the meaning given in this section.))

(1) **Approved** means approved by the assistant director ~~((s))~~ or an authorized representative. However, if a provision of this chapter requires approval by an agency or organization other than the department, such as nationally recognized testing laboratories or the United States Coast Guard ~~((is required))~~, then approval by the specified authority will be accepted.

(2) **Assistant director** means the assistant director of the division of occupational safety and health (DOSH) within the department of labor and industries.

(3) **Authorized person** means a person approved or assigned by the employer to perform a specific type of duty or duties or be at a specific location or locations at the workplace.

(4) **Bare boat charter** means the unconditional lease, rental, or charter of a boat by the owner, or ~~((his or her))~~ owner's agent, to a person who by written agreement, or contract, assumes all responsibility and liability for the operation, navigation, and provisioning of the boat during the term of the agreement or contract, except when a captain or crew is required or provided by the owner or owner's agents to be hired by the charterer to operate the vessel.

(5) **Carrying passengers or cargo** means the transporting of any person or persons or cargo on a vessel for a fee or other consideration.

(6) **CFR** means Code of Federal Regulations.

(7) **Charter boat** means a vessel or barge operating on waters of the state of Washington which is:

(a) Not inspected or licensed by the United States Coast Guard and over which the United States Coast Guard does not exercise jurisdiction; and

~~((which is))~~ (b) Rented, leased, or chartered to carry seven or more ~~((than six))~~ persons, or cargo.

(8) **Commercial** means any activity from which the operator, or the person chartering, renting, or leasing a vessel derives a profit, and/or which qualifies as a legitimate business expense under the Internal Revenue Statutes.

(9) **Competent person** means someone who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt action to eliminate them.

(10) **Confined space** means a space that is all of the following:

~~((1))~~ (a) Large enough and arranged so ~~((configured))~~ that an employee ~~((can bodily))~~ could fully enter the space and perform ~~((assigned))~~ work; and

~~((2))~~ (b) Has limited or restricted means for entry or exit ~~((for))~~. Examples of spaces with limited or restricted entry are tanks, vessels, silos, storage bins, hoppers, vaults, and pits ~~((are spaces that may have limited means of entry))~~; and

~~((3-Is))~~ (c) Not primarily designed for ~~((continuous employee))~~ human occupancy.

(11) **Defect** means any characteristic or condition that tends to weaken or reduce the strength of the tool, object, or structure of which it is a part.

(12) **Department** means the department of labor and industries.

~~((Director means the director of the department of labor and industries, or his/her designated representative.))~~ (13) Employee means:

(a) Someone who is employed in the business of an employer; and

(b) Every person in this state who is working for an employer under an independent contract for personal labor.

(14) **Employer** means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that operates a passenger vessel for hire in this state and employs one or more employees or contracts with one or more persons ~~((, the essence of which is the))~~ for personal labor ~~((of such persons)).~~ Any person, partnership, or business entity that has no employees, and is covered by the Industrial Insurance Act ~~((shall be))~~ is considered both an employer and an employee.

(15) **Enclosed space** means any space, other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.

(16) **Equipment** means a system, part, or component of a vessel as originally manufactured, or a system, part, or component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment ~~((, or appurtenance to))~~ a vessel; or a marine safety article, accessory, or equipment, including radio equipment, intended for use by a person on board a vessel.

(17) **Hazard** means a condition, potential or inherent, that is likely to cause injury, death, or occupational disease.

(18) **Hazardous substance** means a substance that, because it is explosive, flammable, poisonous, corrosive, oxidizing, irritating, or otherwise harmful, is likely to cause death or injury, including all substances listed on the USCG hazardous materials list.

(19) **Inspection** means the examination of vessels by the assistant director or an authorized representative of the assistant director.

(20) **Keel laid** means the date a vessel's keel was laid or the vessel was at a similar stage of construction.

(21) **Maritime safety specialist** ~~((in P&TS))~~ means a technical and operations specialist in maritime issues located in the department ~~((of labor and industries' policy and technical services section)).~~

(22) **Master** means the individual having command of the vessel and who is the holder of a valid license that authorizes the individual to serve as master of a small passenger vessel.

(23) **Passenger** means ~~((any person or persons, carried on board a vessel in consideration of the payment of a fee or other consideration.~~

Port means left hand side of a vessel as one faces the bow.

Starboard means right hand side of a vessel as one faces the bow.

~~**Power-driven vessel** means any vessel propelled by machinery.~~

~~**Qualified** means one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve problems relating to the subject matter, the work, or the project.~~

~~**Safety and health standard** means a standard that requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment)) a passenger who pays for carriage on a vessel, whether directly or indirectly to the owner, charterer, operator, agent, or any other person having an interest in the vessel.~~

(24) **Should** means recommended.

~~((Substantial means constructed of such strength, of such material, and of such workmanship, that the object referred to will withstand all normal wear, shock, and usage.))~~

(25) **Standard safeguard** means a device intended to remove a hazard incidental to the machine, appliance, tool, or equipment to which the device is attached. Standard safeguards ~~((shall))~~ must be constructed of either metal, wood, other suitable material, or a combination ~~((of these)).~~ The final determination of the sufficiency of any safeguard rests with the assistant director.

(26) **State waters** means all nonnavigable waters within the territorial limits of the state of Washington, and not subject to the jurisdiction of the United States Coast Guard.

~~**Substantial** means an object is constructed of such strength, material, and workmanship that it will withstand all normal wear, shock, and usage.~~

(28) **Suitable** means that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

(29) **Under way** means a vessel is not at anchor, ~~((or))~~ made fast to the shore, or aground.

(30) **USCG** means the United States Coast Guard.

(31) **United States Coast Guard Navigation** means rules International/Inland, Commandants Instruction ~~((M16672-29C))~~ M16672.2D as now adopted, or ~~((hereafter))~~ legally amended by the United States Coast Guard.

(32) **Vessel** means every description of motorized watercraft, other than a bare boat charter boat, seaplane, or sailboat, used or capable of being used to transport seven or more ~~((than six))~~ passengers, or cargo, on water for rent, lease, or hire.

(33) **Working day** means a calendar day, except Saturdays, Sundays, and legal holidays as ~~((set forth))~~ described in RCW 1.16.050 ~~((, as now or hereafter amended)).~~ The time within which an act ~~((is to))~~ must be done ~~((under the provisions of this chapter shall be))~~ is computed by excluding the first working day and including the last working day.

~~((Worker, personnel, man, person, employee, and other terms of like meaning, unless the context indicates otherwise means an employee of an employer who is employed in the business of his/her employer whether by way of man-~~

ual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his/her personal labor for an employer whether by manual labor or otherwise.)

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-025 Vessel inspection and ((licensing) certification. (1) The department must inspect all vessels subject to this chapter to ensure they are safe and seaworthy at least once each year.

(2) The department may also inspect a vessel:

(a) If requested to do so by the owner, operator, or master of the vessel ~~((, and))~~;

(b) After an explosion, fire, or any other accident involving the vessel ~~((,~~

~~((2) The department may inspect a vessel))~~;

(c) Upon receipt of a complaint from any person ~~((or))~~;

(d) At the discretion of the department ~~((, at any other time))~~.

(3) The department will charge the owner of a vessel a fee for each certification or recertification inspection. ~~((This fee will be determined by the director.))~~ See WAC 296-115-120 for fee schedule. ~~((3))~~

(4) No person will operate a passenger vessel if the vessel does not have a valid certificate of inspection issued by the department.

(5) After ~~((the department has inspected))~~ inspecting a vessel and determining it is ~~((satisfied the vessel is))~~ safe and seaworthy, the department will issue a certificate of inspection for that vessel. The certificate will be valid for one year after the date of inspection ~~((,))~~ and contain:

~~((5))~~ (a) The certificate must set forth the date of the inspection ~~((,))~~;

(b) The names of the vessel and the owner ~~((,))~~;

(c) The number of lifeboats ~~((and))~~, if required;

(d) The number of life preservers required ~~((,))~~;

(e) The number of passengers allowed ~~((,))~~; and

(f) Any other information the department ~~((may))~~ requires by rule ~~((require))~~.

(6) ~~((a) If at)~~ Any time a vessel is found to be not safe or seaworthy, or not in compliance with the provisions of this chapter ~~((,))~~;

(a) The department may refuse to issue a certificate of inspection until the deficiencies have been corrected and may cancel any certificate of inspection currently issued.

(b) The department must give the owner ~~((of the vessel))~~ a written statement ~~((of the reason(s)))~~ why the vessel was found to be unsafe, unseaworthy, or not in compliance with the provisions of this chapter, including a specific reference to the statute or rule ~~((with which the vessel did not comply))~~.

(7) ~~((A))~~ Department inspectors ~~((of the department))~~ may, upon ~~((the presentation of his or her))~~ presenting their credentials to the owner, master, operator, or agent in charge of a vessel, board the vessel without delay to make an inspection.

~~((The))~~ (a) Inspectors must inform the owner, master, operator, or agent in charge that ~~((his or her))~~ their intent is to inspect the vessel.

~~((8))~~ (b) During the inspection, ~~((the))~~ inspectors must have access to all areas of the vessel. ~~((The))~~ Inspectors may question privately the owner, master, operator, or agent in charge of the vessel, or any crew member of or passenger on the vessel.

~~((9))~~ (c) If any person refuses to allow ~~((an))~~ inspectors to board a vessel for an inspection, or refuses to allow access to any areas of the vessel, the department may request a warrant from the superior court for the county in which the vessel is located. The court will grant the warrant if:

~~((a) If)~~ • There is evidence that the vessel has sustained a fire, explosion, unintentional grounding, or has been involved in any other accident;

~~((b) If)~~ • There is evidence that the vessel is not safe or seaworthy; or

~~((e) Upon a showing))~~ • The department shows that the inspection furthers a general administrative plan for enforcing the safety requirements of chapter 88.04 RCW, the Charter Boat Safety Act.

~~((10))~~ (8) The owner or master of a vessel must post the certificate of inspection behind glass or other suitable transparent material in a conspicuous area of the vessel.

~~((11) No person will operate a passenger vessel if the vessel does not have a valid certificate of inspection.))~~

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-030 Master's examination and licensing. (1) The registered owner of passenger vessels or barges for hire is responsible to obtain an operator's license from the United States Coast Guard or the department for the master or operator of each vessel. A physical examination will be required.

(2) ~~((The department will penalize any person who acts as a master or operator on a vessel without having first received a United States Coast Guard or department license, or without having a valid license in his or her possession, or upon a vessel or class of vessels not specified in the license.~~

~~((3))~~ The department may recommend suspension or revocation of a license to the United States Coast Guard for intemperance, incompetence, or a negligent, reckless, or willful disregard for duty.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-115-035 Specific inspection requirements. (1) ~~((Drydocking or hauling out.))~~ Each passenger vessel subject to the provisions in this section must be drydocked or hauled out at intervals not to exceed sixty months and the underwater hull and appendages, propellers, shafting, stern bearings, rudders, through-hull fittings, sea valves and strainers must be examined to determine that these items are in satisfactory condition.

(2) At the annual inspection the inspector must:

(a) View the vessel afloat and conduct the following tests and inspections of the hull:

~~((a))~~ (i) Examine the hull exterior and interior, bulkheads, and weather deck.

~~((b))~~ (ii) Examine and test by operation all watertight closures in the hull, decks, and bulkheads.

~~((c))~~ (iii) Inspect all railings and bulwarks and their attachment to the hull.

~~((d))~~ (iv) Inspect weathertight closures above the weather deck and drainage or water from exposed decks and superstructure.

~~((3) At the annual inspection the inspector will)~~ (b) Examine and test the following items:

~~((a))~~ (i) Main propulsion machinery.

~~((b))~~ (ii) Engine starting system.

~~((c))~~ (iii) Engine control mechanisms.

~~((d))~~ (iv) Auxiliary machinery.

~~((e))~~ (v) Fuel systems.

~~((f))~~ (vi) Sea valves and bulkhead closure valves.

~~((g))~~ (vii) Bilge and drainage systems.

~~((h))~~ (viii) Electrical system, including circuit protection.

~~((4) Lifesaving and fire extinguishing equipment. At each annual inspection the inspector must)~~ (c) Inspect the life saving and fire extinguishing equipment for serviceability.

~~((5) Miscellaneous systems and equipment. At each annual inspection the marine dock inspector must)~~ (d) Inspect and test the vessel's steering apparatus, ground tackle, navigation lights, sanitary facilities, pressure vessels, and any other equipment aboard the vessel for serviceability and safety.

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-040 Vessel construction and arrangement. (1) Application.

(a) ~~((The))~~ These requirements ~~((of this section))~~ apply to all vessels contracted for construction on or after June 7, 1979.

(b) Vessels constructed before the effective date of this chapter must be brought into substantial compliance with the requirements of this section. Where ~~((deviation exists and))~~ strict compliance is impractical, the assistant director may grant a temporary variance to allow a modification or a permanent variance if the intent of ~~((subsection (1)(c) of this section))~~ these requirements is met.

(c) The intent of ~~((the regulations in this part))~~ these requirements is to provide for a sound, seaworthy vessel, reasonably fit for the service it is intended to provide, and to ensure that the materials, scantlings, fastenings, and workmanship meet this intent. Primary consideration must be given to the provision of a seaworthy hull, protection against fire, means of escape in case of casualty, guards and rails in hazardous places, ventilation of closed spaces, and necessary facilities for passengers and crew.

(2) Hull structure.

(a) In general, ~~((compliance))~~ complying with the standards of the United States Coast Guard rules for small passenger vessels or with the standards of a recognized classification

society ~~((will be))~~ is considered satisfactory evidence of the structural adequacy of a vessel.

(b) Special consideration will be given by the assistant director to materials or structural requirements not ~~((contemplated))~~ specified by the standards of a recognized classification society.

(3) Watertight integrity and subdivision.

(a) All vessels carrying more than forty-nine passengers must have a collision bulkhead and watertight bulkheads (or sufficient air tankage or other internal flotation) so the vessel will remain afloat (with positive stability) with any one main compartment flooded.

(b) All watertight bulkheads required by this part must be of substantial construction so ~~((as to be able to))~~ they remain watertight with water to the top of the bulkhead.

(c) Watertight bulkheads must extend intact to the bulkhead deck. Penetrations must be kept to a minimum and must be watertight.

(d) The weather deck on a flush deck vessel must be watertight and must not obstruct overboard drainage.

(e) Cockpits must be watertight except that companionways may be fitted if they are provided with watertight coamings and weathertight doors. Also, ventilation openings may be provided if they are situated as high in the cockpit as possible and the opening height does not exceed two inches.

(f) Cockpits must be self-bailing. The scuppers installed for this purpose must be located so ~~((as to be))~~ they are effective considering probable list and trim.

(g) Well decks must be watertight. Freeing ports may be installed if the provisions of applicable United States Coast Guard standards are followed.

(h) ~~((On vessels operating on protected waters;))~~ Weather deck hatches may be weathertight. All hatches must be provided with covers capable of being secured.

(i) The number of openings in the vessel's sides below the weather deck must be kept to a minimum.

(j) Any openings in a vessel's sides, such as portlights, must comply with applicable United States Coast Guard standards.

(4) Stability.

(a) All charter vessels ~~((subject to the provisions of this section))~~ must have a stability test, ~~((except that))~~ unless the assistant director ~~((may dispense with the requirements for a test if he deems))~~ determines that a test is not required ~~((on the basis of))~~ because sufficient evidence is provided by the owner that the vessel's stability is satisfactory for the service for which it is intended.

(b) A letter stating that the vessel has met ~~((the))~~ these stability requirements ~~((of this part))~~ must be posted in the pilothouse of each vessel.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-115-050 General requirements. (1) ~~((Application:))~~

~~((a))~~ The following rules are applicable to all vessels operated within the scope of this chapter.

~~((b))~~ Where an existing charter vessel does not ~~((comply with))~~ meet a particular requirement of this section, the assistant director may grant:

(a) A temporary variance to allow time for modifications to be made.

~~((c) Where an existing vessel does not comply with a specific requirement contained herein but)~~ (b) A permanent variance if the degree of protection afforded is judged to be adequate for the service in which the vessel is used ~~((the director may grant a permanent variance))~~.

(2) Lifesaving equipment ~~((Where equipment))~~ required by this section ~~((is required to be of an approved type, the equipment is required to))~~ must be approved by the USCG.

(3) The following lifesaving equipment is required ~~((:))~~:

(a) All vessels carrying passengers must carry life floats or buoyant apparatus for all persons on board.

(b) All life floats or buoyant apparatus must be international orange in color.

(c) ~~((In the case of))~~ Vessels operating not more than one mile from land ~~((the director))~~ may ~~((permit operation))~~ be permitted to operate with reduced ~~((amounts))~~ numbers of life floats or buoyant apparatus ~~((when, in his opinion, it is safe to do so))~~ if the assistant director determines it is safe.

(d) Lifeboats, life rafts, dinghies, dories, skiffs, or similar type craft may be substituted for the required life floats or buoyant apparatus if the substitution is approved by the assistant director.

(e) Life floats, buoyant apparatus, or any authorized substitute must have the following equipment:

(i) A life line around the sides at least equivalent to 3/8-inch manila, festooned in bights of at least three feet, with a seine float in the center of each bight.

(ii) Two paddles or oars not less than four feet in length.

(iii) A painter of at least thirty feet in length and of at least two-inch manila or the equivalent.

(f) All vessels must have ~~((a))~~ a USCG-approved adult ~~((type))~~ life preserver for ~~((each person carried))~~ the number of people the vessel is certified to carry, with at least ten percent additional of a type suitable for children or greater number to provide a life jacket for each child-sized person on board.

~~((g))~~ (i) Life preservers must be stowed in readily accessible places in the upper part of the vessel ~~((:))~~; and

(ii) Each life preserver ~~((shall))~~ must be marked with the vessel's name.

~~((h))~~ (g) All vessels must carry in a readily accessible location at least one ring life ~~((ring))~~ buoy of an approved type with sixty feet of buoyant line attached. The ring life buoy must:

(i) ~~((The life ring buoy must be carried in a readily accessible location and must be capable of being))~~ Be ready to cast loose at any time; and

(ii) Have a floating water light, unless operation is limited to daytime.

(4) Fire protection general.

(a) The general construction of a vessel must minimize fire hazards.

(b) Internal combustion engine exhausts, boiler and galley uptakes, and similar sources of ignition must be kept clear

of and suitably insulated from woodwork or other combustible material.

(c) Lamp, paint, and oil lockers and similar storage areas for flammable or combustible liquids must be constructed of metal or lined with metal.

(5) Fire protection equipment. Equipment required ~~((by this section, when required))~~ to be of an approved type ~~((:))~~ must be ~~((of a type))~~ approved by the USCG or other agency acceptable to the director.

~~((6))~~ (a) Fire pumps.

~~((a))~~ (i) All vessels carrying more than forty-nine passengers must carry an approved power fire pump, and have a fire main system, including fire main, hydrants, hose, and nozzles. The fire hose may be a good commercial grade garden hose of not less than 5/8 inch size.

(ii) All other vessels must carry an approved hand fire pump. These pumps must be provided with a suitable suction and discharge hose ~~((These pumps))~~, and may also serve as bilge pumps.

(b) ~~((Vessels required to have a power fire pump must also have a fire main system, including fire main, hydrants, hose, and nozzles. The fire hose may be a good commercial grade garden hose of not less than 5/8 inch size.~~

(7) Fixed fire extinguishing system.

~~((a))~~ (i) The following vessels ~~((powered by internal combustion engines using gasoline or other fuel having a flashpoint of 110°F or lower,))~~ must have a fixed fire extinguishing system to protect the machinery and fuel tank spaces ~~((:))~~:

~~((b))~~ • Those powered by internal combustion engines using gasoline or other fuel having a flashpoint of 110°F or lower; and

• Those with hulls constructed of fiber-reinforced plastic (FRP) or wood.

(ii) This system must be an approved type ~~((using carbon dioxide))~~ and have a capacity sufficient to protect the space.

~~((c))~~ (iii) Controls for the fixed system must be installed in an accessible location outside the space protected.

~~((d))~~ (iv) A device must be provided to automatically shut down power ventilation serving the protected space and engines that draw intake air from the protected space prior to release of the extinguishing agent into the space.

(c) Fire axe. All vessels must have one fire axe located in or near the pilothouse.

~~((e))~~ (d) Portable fire extinguishers.

~~((a))~~ (i) All vessels must have a minimum number of portable fire extinguishers of an approved size and type. The number required will be determined by ~~((the director))~~ Table 1, Portable Fire Extinguishers.

~~((b))~~ (ii) Portable fire extinguishers must be inspected at least once a month. Extinguishers found defective must be serviced or replaced.

~~((c))~~ (iii) Portable fire extinguishers must be serviced at least once a year. The required service must consist of discharging and recharging foam and dry chemical extinguishers and weighing and inspecting carbon dioxide extinguishers.

~~((d))~~ (iv) Portable fire extinguishers must be hydrostatically tested at intervals not to exceed those specified in WAC 296-800-300 in the safety and health core rules.

~~((e))~~ (v) Portable fire extinguishers of the vaporizing liquid type such as carbon tetrachloride and other toxic vaporizing liquids are prohibited and must not be carried on any vessel.

~~((f))~~ (vi) Portable fire extinguishers must be mounted in brackets or hangers near the space protected. The location must be marked in a manner satisfactory to the assistant director.

Table 1
Portable Fire Extinguishers

<u>Space Protected</u>	<u>Minimum # Required</u>	<u>Type Extinguisher Permitted</u>		
		<u>CG Class</u>	<u>Medium</u>	<u>Minimum Size</u>
<u>Operating station</u>	<u>1</u>	<u>B-I, C-I</u>	<u>Halon</u> <u>CO₂</u> <u>Dry chemical</u>	<u>2.5 lb.</u> <u>4 lb.</u> <u>2 lb.</u>
<u>Machinery space</u>	<u>1</u> <u>Located just outside</u> <u>exit</u>	<u>B-II, C-II</u>	<u>CO₂</u> <u>Dry chemical</u>	<u>15 lb.</u> <u>10 lb.</u>
<u>Open vehicle deck</u>	<u>1 for every 10 vehicles</u>	<u>B-II</u>	<u>Foam</u> <u>Halon</u> <u>CO₂</u> <u>Dry chemical</u>	<u>2.5 gal.</u> <u>10 lb.</u> <u>15 lb.</u> <u>10 lb.</u>
<u>Accommodation space</u>	<u>1 for each 2,500 sq. ft.</u> <u>or fraction thereof</u>	<u>A-II</u>	<u>Foam</u> <u>Dry chemical</u>	<u>2.5 gal.</u> <u>10 lb.</u>
<u>Galley, pantry, concession stand</u>	<u>1</u>	<u>A-II, B-II</u>	<u>Foam</u> <u>Dry chemical</u>	<u>2.5 gal.</u> <u>10 lb.</u>

~~((10))~~ (6) Means of escape.

(a) ~~((Except as otherwise provided in this section,))~~ All vessels must ~~((be provided with not less than))~~ have at least two avenues of escape from all general areas accessible to the passengers or where the crew may be quartered or normally employed. The avenues must be located so that if one is not available the other may be. At least one of the avenues should be independent of watertight doors.

(b) One vertical means of escape is acceptable where the length of the compartment is less than twelve feet~~((one vertical means of escape will be acceptable))~~ under the following conditions:

(i) There is no source of fire in the space, such as a galley stove or heater and the vertical escape is remote from the engine and fuel tank space; or

(ii) The arrangement is such that the installation of two means of escape does not materially improve the safety of the vessel or those aboard.

~~((11))~~ (7) Ventilation.

(a) All enclosed spaces within the vessel must be properly vented or ventilated. Where such openings would endanger the vessel under adverse weather conditions, means must be provided to close them.

(b) All crew and passenger space must be adequately ventilated in a manner suitable to the purpose of the space.

~~((12))~~ (8) Crew and passenger accommodations.

(a) Vessels with crew members living aboard must have suitable accommodations.

(b) Vessels carrying passengers must have fixed seating for the maximum number of passengers permitted ~~((to be carried~~.

~~((Fixed seating must be installed with spacing to provide for ready escape in case of fire or other casualty.~~

~~((Fixed seating must be installed as follows, except that special consideration may be given by the director if escape over the side can be readily accomplished through windows or other openings in the way of the seats)),~~ installed as follows:

(i) Spacing that provides for ready escape in case of fire or other casualty.

(ii) Aisles not over fifteen feet long must be not less than twenty-four inches wide.

~~((13))~~ (iii) Aisles over fifteen feet long must be not less than thirty inches wide.

~~((14))~~ (iv) Where seats are in rows the distance from seat front to seat front must be not less than thirty inches.

~~((e))~~ (v) The assistant director may grant special exception to fixed seating spacing requirements if escape over the side can be readily accomplished through windows or other openings in the way of the seats.

(c) Portable or temporary seating may be installed but must be arranged ~~((in general))~~ as provided for fixed seating.

~~((13))~~ (9) Toilet facilities and drinking water.

(a) Vessels must be provided with toilets and wash basins as specified in WAC 296-800-230~~((, except that in the case of))~~ unless vessels are used exclusively on short runs of approximately thirty minutes or less~~((, the director may approve other arrangements)).~~

(b) All toilets and wash basins must be fitted with adequate plumbing. Facilities for men and women must be in separate compartments, except in the case of vessels carrying forty-nine passengers and less, the assistant director may approve other arrangements.

(c) Potable drinking water must be provided for all passengers and crew~~((The provisions of))~~ according to WAC ~~((296-800-230 apply))~~ 296-800-23005.

(d) Covered trash containers must be provided in passenger areas.

~~((14))~~ (10) Rails and guards.

(a) ~~((Except as otherwise provided in this section.))~~ Rails or equivalent protection must be installed near the periphery of all weather decks accessible to passengers and crews. Where space limitations make deck rails impractical for areas designed for crew only, such as at narrow catwalks in the way of deckhouse sides, hand grabs may be substituted.

(b) Rails must consist of evenly spaced courses. The spacing must not be greater than ~~((twelve))~~ four inches except as provided in WAC 296-115-050 ~~((14)(f))~~ (10)(d). ~~((The))~~ Lower rail courses may not be required ~~((where))~~ if all or part of the space below the upper rail course is fitted with a bulwark, chain link fencing, wire mesh or the equivalent.

(c) On passenger decks of vessels engaged in ferry or excursion type operation, rails must be at least forty-two inches high. The top rail must be pipe, wire, chain, or wood and must withstand at least two hundred pounds of side loading. The space below the top rail must be fitted with bulwarks, chain link fencing, wire mesh, or the equivalent.

(d) On vessels engaged in other than passenger service, the rails must be not less than thirty-six inches high ~~((except that))~~. Where vessels are used in special service, the assistant director may approve other arrangements, but in no case less than thirty inches high.

(e) Suitable storm rails or hand grabs must be installed where necessary in all passageways, at deckhouse sides, and at ladders and hatches where passengers or crew might have normal access.

(f) Suitable covers, guards, or rails must be installed in the way of all exposed and hazardous places such as gears or machinery. (See chapter 296-806 WAC, Machine safety for detailed requirements.)

~~((15))~~ (11) Machinery installation.

(a) Propulsion machinery.

(i) Propulsion machinery must be suitable in type and design for the propulsion requirements of the hull of the vessel in which it is installed. Installations meeting the requirements of the USCG or ~~((other))~~ USCG-recognized classification society ~~((will be))~~ is considered acceptable to the assistant director.

(ii) Installations using gasoline as a fuel must meet the requirements of applicable USCG standards.

(iii) Installations using diesel fuel must meet the requirements of applicable USCG standards.

(b) Auxiliary machinery and bilge systems.

(i) All vessels must be provided with a suitable bilge pump, piping, and valves for removing water from the vessel.

(ii) Vessels carrying more ~~((that))~~ than forty-nine passengers must have a power operated bilge pump. The source of power must be independent of the propulsion machinery. Other vessels must have a hand operated bilge pump, but may have a power operated pump if it is operated by an independent power source.

(c) Steering apparatus and miscellaneous systems.

(i) All vessels must be provided with a suitable steering apparatus.

(ii) All vessels must be provided with navigation lights and shapes, whistles, fog horns, and fog bells as required by the USCG rules of navigation.

(iii) All vessels must be equipped with a suitable number of portable battery lights for emergency purposes. There should be at least two, one located at the operating station and the other at the access to the propulsion machinery.

(d) Electrical installations. The electrical installations of all vessels must be at least equal to applicable USCG standards, or as approved by the assistant director.

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-060 Operations. (1) ~~((This section applies to all passenger vessel operations within the scope of this chapter.~~

~~((2))~~ No person will rent, lease, or hire out a charter boat, ~~((nor))~~ carry, advertise for ~~((the))~~ carrying ~~((of, nor))~~, or arrange for ~~((the))~~ carrying ~~((of))~~, more than six passengers on a vessel for a fee or other consideration on ~~((the))~~ state waters ~~((of the state))~~ unless the vessel ~~((is in compliance with))~~ meets the ~~((provisions))~~ requirements of this chapter.

~~((3))~~ (2) Notice of casualty.

(a) The owner or person in charge of any vessel involved in a marine accident or casualty involving any of the following must report the incident immediately to the department ~~((:))~~:

(i) Damage to property in excess of one thousand five hundred dollars.

(ii) Major damage affecting the seaworthiness or safety of the vessel.

(iii) Loss of life or an injury to a person that ~~((incapacitates the person for more than seventy two hours))~~ requires medical treatment beyond first aid.

(iv) Fire on board the vessel.

(b) The report must be in writing to the assistant director ~~((and))~~. Upon receipt of the report the assistant director may request an investigation by a marine dock inspector.

~~((4))~~ (3) Miscellaneous ~~((operating requirements))~~ operations.

(a) In the case of collision, accident, or other casualty involving a vessel the operator, must ~~((:))~~:

(i) So far as ((he can do so)) possible without serious danger to ~~((his own))~~ the vessel or persons aboard, render any necessary assistance to other persons affected by the collision, accident, or casualty to save them from danger. ~~((He must also give his))~~

(ii) Provide the name and address of the vessel owner and the name of ((his)) the vessel to any person injured and to the owner of any property damaged.

(b) The person in charge of the vessel must see that the provisions of the certificate of inspection are strictly adhered to. This will not ~~((be construed as limiting))~~ limit the person in charge from taking any action in an emergency ~~((that he deems))~~ judged necessary to help vessels in distress or to prevent loss of life.

(c) ~~((Persons operating))~~ The operator of a vessel ~~((s))~~ must comply with the provisions of the USCG ~~((rules of the~~

~~road for inland waters))~~ Navigation Rules International/Inland, Commandants Instruction M16672.2D.

(d) The operator of a vessel must test the vessel's steering gear, signaling whistle, controls, and communication system before getting under way for the day's operation.

(e) Vessels using fuel (~~(having))~~ with a flashpoint of 110°F or lower must not take on fuel when passengers are on board.

(f) All vessels must enforce "no smoking" provisions when fueling. Locations on the vessel where flammable or combustible liquids are stored must be posted "no smoking."

(g) All vessels must prepare and post emergency check-off lists in a conspicuous place accessible to crew and passengers, covering the following:

(i) Man overboard.

(ii) Fire.

(h) The persons in charge must conduct emergency drills to ensure that the crew is familiar with their duties in an emergency and must document the drills.

(i) ~~((The carriage of))~~ Carrying hazardous substances is prohibited on vessels. However, the assistant director may authorize a vessel to carry specific types and quantities of hazardous substances if ~~((he))~~ the assistant director deems it necessary.

(j) All areas accessible to passengers or crew must be kept in a clean and sanitary condition. All walking surfaces must be free of slipping or tripping hazards and in good repair.

~~((5) First-aid training. There must be present or available on))~~ (4) First aid.

(a) All passenger vessels at all times(;) must have a person holding a valid certificate of first-aid/CPR training.

~~((6) Valid certification must be achieved by passing a course of first aid instruction and participation in practical application of the following subject matter:~~

~~Bleeding control and bandaging.~~

~~Practical methods of artificial respiration, including mouth to mouth and mouth to nose resuscitation:~~

~~Closed chest heart massage:~~

~~Poisons:~~

~~Shock, unconsciousness, stroke:~~

~~Burns, scalds:~~

~~Sunstroke, heat exhaustion:~~

~~Frostbite, freezing, hypothermia:~~

~~Strains, sprains, hernias:~~

~~Fractures, dislocations:~~

~~Proper transportation of the injured:~~

~~Bites, stings:~~

~~Subjects covering specific health hazards likely to be encountered by coworkers of first-aid students enrolled in the course:~~

~~(7) First-aid equipment.)~~ (b) A first-aid kit or first-aid room must be provided on all ~~((passenger))~~ vessels. The size and quantity of first-aid supplies or equipment required must be determined by the number of persons normally dependent upon each kit or equipment. The first-aid kit or supplies must be in a weatherproof container with individually sealed packages for each type of item. The location of the first-aid station or kit ~~((location))~~ must be posted or marked "first aid" on the container.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-115-070 Rules of navigation. The operation and navigation of all charter vessels ~~((subject to this chapter))~~ must be in strict accordance with the United States Coast Guard Navigation Rules International/Inland, Commandants Instruction ~~((M16672.29C))~~ M16672.2D as now adopted, or ~~((hereafter))~~ legally amended by the United States Coast Guard.

(1) A copy of the United States Coast Guard Navigation Rules International/Inland, Commandants Instruction ~~((M16672.29C))~~ M16672.2D, must be on board all charter vessels ~~((subject to this chapter))~~ at all times when the vessel is under way.

(2) At least annually, where applicable, the operator of each vessel must "swing the ~~((vessel))~~ compass" to determine the actual compass readings in relation to true compass headings, and must maintain a record on board the vessel.

AMENDATORY SECTION (Amending WSR 00-23-100, filed 11/21/00, effective 1/1/01)

WAC 296-115-100 ~~((Violations and setting of))~~ Penalties for certificate of inspection and operator's license violations. (1) ~~((Violations of the mandatory provisions of this chapter will be subject to penalty. The amount of the penalty will be assessed in accordance with the guidelines and fixed schedules contained herein.))~~ For owners of vessels, any violation of the certification and inspection provisions of this chapter is punishable according to the penalties provided under the Washington Industrial Safety and Health Act, chapter 49.17 RCW.

(2) The following fixed schedule penalties(;-) apply:

(a) ~~((Failure))~~ For failing to display certificate of inspection as required~~((;-))~~ in WAC 296-115-025(8), fifty dollars to owner of the vessel.

(b) ~~((Operation of vessel in passenger service without a valid certificate of inspection: To owner of vessel, two hundred dollars per violation; to person))~~ For a nonowner who operates vessel without a valid certificate of inspection, one hundred dollars per violation.

(c) ~~((Operation of))~~ For operating a vessel in passenger service ~~((while not in possession of))~~ without a valid USCG/state of Washington operator's license(;-), one hundred dollars per violation to the owner of the vessel.

NEW SECTION

WAC 296-115-110 Appeal of decisions. (1) Within fifteen working days after receipt of the decision, a person may request a hearing with the assistant director regarding denial of a certificate of inspection or license, or a decision on the maximum passengers, crew, or total capacity of a charter boat.

(a) At the hearing the department must give the opportunity to produce witnesses and give testimony.

(b) The hearing will be held at the department's headquarters office or at another location designated by the assistant director and presided over by an authorized representative of the assistant director.

(c) Following the informal hearing the department will issue a final decision.

(d) A final decision may be appealed to the superior court for the state of Washington in either the county in which the certificateholder resides or in Thurston County within thirty days after the suspension or revocation order is entered.

(e) The action being appealed will remain in effect until the applicant presents proof that the specified requirements are met, or until the appeal is otherwise resolved.

(2) For all other citations, follow the appeal process in chapter 49.17 RCW.

AMENDATORY SECTION (Amending Order 89-10, filed 10/10/89, effective 11/24/89)

WAC 296-115-120 Annual fee schedule. (1) The annual (~~license~~) certification fee for passenger vessels or barges is (~~(\$250.00)~~) two hundred fifty dollars plus (~~(\$2.00)~~) two dollars per ton for each vessel.

(2) The fee for an operator's license for passenger vessels or barges is (~~(\$50.00)~~) fifty dollars for the first year; this covers application and test costs. The renewal fee is (~~(\$25.00)~~) twenty-five dollars annually.

(3) Additional inspection service when required is at the rate of (~~(\$25.00)~~) twenty-five dollars per hour, plus travel and per diem.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-115-001	Foreword.
WAC 296-115-010	Appeal of decisions.

WSR 08-14-138
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed July 1, 2008, 12:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-17-172.

Title of Rule and Other Identifying Information: WAC 246-560-010 Definitions of rural health system project.

Hearing Location(s): Town Center 1, 101 Israel Road S.E., Room 163, Tumwater, WA 98501, on August 26, 2008, at 10:00 a.m.

Date of Intended Adoption: August 27, 2008.

Submit Written Comments to: John Hanson, P.O. Box 47834, Olympia, WA 98504-7834, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9273, by August 5, 2008.

Assistance for Persons with Disabilities: Contact Mary Roberts by August 12, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: We propose to

change the definition of rural for purposes of determining health systems resources (HSR) grant eligibility from a metropolitan statistical area (MSA) basis to an urbanized area basis.

Current rules require the use of census data from the state of Washington 1997 Data Book to define rural. This data is based on the 1990 census, now seventeen years old. When we looked at which counties are considered to be MSAs based on the 2000 census, we found that six counties that had been considered rural were no longer rural. Using an alternate definition, namely the census bureau urbanized area basis for defining rural, expands the areas in the state that would be considered rural and therefore eligible for HSR funding. This change could lead to improved access to health care services in areas that are at present ineligible for HSR funding.

Reasons Supporting Proposal: The proposal would restore almost all of the territory eliminated from eligibility for health systems resources grants by defining rural according to current federal criteria for rural health clinics, which is anything outside of an urbanized area. Urbanized areas are much smaller than entire counties.

Statutory Authority for Adoption: RCW 70.175.040 - [70.175.]050 and 70.185.040 - [70.185.]050.

Statute Being Implemented: RCW 70.175.040 - [70.175.]050 and 70.185.040 - [70.185.]050.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: John Hanson, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-2819; and Enforcement: Kris Sparks, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-2800.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(b), a small business economic impact statement is not required for proposed rules that relate only to internal governmental operations and that are not subject to violation by a nongovernmental party.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(ii) exempts rules that relate only to internal governmental operations that are not subject to violation by a nongovernment party. A preliminary cost-benefit analysis may be obtained by contacting John Hanson, P.O. Box 47834, Olympia, WA 98504-7834, phone (360) 236-2819, fax (360) 664-9273, e-mail john.hanson@doh.wa.gov.

July 1, 2008

Mary C. Selecky
Secretary of Health

AMENDATORY SECTION (Amending WSR 99-03-043, filed 1/14/99, effective 2/14/99)

WAC 246-560-010 Definitions. For the purpose of this chapter the following words and phrases have the following meanings unless the context clearly indicates otherwise.

(1) "Applicant" means any interested party who has been invited to submit an application proposing a health systems resources project.

(2) "Application" means an invited proposal for a health systems resources project.

(3) "Basic health care services" means organized care modalities to prevent death, disability, and serious illness. The term includes, but is not limited to:

- (a) Emergency services;
- (b) Primary care physicians, physician assistants, nurse practitioners, and midwifery services;
- (c) Short term inpatient care;
- (d) Home health care;
- (e) Community based care for chronic conditions;
- (f) Dental care;
- (g) Vision care;
- (h) Hearing care;
- (i) Hospice care;
- (j) Mental health;
- (k) Necessary support services; and
- (l) Nutrition related services.

(4) "Catchment area" means the Washington state geographic area where people live who are to receive the basic health care services addressed by the project.

(5) "Community" means the resident individuals and organizations in a catchment area who may benefit from the basic health care services addressed by the project.

(6) "Community-based" means that the need is identified by a broad section of the community including providers, institutions in the area, and nonhealth care provider members of the community such as community members of health care boards, economic development council members, organized patient advocacy groups, and others who have an interest in the long-term viability of health care services in the catchment area.

(7) "Department" means the Washington state department of health.

(8) "Deliverable" means a document that results from project activities. The term includes, but is not limited to:

- (a) A form;
- (b) An agreement;
- (c) A plan;
- (d) Documentation of numbers served;
- (e) A report; or
- (f) Presentation material.

(9) "Health care delivery system" means services, personnel, and how they are organized and financed.

(10) "Interested party" means an eligible entity that has submitted a letter of interest for a health systems resources project.

(11) "Letter of interest" means a brief description of a project as described in WAC 246-560-040.

(12) "Letter of invitation" means a letter inviting an interested party who has submitted a letter of interest to submit an application.

(13) "Local project administrator" means an individual or organization representing the applicant and authorized to enter into legal agreements on behalf of the applicant.

(14) "Matching funds" means fifty percent of the total budget for recruitment and retention activities must be from a

source other than this program. Matching funds may be in-kind contributions.

~~(15) ("Metropolitan statistical area" or "MSA" means an urban area defined and described by the United States Department of Census, Bureau of the Census, and printed in the State of Washington 1997 Data Book, Office of Financial Management, Olympia, Washington. The boundaries of all metropolitan statistical areas are county boundaries. The urban counties include:~~

- ~~(a) Benton;~~
- ~~(b) Clark;~~
- ~~(c) Franklin;~~
- ~~(d) Island;~~
- ~~(e) King;~~
- ~~(f) Kitsap;~~
- ~~(g) Pierce;~~
- ~~(h) Snohomish;~~
- ~~(i) Spokane;~~
- ~~(j) Thurston;~~
- ~~(k) Whatcom; and~~
- ~~(l) Yakima.~~

~~(16)) "Outcome" means the anticipated result or impact of the project activities.~~

~~((17)) (16) "Project" means a health systems resources project.~~

~~((18)) (17) "Rural" means a ((geographical area outside the boundaries of metropolitan statistical areas (MSA's) or an area within an MSA but more than thirty minutes average travel time from a city or town or contiguous cities or towns with a population of ten thousand or more)) nonurbanized area.~~

~~((19)) (18) "Successful applicant" means an applicant whose project has been selected for contracting.~~

~~((20)) (19) "Urban underserved" means an urbanized area ((within a MSA that is thirty minutes average travel time or less from a city or town or contiguous cities or towns with a population of ten thousand or more,)) that has unmet health care needs.~~

~~(20) "Urbanized area" means an area defined and described as an urbanized or urban area by the United States Department of Census, Bureau of the Census.~~

(21) "Workplan" means a written document, usually in matrix form, that shows the detail of what is needed to complete a project. The activities, timeline, party responsible, budget, evaluation plan, and measurable outcome is shown for each deliverable.

WSR 08-14-141

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed July 1, 2008, 12:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-07-095.

Title of Rule and Other Identifying Information: The department is amending WAC 388-15-005 What definitions

apply to these rules? and 388-15-077 What happens to unfounded CPS findings?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on August 5, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 6, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 5, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 29, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To meet the requirements from chapter 220, Laws of 2007 (SSB 5321).

Reasons Supporting Proposal: The new language is essential for children's administration to implement the legislature's intent in chapter 220, Laws of 2007 (SSB 5321). The new language is essential for amending the child protective services (CPS) rules which establish findings for child abuse and neglect. The new language will establish a two-tiered findings system and new record expungement timeframes.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.13.031, 74.04.-050, chapter 26.44 RCW, chapter 220, Laws of 2007.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Colette McCully, Children's Administration, P.O. Box 45710, Olympia, WA, (360) 902-0863; Implementation and Enforcement: Meri Waterhouse, Children's Administration, P.O. Box 45710, Olympia, WA, (360) 902-8035.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rule changes are dictated by statute. An economic analysis was not required under RCW 19.85.025(3), 34.05.328 (5)(b) and (c) as the proposed rule changes are adopted by reference without material change from chapter 220, Laws of 2007 (SSB 5321).

A cost-benefit analysis is not required under RCW 34.05.328. Rule change is dictated by statute. Rule changes are dictated by chapter 220, Laws of 2007 (SSB 5321) and are not considered significant rule changes under RCW 34.05.328.

June 26, 2008

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-15-098 and 02-17-045, filed 7/16/02 and 8/14/02, effective 2/10/03)

WAC 388-15-005 What definitions apply to these rules? The following definitions apply to this chapter.

"Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child as defined in RCW 26.44.020 and this chapter.

"Administrative hearing" means a hearing held before an administrative law judge and conducted according to chapter 34.05 RCW and chapter 388-02 WAC.

"Administrative law judge (ALJ)" is an impartial decision-maker who presides at an administrative hearing. The office of administrative hearings, which is a state agency but not part of DSHS, employs the ALJs.

"Alleged perpetrator" means the person identified in a CPS referral as being responsible for the alleged child abuse or neglect.

"Alternative response system" means a contracted provider in a local community that responds to accepted CPS referrals that are rated low or moderately low risk at the time of intake.

"Appellant" means a person who requests an administrative hearing to appeal a CPS finding.

"Child protection team (CPT)" means a multidisciplinary group of persons with at least four persons from professions that provide services to abused or neglected children and/or parents of such children. The CPT provides confidential case staffing and consultation to children's administration.

"Child protective services (CPS)" means the section of the children's administration responsible for responding to allegations of child abuse or neglect.

"Children's administration (CA)" means the cluster of programs within DSHS that is responsible for the provision of child protective, child welfare, foster care licensing, group care licensing, and other services to children and their families.

"Department" or **"DSHS"** means the Washington state department of social and health services.

~~"((Divisions of child care and early learning (DCCEL)))~~ **Department of early learning (DEL)**" means the ~~((division of economic services))~~ Washington state agency responsible for licensing child care homes and child care facilities.

"Division of children and family services (DCFS)" means the division of children's administration that provides child protective, child welfare, and support services to children and their families.

"Division of licensed resources (DLR)" means the division of children's administration responsible for licensing group care and foster care facilities, and responding to allegations of abuse or neglect in such facilities.

"Finding" means the final decision made by a CPS social worker after an investigation regarding alleged child abuse or neglect.

"Founded" means the determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did occur.

"Inconclusive" means the determination following an investigation by CPS, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur. Beginning October 1, 2008 the department will no longer

make inconclusive findings, but shall retain such findings made prior to that date as provided in these rules.

"Mandated reporter" means a person required to report alleged child abuse or neglect as defined in RCW 26.44.030.

"Preponderance of evidence" means the evidence presented in a hearing indicates more likely than not child abuse or neglect did occur.

"Screened-out report" means a report of alleged child abuse or neglect that the department had determined does not rise to the level of credible report of abuse or neglect and is not referred for investigation.

"Unfounded" means the determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did not occur or there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

AMENDATORY SECTION (Amending WSR 02-15-098 and 02-17-045, filed 7/16/02 and 8/14/02, effective 2/10/03)

WAC 388-15-077 What happens to unfounded CPS findings? (1) ~~((According to RCW 74.15.130 (2)(b), no unfounded, or inconclusive CPS finding of child abuse or neglect may be used to deny employment in a child care facility or to deny a license to care for children))~~ Beginning October 1, 2008 the department will no longer make inconclusive findings, but shall retain and destroy such findings made prior to that date as provided in these rules.

(2) ~~((According to RCW 26.44.020(19) no))~~ An unfounded, screened out or inconclusive allegation of child abuse or neglect may not be disclosed ((as part of a background check)) to a child placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

(3) ~~((According to RCW 26.44.031))~~ At the end of three years from the receipt of a screened-out report that alleged child abuse or neglect, the department must destroy its records relating to that report.

(4) ~~At the end of six years from the date of the ((report, the department must remove the unfounded finding from the department's records unless an additional child abuse and/or neglect report has been received regarding the same perpetrator during those six years))~~ completion of an investigation of a report of child abuse or neglect, the department must destroy records relating to unfounded or inconclusive reports, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child, before records are destroyed.

(5) The department shall retain records relating to founded reports of child abuse and neglect as required by DSHS records retention policies. If dependency is established under chapter 13.34 RCW as to a child who is subject of a report of child abuse or neglect, all records relating to the child or the child's parent, guardian, or legal custodian, including any screened-out, unfounded or inconclusive reports required to be destroyed prior to the establishment of dependency or received after dependency was established,

shall be retained as required by DSHS records retention policies regarding dependency records.

WSR 08-14-143
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed July 1, 2008, 1:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-088.

Title of Rule and Other Identifying Information: Chapter 246-322 WAC, Private psychiatric and alcoholism hospitals, creating new section WAC 246-322-260 for adverse health event and incident reporting system.

Hearing Location(s): Department of Health, Point Plaza East, Room 139, 310 Israel Road S.E., Tumwater, WA 98501, on August 7, 2008, at 9:30 a.m.

Date of Intended Adoption: August 11, 2008.

Submit Written Comments to: Alisa Harris, P.O. Box 47850, Olympia, WA 98504-7850, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by August 7, 2008.

Assistance for Persons with Disabilities: Contact Alisa Harris by August 5, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2006 the legislature passed 2SHB 2292 codified as chapter 70.56 RCW establishing the adverse health event and incident reporting system for "medical facilities." For the purposes of adverse event reporting, psychiatric hospitals are defined as a medical facility. The proposed rules include a list of reportable adverse events, how and when to report adverse events, the form and content of the root cause analysis and the corrective action plan. The intention of this legislation is to improve patient safety and decrease medical errors.

Reasons Supporting Proposal: 2SHB 2292 (chapter 70.56 RCW) requires the department to adopt in rule updates to the list of serious reportable events adopted by the national quality forums in 2002. Establishing the 2002 list in rule provides for a basis for future amendments. In addition, 2SHB 2292 requires the form and content of the root cause analysis and corrective action plan which are required in the event of the occurrence of adverse events to be adopted into rule.

Statutory Authority for Adoption: Chapter 70.56 RCW.

Statute Being Implemented: Chapter 70.56 RCW.

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

Name of Proponent: Department of health, office of facilities and services licensing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Byron Plan, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2905; Enforcement: Steven Saxe, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2905.

No small business economic impact statement has been prepared under chapter 19.85 RCW. None of the facilities subject to this rule fall under the definition of a small business.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal is exempt from this requirement under RCW 34.05.328 (5)(b)(v). The content of the rules are explicitly and specifically dictated by statute.

July 1, 2008
Mary C. Selecky
Secretary

NEW SECTION

WAC 246-322-260 Adverse health event reporting.
Psychiatric hospitals must:

(1) Notify the department whenever any of the following adverse events as defined by the National Quality Forum, *Serious Reportable Events in Health Care* occur:

1. Surgery performed on the wrong body part;
2. Surgery performed on the wrong patient;
3. Wrong surgical procedure performed on a patient;
4. Unintended retention of a foreign object in a patient after surgery or other procedure;
5. Intraoperative or immediately postoperative death in an ASA Class 1 patient;
6. Patient death or serious disability associated with the use of contaminated drugs, devices, or biologics provided by the health care facility;
7. Patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended;
8. Patient death or serious disability associated with intravascular air embolism that occurs while being cared for in a health care facility;
9. Infant discharged to wrong person;
10. Patient death or serious disability associated with patient elopement (disappearance);
11. Patient suicide, or attempted suicide resulting in serious disability, while being cared for in a health care facility;
12. Patient death or serious disability associated with a medication error (e.g., errors involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation or wrong route of administration);
13. Patient death or serious disability associated with a hemolytic reaction due to the administration of ABO/HLA-incompatible blood or blood products;
14. Maternal death or serious disability associated with labor or delivery in a low-risk pregnancy while being cared for in the health care facility;
15. Patient death or serious disability associated with hypoglycemia, the onset of which occurs while the patient is being cared for in a health care facility;
16. Death or serious disability (kernicterus) associated with failure to identify and treat hyperbilirubinemia neonates;
17. Stage 3 or 4 pressure ulcers acquired after admission to a health care facility;
18. Patient death or serious disability due to spinal manipulative therapy;
19. Patient death or serious disability associated with electric shock or electric cardioversion while being cared for in a health care facility;
20. Any incident in which a line designed for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by toxic substances;
21. Patient death or serious disability associated with a burn incurred from any source while being cared for in a health care facility;
22. Patient death or serious disability associated with a fall while being cared for in a health care facility;
23. Patient death or serious disability associated with the use of restraints or bedrails while being cared for in a health care facility;
24. Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider;
25. Abduction of a patient of any age;
26. Sexual assault on a patient within or on the grounds of a health care facility;
27. Death or significant injury of a patient or staff member resulting from a physical assault (i.e., battery) that occurs within or on the grounds of a health care facility; and
28. Artificial insemination with the wrong donor sperm or egg;

(2) Notify the department within forty-eight hours of confirmation by the hospital when any adverse event has occurred. Until the internet-based reporting system is developed and available, notify the department using established procedures. The notice must include:

- (a) The hospital's name;
- (b) The type of event identified in subsection (1) of this section; and
- (c) The date the event occurred;
- (3) Conduct a root cause analysis of each adverse event following the procedures and methods of:
 - (a) The joint commission;
 - (b) The department of Veterans Affairs National Center for Patient Safety; or
 - (c) Another nationally recognized root cause analysis methodology found acceptable by the department;
- (4) Create and implement a corrective action plan for each adverse event consistent with the findings of the root cause analysis. Each corrective action plan must include:
 - (a) How each finding will be addressed and corrected;
 - (b) When each correction will be completed;
 - (c) Who is responsible to make the corrections;
 - (d) What action will be taken to prevent each finding from reoccurring; and
 - (e) A monitoring schedule for assessing the effectiveness of the corrective action plan including who is responsible for the monitoring schedule;
- (5) If a hospital determines there is no need to create a corrective action plan for a particular adverse event, provide a written explanation of the reasons for not creating a corrective action plan;
- (6) Once the internet-based reporting system is developed and available, complete and submit a report within forty-five days after confirming an adverse event has occurred.

WSR 08-14-146
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed July 1, 2008, 2:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-053.

Title of Rule and Other Identifying Information: WAC 220-56-175 Catch record cards.

Hearing Location(s): Embassy Suites, 20610 44th Avenue West, Lynnwood, WA, on August 8-9, 2008, at 8:30 a.m.

Date of Intended Adoption: September 5, 2008.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by August 6, 2008.

Assistance for Persons with Disabilities: Contact Susan Yeager by August 1, 2008, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Purpose of proposal is to create, by commission rule, an administrative penalty for individuals not reporting their Puget Sound recreational Dungeness crab catch as required by rule. The anticipated effect is to increase the rate of recreational crab catch reporting, thereby increasing the validity of the recreational crab catch statistics and the department's credibility in its recreational crab management methods.

Reasons Supporting Proposal: The department's credibility regarding its Puget Sound Dungeness crab management efforts, statistics, and harvest estimates has suffered from a lack of public confidence. Ironically, the department's efforts have been hampered to a large degree by the public's failure to return Dungeness crab catch record cards. When these cards are not returned, the department must depend on the small sample of harvest information it gets from the few people who do return their cards. This rule seeks to foster improved catch record card return/reporting rates. Improved rates will allow the department's harvest estimates to improve and the public's confidence to increase.

Statutory Authority for Adoption: RCW 77.12.047 and 77.32.070.

Statute Being Implemented: RCW 77.12.047 and 77.32.070.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris Barker, 1111 Washington Street S.E., Olympia, (360) 902-2826; Implementation: Lew Atkins, 1111 Washington Street S.E., Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street S.E., Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a recreational fishing rule.

A cost-benefit analysis is not required under RCW 34.05.328. This is not a hydraulic rule.

July 1, 2008
 Loreva M. Preuss
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-07-003, filed 3/5/08, effective 4/5/08)

WAC 220-56-175 Catch record cards. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) In order to fish for or possess for personal use any Dungeness crab in Catch Record Card Area 4 east of the Bonilla-Tatoosh Line, and in Catch Record Card Areas 5-13, ~~((anadromous salmon, sturgeon, halibut, or steelhead, an angler must obtain and have in personal possession a valid appropriate catch record card as described in WAC 220-69-236 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021. Notwithstanding the provisions of~~

this subsection, a catch record card is not required for landlocked steelhead or for salmon in waters designated as "landlocked salmon rules apply" in WAC 232-28-619) an angler must obtain and have in his or her personal possession a valid and appropriate Puget Sound Dungeness crab catch record card as described in WAC 220-69-236.

(2) ~~((Any angler, after obtaining a catch record card shall))~~ In order to fish for or possess for personal use any anadromous salmon, sturgeon, halibut, or steelhead, an angler must obtain and have in his or her personal possession a valid and appropriate catch record card as described in WAC 220-69-236. The only exception is for commercially caught salmon retained for personal use, as provided for in WAC 220-20-016, and commercially caught sturgeon retained for personal use, as provided for in WAC 220-20-021. Also, a catch record card is not required for landlocked steelhead or for salmon in waters designated as "landlocked salmon rules apply" in WAC 232-28-619.

(3) ~~To validate ((the)) their catch record cards ((by)), anglers must completely, accurately, and legibly ((complete)) complete all personal identification information in ink on the catch record card ((prior to)) before detaching the ((catch record)) card from ((the)) its underlying copy ((of the catch record card)) or, for automated licenses, affixing the appropriate validation sticker to the catch record card. A catch record card remains valid ((so)) as long as there ((are)) is one or more unfilled spaces available for the species being fished for, except:~~

(a) In the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington ~~((for sturgeon)),~~ a catch record card remains valid ~~((when the))~~ for catch-and-release sturgeon fishing when the sturgeon portion of the ((catch record)) card is ((filled)) full. ~~((A person may not retain sturgeon after the sturgeon portion of the catch record card is filled.))~~

(b) A person may not use a second or subsequent catch record card ((is invalid for retention of)) to retain sturgeon and wild steelhead after the first card is full.

~~((3))~~ (4) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, ((the)) anglers ((shall)) must enter, in ink, in the appropriate space on the card, the place, date of catch, and species (catch type)((;)). For sturgeon, anglers also must record the length((;)) of the fish; for halibut, anglers also must record the vessel type; and for salmon, anglers also must indicate whether or not the fish was marked.

~~((4))~~ (5) Immediately upon retaining a Puget Sound Dungeness crab aboard a vessel or on the shore, ((the)) a fisher must enter, in ink, in the appropriate space on the Puget Sound Dungeness crab catch record card, the place and date of catch, the fishery type, and ((enter)) a tally mark for each Dungeness crab retained from each catch record card area fished. At the end of the fishing day, the fisher ((shall)) must enter the total number of crab tally marks for each fishery type.

~~((5))~~ (6)(a) Every person issued a catch record card ((shall)) must, by April 30 of the year ((following the year printed on)) after they used the ((catch record)) card, return ((such)) the card to the department of fish and wildlife ((except as follows: Every person)). People issued a Puget

Sound Dungeness crab catch record card ~~((shall))~~ must return ((such catch record)) the card to the Washington department of fish and wildlife ((no later than the required return date printed on the catch record card or report their catch record card information on the internet site designated on the catch record card by the same date)) or report the card information at the designated internet site by the dates indicated on the card.

(b) Effective December 1, 2009, and thereafter, failure to return a Dungeness crab catch record card or to report the Dungeness crab catch record card information at the designated internet site by the dates indicated on the card will result in a ten-dollar administrative fee. The administrative fee will be collected from anglers when they acquire a subsequent Puget Sound Dungeness crab endorsement.

~~((6))~~ (7) Any person possessing a catch record card ((shall, upon demand of)) must show the card to any law enforcement officer or authorized department employee((; exhibit said card to such officer or employee for inspection)) who asks to inspect the card.

~~((7))~~ (8) A catch record card ((shall)) must not be transferred, borrowed, altered, or loaned to another person, unless pursuant to Substitute Senate Bill No. 6260, effective June 12, 2008.

WSR 08-14-148
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed July 1, 2008, 2:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-11-061.

Title of Rule and Other Identifying Information: WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other fish, and shellfish.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98504, on September 5 and 6, 2008, at 8:30 a.m.

Date of Intended Adoption: September 19, 2008, via conference call.

Submit Written Comments to: Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail preuslmp@dfw.wa.gov, fax (360) 902-2155, by September 2, 2008.

Assistance for Persons with Disabilities: Contact Susan Yeager by August 25, 2008, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To allow the director the discretionary authority, on a case-by-case basis, to provide for a live bottomfish fishery by permit. This will let the department promote species- or fishery-specific live fish fisheries to meet a market demand for underutilized or common species, thereby increasing the value of the harvest to the state's fishing industry.

Reasons Supporting Proposal: Current rules prohibit live-fish fisheries, and this proposal would allow such fisheries to occur by permit.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Statute Being Implemented: RCW 77.12.047 and 77.04.020.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Morris W. Barker, 1111 Washington Street, Olympia, (360) 902-2826; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

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

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: None required - all compliance requirements will be by permit, which is not required for nonparticipants.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: No professional services required.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: No costs of compliance are anticipated.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No - any compliance requirements should increase business sales or revenue.

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

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

No cost of compliance is anticipated.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The department has been working with the industry to develop the rule proposal, and no costs are expected.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department will engage the industry under the auspices of the fish and wildlife commission's public hearing process.

8. A List of Industries That Will Be Required to Comply with the Rule: Compliance is not required of the industry as a whole. This proposal affects fishers who apply for a live-fish fishery permit.

A copy of the statement may be obtained by contacting Morris W. Barker, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944, e-mail barkemwb@dfw.wa.gov.

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

July 1, 2008

Loreva M. Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 07-266, filed 10/23/07, effective 11/23/07)

WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other fish and shellfish. (1) It shall be unlawful to take, fish for, possess or transport for any purpose fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the commission or director, unless otherwise provided.

(3) A person may fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	<i>(Hippoglossus stenolepis)</i>
Pacific herring (except as prescribed in WAC 220-49-020)	<i>(Clupea harengus pallasi)</i>
Salmon	
Chinook	<i>(Oncorhynchus tshawytscha)</i>
Coho	<i>(Oncorhynchus kisutch)</i>
Chum	<i>(Oncorhynchus keta)</i>
Pink	<i>(Oncorhynchus gorbuscha)</i>
Sockeye	<i>(Oncorhynchus nerka)</i>
Masu	<i>(Oncorhynchus masu)</i>
Pilchard	<i>(Sardinops sagax)</i>

Except as provided for in WAC 220-88C-040

(4) It shall be unlawful for any person to fish for fish or shellfish while in possession in the field of fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked.

(a) Shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy to which shall be affixed, in a

visible and legible manner, the department approved and registered buoy brand issued to the license, provided that:

(i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(ii) When two or more shellfish pots are attached to a common ground line, the number of pots so attached must be clearly labeled on the required buoy.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the cork line of the net, on which shall be marked in a visible, legible and permanent manner the name and gill-net license number of the fisher.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department. In addition, it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47°20', from August 15 through November 30, except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department.

(8) It shall be unlawful for any person taking or possessing fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington, or the Pacific Ocean, for any purpose, to fail to submit such fish or shellfish for inspection by authorized representatives of the department.

(9) It shall be unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing and storing of fish or shellfish, whether taken within the jurisdiction of the state of Washington or beyond, or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for, possess, injure, kill, or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, snag, snare, dip net, harass, spear, stone, or otherwise molest, injure, kill, destroy, or shoot with a firearm, crossbow, bow and arrow, or compressed air gun, any fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) A person may use a dip net or club in the landing of fish taken by personal-use angling, unless otherwise provided; and a person may use a gaff in the landing of tuna, halibut and dogfish, and a harpoon in the landing of halibut, in all catch record card areas.

(b)(i) A person may use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the fish or shellfish that are not going to be retained or are unlawful to possess.

(ii) It is unlawful under any circumstance to use a device that penetrates the body of a sturgeon whether legal to retain or not.

(c) A person may use a spear in underwater spear fishing, as provided for in WAC 220-56-160.

(d) A person may use a bow and arrow or spear to take carp, as provided for in WAC 220-56-280.

(e) A person may snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(f) A person may shoot halibut when landing them with a dip net, harpoon or gaff.

(12) It shall be unlawful to take or possess, for any purpose, any fish or shellfish smaller or larger than the lawful minimum or maximum size limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

(13) It shall be unlawful to allow salmon or sturgeon or fish unlawful to retain that are entangled in commercial nets to pass through a power block or onto a power reel or drum.

(14) It shall be unlawful to possess, aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, species group or category, length, weight, or sex limit is prescribed for said species. In addition, it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(15) It shall be unlawful to possess for any purpose any fish or shellfish in excess of catch or possession limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

(16) A person may possess, transport through the waters of the state, or land, dressed sablefish as defined by WAC 220-16-330.

(17) A person may possess, transport through the waters of the Pacific Ocean, or land, dressed salmon caught during a lawful commercial salmon troll fishery, provided that frozen Chinook salmon, dressed, heads off, shall be 21-1/2 inches minimum, and frozen coho salmon dressed, heads off, shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.

(18) A person may possess, transport through the waters of the Pacific Ocean, or land, dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements.

(19) It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length pre-

scribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department.

(20) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director, or to perform any act not specifically authorized in said document or in the regulations of the commission or director.

(21) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director.

(22) It shall be unlawful to test commercial fishing gear, except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances, in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts, and south of the international boundary, in waters 10 fathoms and deeper during times not under control of the Pacific Salmon Commission.

(c) San Juan Channel - within a 1-mile radius of Point Caution during times not under control of the Pacific Salmon Commission.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2-mile radius of the entrance to Everett breakwater, in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe, and Skiff Point to West Point, in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland, and from Dash Point to Point Piner, in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point, in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes, exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Cod ends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fish and wildlife enforcement office in Olympia prior to testing.

(23) It is unlawful for any person or corporation either licensed by the department or bringing fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other fish

containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

(24) It is unlawful for any person to possess live bottom fish taken under a commercial fishery license, except by permit of the director.

(25) It is unlawful for any person to use chemical irritants to harvest fish, shellfish or unclassified marine invertebrates except as authorized by permit issued by the department.

(26) The lower Columbia River, Grays Harbor and Willapa Bay are closed to commercial sturgeon fishing, except as provided by emergency rule of the director. Sturgeon taken incidentally during an open commercial salmon fishing period may be retained for commercial purposes as described by department rule.

WSR 08-14-149

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed July 1, 2008, 2:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-16-130.

Title of Rule and Other Identifying Information: New chapter, WAC 246-75-010 Medical marijuana.

Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road S.E., Tumwater, WA 98501, on August 25, 2008, at 11:00 a.m.

Date of Intended Adoption: September 15, 2008.

Submit Written Comments to: DOH Medical Marijuana, P.O. Box 47850, Olympia, WA 98504-7850, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by August 25, 2008.

Assistance for Persons with Disabilities: Contact Sherry Thomas by August 18, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules define the quantity of marijuana that could reasonably be presumed to be a sixty-day supply allowed under the medical marijuana law (chapter 62.51A RCW) for qualifying patients. The proposed rules clarify the existing law, and will assist patients, designated providers, physicians, law enforcement, and others in understanding what a sixty-day supply of medical marijuana is.

Reasons Supporting Proposal: The rules are required by ESSB 6032 (chapter 371, Laws 2007). The proposed rules provide clarity to those who participate in the medical marijuana law by defining a presumptive sixty-day supply of medical marijuana.

Statutory Authority for Adoption: RCW 62.51A.080 (ESSB 6032 - chapter 371, Laws of 2007).

Statute Being Implemented: RCW 62.51A.080 (ESSB 6032 -chapter 371, Laws of 2007).

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Blake Maresh, 310 Israel Road, Tumwater, (360) 236-4760; Implementation and Enforcement: Not applicable.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting DOH Medical Marijuana, P.O. Box 47850, Olympia, WA 98504-7850, phone (360) 236-4612, fax (360) 236-4626, e-mail medicalmarijuana@doh.wa.gov.

July 1, 2008
Mary C. Selecky
Secretary

Chapter 246-75 WAC

MEDICAL MARIJUANA

NEW SECTION

WAC 246-75-010 Medical marijuana. (1) Purpose. The purpose of this section is to define the amount of marijuana a qualifying patient could reasonably expect to need over a sixty-day period for their personal medical use. It is intended to:

(a) Allow medical practitioners to exercise their best professional judgment in the delivery of medical treatment;

(b) Allow designated providers to assist patients in the manner provided in chapter 69.51A RCW; and

(c) Provide clarification to patients, law enforcement and others in the use of medical marijuana.

(2) Definitions.

(a) "Designated provider" means a person as defined in RCW 69.51A.010.

(b) "Immature plant" means any marijuana plant that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(c) "Mature plant" means any marijuana plant that does not fall within the definition of "immature plant."

(d) "Qualifying patient" means a person as defined in RCW 69.51A.010.

(e) "Useable marijuana" means the dried leaves and flowers of the *Cannabis* plant family Moraceae. Useable marijuana excludes stems, stalks, seeds and roots.

(3) Presumptive sixty-day supply.

(a) A qualifying patient and a designated provider may possess a total of no more than twenty-four ounces of useable marijuana, and no more than six mature plants and eighteen immature plants.

(b) Amounts listed in (a) of this subsection are total amounts of marijuana between both a qualifying patient and a designated provider.

(c) The presumption in this section may be overcome by documentation from the patient's physician stating the amount that is medically necessary for the qualifying patient.

WSR 08-14-150
PROPOSED RULES
COLUMBIA RIVER
GORGE COMMISSION
[Filed July 1, 2008, 3:07 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Repealing chapter 350-80 WAC, Former land use ordinance; chapter 350-20 WAC, Former development review procedures; WAC 350-015-001, 350-015-002, 350-015-003, 350-015-004, 350-015-005, 350-015-006, 350-015-007, 350-015-008, 350-015-009, 350-015-010, 350-015-011, 350-015-012, 350-015-013, 350-015-014, 350-015-015, 350-015-016, 350-015-017, 350-015-018, 350-015-019, 350-015-020, 350-015-025, 350-015-026, 350-015-027, and 350-015-028; new WAC 350-15-100; and amending WAC 350-81-046.

Hearing Location(s): Cascade Locks Port Pavilion, 355 WaNaPa Street, Cascade Locks, OR, on October 24, 2008, at 9:00 a.m. (Note this is the beginning of the commission's regular meeting. The actual hearing time may be later).

Date of Intended Adoption: October 14, 2008.

Submit Written Comments to: Jill Arens, Executive Director, P.O. Box 730, White Salmon, WA 98672, e-mail crgc@gorge.net, fax (509) 493-2229, by October 1, 2008.

Assistance for Persons with Disabilities: Contact Nancy Andring by October 7, 2008, (509) 493-3323.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to repeal two prior chapters of the commission's rules relating to land use permitting. The commission no longer uses these rules to review development applications. The commission is amending one section to require changes to existing land use decisions comply with the current land use ordinance, which is the only land use ordinance that would remain after this proposal. Finally, the commission is repealing its existing public contracting provisions, which are out-of-date, and adopting a new public contracting provision that specifies the commission use Washington's public contracting laws, which is the commission's current practice.

Reasons Supporting Proposal: The rules proposed for repeal are no longer used. These repeals will save more than three hundred pages of printing.

Statutory Authority for Adoption: 16 U.S.C. § 544c(b); RCW 43.097.015 [43.97.015]; ORS 196.150.

Statute Being Implemented: 16 U.S.C. § 544c(b).

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

Name of Proponent: Columbia River Gorge Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jill Arens, White Salmon, Washington, (509) 493-3323.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Repeal of these rules would not affect small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The only substantive rule added is reference to

Washington statutes and is thus exempt under RCW 34.05.-328 (5)(b)(iii).

July 1, 2008
Nancy A. Andring
Rules Coordinator

AMENDATORY SECTION

350-81-046. Changes or Alterations to an Approved Action

Any change to a development action approved by the Executive Director ~~pursuant to this rule~~ shall be processed as a new action, except that the Executive Director may approve minor changes to findings, conclusions, and conditions of approval deemed to be consistent with the guidelines of Commission Rule 350-81 and the findings and conclusions for the original action. If the Executive Director approves a minor change, the Director shall notify all of the parties that would have standing to appeal the change, including the applicant, the Forest Service, the four Indian tribal governments, the county planning department, and anyone who submitted comments during the comment period on the original land use application. The change itself (not the original decision) would be subject to appeal under the same time frames applicable to the original decision.

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

REPEALED CHAPTER

350-80

The Columbia River Gorge Commission repeals Chapter 350-80 in its entirety.

REPEALED CHAPTER

350-20

The Columbia River Gorge Commission repeals Chapter 350-20 in its entirety.

REPEALED SECTIONS

350-015-001, 350-015-002, 350-015-003, 350-015-004, 350-015-005, 350-015-006, 350-015-007, 350-015-008, 350-015-009, 350-015-010, 350-015-011, 350-015-012, 350-015-013, 350-015-014, 350-015-015, 350-015-016, 350-015-017, 350-015-018, 350-015-019, 350-015-020, 350-015-025, 350-015-026, 350-015-027, 350-015-028

NEW SECTION

350-015-100

For reasons of efficiency, and to avoid a piecemeal approach to public contracting administration, the Commission shall conduct public contracting in accordance with the public contracting law of the State of Washington. The Commission deems the public contracting law of the State of Washington as a total package to be equivalent in its degree of restrictiveness to the public contracting law of the State of Oregon.

WSR 08-14-153 PROPOSED RULES DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed July 1, 2008, 3:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-08-119.

Title of Rule and Other Identifying Information: Fees charged to credit unions and other persons, chapter 208-418 WAC, regarding fees and assessments of credit unions.

Hearing Location(s): John A. Cherberg Building, State Capitol Campus, Olympia, Washington 98501, on August 27, 2008, at 10 a.m. to 12 noon.

Date of Intended Adoption: December 1, 2009.

Submit Written Comments to: Joanne Conrad, Regulatory Analyst, Department of Financial Institutions, P.O. Box 41200, Olympia, WA 98504-1200, e-mail jconrad@dfi.wa.gov, fax (360) 704-6490, by August 27, 2008.

Assistance for Persons with Disabilities: Contact Rhonda Mires by e-mail rmires@dfi.wa.gov or (360) 902-8718.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule increases credit union assessments and fee rates, in accordance with the "fiscal growth factor" under chapter 43.135 RCW, and makes related technical changes.

Reasons Supporting Proposal: The regulation for safety and soundness of state-chartered credit unions is supported by industry fees and assessments, not the general fund. The last fee increase was in 2002. This proposed increase is necessary to support the statutory mandate of the division of credit unions.

Statutory Authority for Adoption: Chapter 43.135 RCW, RCW 43.320.040, chapter 285, Laws of 2008.

Statute Being Implemented: RCW 31.12.516(6), chapter 285, Laws of 2008.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This fee increase is needed in order to provide for an increase in assessment and fee rates, in accordance with the "fiscal growth" factor under chapter 43.135 RCW. See proposed amendments to chapter 208-418 WAC for text of fee increase and related changes.

Name of Proponent: Division of credit unions, department of financial institutions (DFI), governmental.

Name of Agency Personnel Responsible for Drafting: Joanne Conrad, DFI, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8813; Implementation and Enforcement: Linda K. Jekel, DFI, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8778.

No small business economic impact statement has been prepared under chapter 19.85 RCW. 1. Credit union fees are already asset-based on size of credit union.

2. Small credit unions may also be granted waivers to prevent hardship.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is to provide for a routine fee increase,

to an existing fee structure, in order to enable the division of credit unions to maintain its statutory mission. The department of financial institutions is not one of the agencies specified in RCW 34.05.328 (5)(i), and the rule is a "rule that sets or adjusts fees or rates pursuant to legislative standards," RCW 34.05.328 (5)(b)(vi).

July 1, 2008
Linda Jekel, Director
Division of Credit Unions

AMENDATORY SECTION (Amending WSR 01-12-004, filed 5/23/01, effective 6/23/01)

WAC 208-418-010 Definitions. Unless the context clearly requires otherwise, as used in this chapter:

(1) "Credit union" includes a Washington credit union, an out-of-state credit union and a foreign credit union.

(2) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction, that is operating a branch in Washington in accordance with RCW 31.12.471.

(3) "Hourly fee" means a fee of ~~\$(57.42)~~ 64.35 per hour per examiner or other staff person of the division.

(4) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or U.S. territory or possession, that is operating a branch in Washington in accordance with RCW 31.12.471.

(5)(a) "Total assets" of a Washington credit union includes all assets of the credit union as reported on the credit union's most recent form 5300 or similar financial report.

(b) "Total assets" of an out-of-state or foreign credit union is derived from the following fraction:

$$\frac{\text{Total assets x in-state (~~branch~~) shares and deposits}}{\text{Total shares and deposits}}$$

"Total assets" and "shares and deposits" include respectively all assets and shares and deposits as reported on the credit union's most recent form 5300 or similar financial report.

(6) "Washington credit union" means a credit union organized and operating under chapter 31.12 RCW.

AMENDATORY SECTION (Amending WSR 01-12-004, filed 5/23/01, effective 6/23/01)

WAC 208-418-040 Quarterly asset assessments. (1) The director will charge each credit union a quarterly asset assessment at the rate set forth in subsection (2) of this section. Asset assessments will be due on January 1, April 1, July 1, and October 1. Asset assessments must be paid no later than thirty days after their due date. The assessments will be computed on total assets as of the prior June 30 for the October 1 and January 1 assessments, and as of the prior December 31 for the April 1 and July 1 assessments.

(2) Credit Union's Total Assets	Quarterly Asset Assessment
over \$500M	\$(18,883 + 0.00001543) <u>21,163 + .00001729</u> x total assets over \$500M

(2) Credit Union's Total Assets	Quarterly Asset Assessment
over \$100M up to \$500M	\$(5,250 + 0.00003408) <u>5,883 + .00003819</u> x total assets over \$100M
over \$25M up to \$100M	((0.00005250)) <u>0.00005883</u> x total assets
over \$10M up to \$25M	\$(1,157) <u>1,296</u>
over \$2M up to \$10M	\$(771) <u>863</u>
over \$500K up to \$2M up to \$500K	\$(514) <u>575</u> \$0

M = Million K = Thousand

(3) Quarterly asset assessments are charged for the calendar quarter that begins on the due date of the assessment. No rebates will be made to credit unions that cease to be state-chartered during the quarter. A credit union converting to state charter will pay a prorated quarterly asset assessment for the quarter during which the conversion is completed.

(4) From time to time, the director may determine that asset assessments on an out-of-state credit union or foreign credit union are inappropriate relative to the level of examination and supervision of that credit union by the division. In that event, the director may charge the credit union hourly fees for examination and supervision of the credit union, including, but not limited to, off-site monitoring, in lieu of asset assessments. Such fees are due upon receipt of billing from the division.

AMENDATORY SECTION (Amending WSR 01-12-004, filed 5/23/01, effective 6/23/01)

WAC 208-418-050 Pass through of attorney general costs. (1) The director (~~will~~) may charge each credit union the actual cost incurred by the division of credit unions for certain legal assistance rendered by an assistant attorney general or special counsel in regard to (~~the~~) that credit union. Legal assistance includes legal assistance rendered in connection with: Supervisory committee meetings and board meetings; receiverships, conservatorships, liquidations and declarations of insolvency; enforcement agreements or actions; collection actions; administrative hearings; declaratory orders; and opinions requested by a credit union or the division of credit unions. Charges are due upon receipt of billing from the division.

(2) The division will notify a credit union before the division incurs expense for legal assistance which may be charged to the credit union under this section.

AMENDATORY SECTION (Amending WSR 01-12-004, filed 5/23/01, effective 6/23/01)

WAC 208-418-070 Other fees. (1) The director will charge hourly fees as follows:

(a) An hourly fee will be charged to a person other than a credit union or a subsidiary of one or more credit unions for each (~~electronic data processing~~) information systems and technology examination of the person by the division of credit unions.

(b) An hourly fee will be charged to a credit union for the ~~((processing))~~ examination of the credit union's application to add a community group to its field of membership.

(c) An hourly fee will be charged to a credit union for a fraud investigation or examination of the credit union and/or persons involved with the credit union by the division.

(d) An hourly fee will be charged to an out-of-state or foreign credit union for examination and supervision by the division under WAC 208-418-040(4).

(e) An hourly fee will be charged to an out-of-state or foreign credit union for the ~~((processing))~~ examination of the credit union's application to operate a branch in this state.

(f) An hourly fee will be charged to other divisions or agencies for examinations, investigations, or similar undertakings performed on their behalf by the division.

(g) An hourly fee will be charged for investigation or examination of conversion applications.

(h) An hourly fee will be charged for initial and annual examination of alternative share insurers that apply for authorization to do business with Washington state chartered credit unions.

(i) An hourly fee will be charged for examination of credit union service organizations and their subsidiaries.

(2) In addition, the director will charge a credit union or other person for the actual cost incurred by the division for an examination or investigation of the credit union or person performed under personal services contract by third parties.

(3) Charges under this section are due upon receipt of billing from the division.

AMENDATORY SECTION (Amending WSR 01-12-004, filed 5/23/01, effective 6/23/01)

WAC 208-418-100 Waiver of fees. The director may waive any or all of the fees and assessments imposed under WAC 208-418-040 and 208-418-070, in whole or in part, when ~~((he or she))~~ the director determines that ~~((both of the following factors are present:~~

~~(1) The credit union program fund exceeds the projected acceptable minimum fund balance level approved by the office of financial management; and~~

~~(2) That))~~ such course of action would be fiscally prudent.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 208-418-090 Rate increase.

WSR 08-14-155
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION

[Filed July 1, 2008, 4:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-10-004.

Title of Rule and Other Identifying Information: Amendments to WAC 390-05-515 Member, this rule describes when a communication to a "member" as that term is used in chapter 42.17 RCW, the public disclosure commission statutes, including by not limited to RCW 42.17.020 and 42.17.100, is an internal political communication and not a contribution.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on August 28, 2008, at 9:30 a.m.

Date of Intended Adoption: August 28, 2008.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by August 18, 2008.

Assistance for Persons with Disabilities: Contact Kami Madsen by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments to WAC 390-05-515 are needed to more specifically address (and exclude) entities that describe their customers as "members" but their relationship is more akin to that of seller-buyer and to provide an additional factor to determine membership.

Reasons Supporting Proposal: To provide guidance and clarification in public disclosure reporting by entities with "members."

Statutory Authority for Adoption: RCW 42.17.370.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The amended rules are designed to clarify the definition of "member" for purposes of public disclosure.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The public disclosure commission (PDC) is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

July 1, 2008

Vicki Rippie

Executive Director

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-05-515 Member. In determining whether a communication is to a "member" as that term is used in RCW

42.17.020 and 42.17.100, and for the purposes of RCW 42.17.105(8) and 42.17.640:

(1) The commission will examine whether the organization is a legitimate membership organization with common interest goals and objectives, taking into account such factors as the organization's permanence, structure and whether it has formal organizing documents, membership criteria and services it provides its members.

(2) With respect to the status of members of an organization, the commission will examine whether a valid, active relationship exists between the organization and its members or classes of members for purposes other than influencing the outcome of an election, taking into account such factors as whether the members affirmatively accept membership and the rights and obligations conferred on members by the organization including whether members have the right to vote for:

(a) Election of directors or officers; or

(b) Changes to the articles or bylaws; or

(c) The disposition of all or substantially all of the assets of the organization or on a merger or dissolution.

A required payment of a predetermined amount of membership dues is also a factor; however, an organization will not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."

(3) If a membership organization and its members satisfy the criteria regarding "membership associations" and "members" established by the Federal Election Commission (FEC) in 11 C.F.R. Sec. 100.134 (e)-(g), the commission will consider the organization and its members as qualifying for the exemption in RCW 42.17.020 (15)(b)(v) and (21)(g), unless the communication was not sent primarily to members. However, these FEC criteria are not the only indicators of legitimate membership organizations or valid members, a determination that will be made by the commission on a case-by-case basis as necessary.

(4) In determining whether an internal political communication is "primarily" limited to the members of an organization or political committee, the commission will consider whether any distribution to nonmembers is incidental and isolated.

WSR 08-14-156

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF FISH AND WILDLIFE

[Filed July 1, 2008, 4:37 p.m.]

The Washington department of fish and wildlife is withdrawing the CR-102 filed as WSR 08-12-088, on June 4, 2008. the department anticipates filing a new CR-102 on ballast-water management and control within the next few months.

Loreva M. Preuss
Rules Coordinator

WSR 08-14-159 PROPOSED RULES DEPARTMENT OF FINANCIAL INSTITUTIONS (Division of Banks)

[Filed July 2, 2008, 8:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-132.

Title of Rule and Other Identifying Information: Hourly examination fees and annual assessment charges for Washington state chartered commercial banks, mutual savings banks, and stock savings banks.

Hearing Location(s): Seattle Office of Division of Banks, Washington State Department of Financial Institutions, *Active Voice Building*, Conference Room, Suite 1030, 2033 6th Avenue, Seattle, WA 98121, on August 6, 2008, at 10:00 a.m.

Date of Intended Adoption: September 3, 2008.

Submit Written Comments to: Gloria McVey, P.O. Box 41200, Olympia, WA 98504, e-mail gmcvey@dfi.wa.gov, fax (360) 704-6947, by 5:00 p.m., August 13, 2008.

Assistance for Persons with Disabilities: Contact Gloria McVey by July 31, 2008, TTY (360) 664-8126.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To implement chapter 285, Laws of 2008, by amending the permissible examination fees and annual assessment charges for Washington state chartered commercial banks, mutual savings banks, and stock savings banks.

Reasons Supporting Proposal: Chapter 285, Laws of 2008.

Statutory Authority for Adoption: Chapter 285, Laws of 2008, RCW 30.04.040, [30.04.]070, 43.320.040.

Statute Being Implemented: Chapter 285, Laws of 2008.

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

Name of Proponent: Department of financial institutions, division of banks, governmental.

Name of Agency Personnel Responsible for Drafting: Joe Vincent, 150 Israel Road S.W., (360) 902-8704; Implementation and Enforcement: Brad Williamson, 150 Israel Road S.W., (360) 902-8704.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose more than minor costs on the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The department of financial institutions is not a select agency and is not proposing significant legislative rules.

July 2, 2008
Brad Williamson
Director of Banks

AMENDATORY SECTION (Amending WSR 01-06-024, filed 2/27/01, effective 3/30/01)

WAC 208-544-025 Fees paid by interstate banks. (1) Semiannual asset charge. ((The)) On December 31, 2008, and thereafter, a semiannual asset charge ((established in

~~WAC 208-544-020~~) shall be assessed against any ~~((state-chartered))~~ state bank, as defined in 12 U.S.C. sec. 1813(a), that ~~((operates branches))~~ is chartered in Washington state and operates branches in Washington and any other state, which shall not exceed the semiannual asset charge established in WAC 208-544-020.

(2) The assets subject to assessment ~~((under))~~ for banks chartered by any other state, pursuant to WAC 208-544-020(1) and authorized by a signed cooperative agreement between the state bank supervisors of the home and host states, shall be determined as follows: Divide the number of branches in Washington by the total number of branches in all states including Washington and multiply the result by the asset value reflected in the most recent report of condition.

~~((2))~~ (3) **Other fees.** All other fees that normally apply to Washington-chartered banks under WAC 208-544-030 and 208-512-045 shall also be paid by banks chartered in other states.

AMENDATORY SECTION (Amending WSR 01-12-003 and 01-20-086, filed 5/23/01 and 10/2/01, effective 7/1/01 and 11/2/01)

WAC 208-544-039 Charges and fees effective ~~((July 1, 2001))~~ October 6, 2008. ~~((The division intends to increase the rate of its charges and fees each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of charges and fees each fiscal year during the 2001-03 biennium.))~~

(1) Effective ~~((July 1, 2001))~~ **October 6, 2008**, the rate of charges and fees under WAC 208-512-045, 208-544-020 and 208-544-030 shall be as follows:

(a) WAC 208-512-045 (1)(c) and (d) - The fee shall be \$100.00 for the issuance and filing of certificates.

(b) WAC 208-512-045 (1)(e) - The fee shall be 50 cents per page.

(c) WAC 208-512-045(2) - The fee shall be ~~\$(102.43))~~ 111.64 per employee hour expended.

(d) WAC 208-544-020(1) - The rates shall be the following:

If total assets are:		The assessment is:		
Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	500	0	((0.000016022)) <u>0.000017464</u>	0
500	1,000	((8,011)) <u>8,373</u>	((0.000015364)) <u>0.000016746</u>	500
1,000	10,000	((15,693)) <u>17,105</u>	((0.000015134)) <u>0.000016495</u>	1,000
10,000	—	((151,899)) <u>165,562</u>	.000	10,000

(e) WAC 208-544-020(2) - The rate shall be 0.04005.

(f) WAC 208-544-030(1) - The fee shall be ~~\$(73.95))~~ 80.60 per hour.

(g) WAC 208-544-030(2) - The fee shall be ~~\$(102.43))~~ 111.64 per hour.

~~((a))~~ (2) ~~((On July 1, 2002, the rate of charges and fees under subsection (1)(c), (d), (e), (f), and (g) of this section, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then-current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.~~

~~((b))~~ (b) The director may round off a rate increase under this subsection. However, no rate increase may exceed the applicable fiscal growth factor.

~~((c))~~ (c) By June 1 of each year the director will make available a chart of the new rates that will take effect on the immediately following July 1.

~~((3))~~ (3) The director may waive any or all of the charges and/or fees imposed under this section, in whole or in part, when he or she determines that both of the following factors are present:

(a) The banking program fund exceeds the projected acceptable minimum fund balance level approved by the office of financial management (OFM); and

(b) That such course of action would be fiscally prudent.

~~((4))~~ (4) (a) If the charges and fees assessed under WAC 208-544-020(1) relating to a semiannual asset charge and WAC 208-544-030(1) relating to the hourly examination fee exceed ninety-five percent of the charges and fees applicable for a two-year period of the comparable federal chartering regulator (CFCR) or its successor then the charges and fees paid in excess of such amount shall be rebated to the institution pursuant to (d) of this subsection unless abated by the director as provided in (e) of this subsection.

(b) For purposes of determining rebate entitlement, the total of semiannual asset charges and examination fees will be determined by adding the monthly average semiannual asset charge and the monthly average examination fee for any twenty-four month period beginning on or after July 1, 2000. The monthly average semiannual asset charge is determined by dividing the semiannual asset charges by six and applying the monthly average to the previous six months. The monthly average examination fee is determined by dividing the examination fee for each examination during the averaging period by the number of months between each such examination and the previous examination as determined by the date of the examinations and applying the monthly average to those months. The CFRCR charge is determined in the same manner. Under no circumstances will an institution be permitted to calculate a rebate based on a period of time that was included, in whole or in part, in the calculation of another rebate under this section.

(c) The rebate is determined by the difference between the sum of the applicable monthly average state charges and fees for the twenty-four month period minus ninety-five percent of the sum of the applicable monthly average CFRCR charges and fees for the same period, as each are determined in (b) of this subsection.

(d) Entitlement of the rebate will occur only upon petition and satisfactory proof to the director.

(e) Rebate abatement. At the discretion of the director, all or part of the rebate determined under (d) of this subsection may be denied if the director determines that:

(i) The institution required a substantially greater than average amount of supervisory time for reasons other than as a result of economic, legal, regulatory, or other conditions beyond the control of competent management;

(ii) The institution required a substantially greater than average amount of examination time for an institution of its size for reasons other than as a result of economic, legal, regulatory, or other conditions beyond the control of competent management;

(iii) Examinations or investigations were performed by third parties under personal services contracts;

(iv) The banking program fund does not exceed the projected acceptable minimum fund balance level approved by OFM or is insufficient to satisfy the rebates under this subsection and still maintain the operations of the department at a fiscally prudent level;

(v) The institution maintained a composite uniform financial institution rating (CAMELS) of 3, 4 or 5 during any time during the rebate period; or

(vi) Such other factors as the director may deem equitable or relevant.

(f) Institutions may become eligible to receive a rebate after June 30, 2002, for amounts paid on or after July 1, 2000.

WSR 08-14-164

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed July 2, 2008, 11:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-10-003.

Title of Rule and Other Identifying Information: Amendments to WAC 390-24-010 Forms for statement of financial affairs and 390-24-020 Forms for amending statement of financial affairs.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on August 28, 2008, at 9:30 a.m.

Date of Intended Adoption: August 28, 2008.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by August 18, 2008.

Assistance for Persons with Disabilities: Contact Kami Madsen by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The personal financial affairs forms need to be amended to reflect legislative changes found in 2SHB 3104 (chapter 6, Laws of 2008) and to provide clarification to filers concerning asset reporting, F-1 supplemental reports and e-mail addresses. The amended forms will include registered domestic partner as part of the filer's "immediate family," make home e-mail addresses optional, and clarify asset/investment reporting and lobbying compensation.

Reasons Supporting Proposal: To provide guidance and clarification to personal financial affairs filers.

Statutory Authority for Adoption: RCW 42.17.370.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The amended rules are designed to clarify what is required when filing personal financial affairs reports with the commission.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. The public disclosure commission (PDC) is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

July 1, 2008


Vicki Rippie

Executive Director

AMENDATORY SECTION (Amending WSR 08-01-070, filed 12/14/07, effective 1/14/08)

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 ((4/08)) 9/08. 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.

((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 F-1 (1/08)	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		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 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: _____ 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

((STRICKEN GRAPHIC))

((STRICKEN GRAPHIC

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

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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)						
Creditor's Name and Address			Terms of Payment	Security Given	AMOUNT (USE CODE) 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 <small>(1/08)</small>	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 LEGAL NAME: 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)		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/> POSITION OR PERCENT OF OWNERSHIP	
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

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Page 2

F-1 Supplement

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)
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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

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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: PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE: Purpose of payments	Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/> POSITION OR PERCENT OF OWNERSHIP 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)
			\$	

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PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828	PDC FORM F-1 (9/08)	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		DOLLAR CODE 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 _____ Mailing Address (Use PO Box or Work Address) * _____ City _____ County _____ Zip + 4 _____		Names of immediate family members, including registered domestic partner. 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 or registered domestic partner. 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: _____	
1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member, including registered domestic partner, received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)			
Show Self (S) Spouse (SP/DP) 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, including registered domestic partner, 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.			
<p>A. Name and address of each bank or financial institution in which you, a family member, including registered domestic partner, had an account over \$20,000 any time during the report period.</p> <p>B. Name and address of each insurance company where you, a family member, including registered domestic partner, had a policy with a cash or loan value over \$20,000 during the period.</p> <p>C. Name and address of each company, association, government agency, etc. in which you, a family member, including registered domestic partner, owned or had a financial interest worth over \$2,000. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property. If you, your spouse, registered domestic partner and/or dependents had decision making authority regarding individual assets/investments list each asset or investment, the value and any income amount. EXAMPLE: If you self-directed an investment account identify each stock or other asset in that account.</p>	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)		
Check here <input type="checkbox"/> if continued on attached sheet.					
4	CREDITORS	List each creditor you or a family member, including registered domestic partner, 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.					
<p>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.</p> <p>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.</p> <p>A. At any time during the reporting period were you, your spouse, registered domestic partner 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.</p> <p>B. Did you, your spouse, registered domestic partner 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.</p> <p>C. Did you, your spouse, registered domestic partner or dependents own a business at any time during the reporting period? ____ If yes, complete Supplement, Part A.</p> <p>D. Did you, your spouse, registered domestic partner or dependents prepare, promote or oppose state legislation, rules, rates or standards for compensation 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.</p> <p>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, registered domestic partner 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, registered domestic partner 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>					
<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>*CANDIDATES: Do not use public agency addresses or telephone numbers for contact information.</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) <u>Optional</u></p>			

REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

F-1

Information Continued

Name					
1 INCOME (continued)					
<small>Show Self (S) Spouse (SP/DP) Dependent (D)</small>	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)					
Creditor's Name and Address	Terms of Payment	Security Given	AMOUNT (USE CODE)		
			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: pdcc@pdc.wa.gov</p>	PDC FORM F-1 SUPPLEMENT (9/08)	SUPPLEMENT PAGE PERSONAL FINANCIAL AFFAIRS STATEMENT	
PROVIDE INFORMATION FOR YOURSELF, SPOUSE, REGISTERED DOMESTIC PARTNER, 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, registered domestic partner 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. 			
<p>ENTITY NO. 1 Reporting For: Self <input type="checkbox"/> Dependent <input type="checkbox"/></p> <p style="margin-left: 150px;">Spouse/Registered Domestic Partner <input type="checkbox"/></p> <p>LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP</p> <p>TRADE OR OPERATING NAME:</p> <p>ADDRESS:</p> <p>BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:</p> <p>PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:</p> <p style="margin-left: 100px;">Purpose of payments Amount (actual dollars)</p> <p style="margin-left: 100px;">\$</p> <p>PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:</p> <p style="margin-left: 100px;">Agency name: Purpose of payment (amount not required)</p> <p>PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE:</p> <p style="margin-left: 100px;">Customer name: Purpose of payment (amount not required)</p> <p>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):</p> <p>Check here <input type="checkbox"/> if continued on attached sheet</p> <p style="text-align: right;">CONTINUE PARTS B AND C ON NEXT PAGE</p>			

Name

ENTITY NO. 2 Reporting For: Self Dependent
 Spouse/Registered Domestic Partner

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, any immediate family member, including registered domestic partner, lobbied or prepared state legislation or state rules, rates, or standards for compensation 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, registered domestic partner 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 <input type="checkbox"/> Dependent <input type="checkbox"/> Spouse/Registered Domestic Partner <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 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 08-01-070, filed 12/14/07, effective 1/14/08)


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 (~~4/08~~) 9/08.

(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.

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 PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828		PDC FORM F-1A (1/08)		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.				DOLLAR CODE 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		RECEIVED	
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: _____ 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: _____			
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

((STRICKEN GRAPHIC))


~~((STRICKEN GRAPHIC))~~

Information Continued

F-1A

Name				
<p>Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information.</p> <p><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.</p> <p><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.</p>				
FOOD TRAVEL SEMINARS (Continued)				
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount \$	Value (Use Code)

~~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> (9/08)	<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														
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Last Name First Middle Initial Mailing Address (Use PO Box or Work Address) * City County Zip + 4		Names of immediate family members, including registered domestic partner. 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 or registered domestic partner. 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: _____ 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: _____													
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 and describe 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, registered domestic partner 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. * CANDIDATES: Do not use public agency addresses or telephone numbers for contact information.		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) <u>Optional</u>													

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 and describe 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)

WSR 08-14-168
PROPOSED RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2008-03—Filed July 2, 2008, 11:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-03-123.

Title of Rule and Other Identifying Information: Agent/broker (producer) licensing and renewals.

Hearing Location(s): Insurance Commissioner's Office, Room TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, on August 5, 2008, at 9:00 a.m.

Date of Intended Adoption: August 12, 2008.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail Kacys@oic.wa.gov, fax (360) 586-3109, by August 4, 2008.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by August 4, 2008, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed rules amend chapter 284-17 WAC to enable electronic filing for applications and renewals of agent licenses, establish reciprocity for nonresident "personal lines" licensees, based on their states of residence, clarify and facilitate on-line licensing of insurance agents and brokers (producers), and clarify this state's "affiliation" rules.

Reasons Supporting Proposal: National standards for uniformity and reciprocity in personal qualification, education, training and experience of licensed insurance agents have been adopted by the National Association of Insurance Commissioners ("NAIC") in response to federal initiatives including the Gramm-Leach-Bliley Act at Sections 321 and 322 (Public Law 106-102). The "personal lines" line of authority is one of the major lines of authority adopted in the NAIC's Producer Licensing Model Act and which will be established for both resident and nonresident licensees effective July 1, 2009. Modernization of licensing transactions and processes will be made possible with the implementation of on-line licensing in Washington state. Current rules often contain requirements that do not contemplate electronic or web-based processes.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: Chapter 48.17 RCW, chapter 217, Laws of 2008.

Rule is necessary because of federal law, GLBA Section 321 and 322 (Public Law 106-102).

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7039; Implementation: John Hamje, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7262; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In accordance with RCW 19.85.030 (1)(a) a small business economic statement

is not required because this rule does not impose more than minor costs on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required because this rule is a procedural rule as defined in RCW 34.05.328 (5)(c)(iii).

July 2, 2008

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 94-14, filed 6/28/94, effective 7/29/94)

WAC 284-17-120 Examination procedures for agents, solicitors and adjusters. (1) ((The commissioner has contracted with an independent testing service for the administration of agents', solicitors', and adjusters' examinations. On and after June 1, 1982,)) Any person ((desiring)) applying to take an examination for ((the)) any type of license shown in subsection (2) of this section ((will be required to)) must submit a registration form and the ((appropriate)) applicable examination fee to ((the)) an independent testing service under contract with the commissioner for the administration of licensee examinations. ((Such)) This fee is not refundable. Registration forms and information about examinations may be obtained from the office of insurance commissioner, any preclicensing education providers, or from the independent testing service. Current information about the independent testing service, fees, dates of examinations, and other information related to licensing examinations, or to download an examination registration form, are available through the commissioner's web site (www.insurance.wa.gov).

(2) At least ((twice)) once each month at predetermined locations, the independent testing service will conduct the examinations required for the following types of licenses:

Table with 2 columns: TYPE OF LICENSE and EXAMINATION(S) REQUIRED. Rows include Life insurance agent or solicitor, Disability insurance agent or solicitor, Life and disability agent or solicitor, Property/casualty agent or solicitor, Life/disability/property/casualty agent or solicitor, Vehicle only agent or solicitor, Surety only agent or solicitor, Credit life and disability agent or solicitor, Independent adjuster, Public adjuster, Life and disability broker, Property/casualty broker.

(3) If an applicant fails to take a scheduled examination, a new registration form and ((appropriate)) applicable fees

must be submitted for any later examination, unless the fee is waived because the commissioner finds that a serious emergency prevented the applicant's attendance.

(4) Tests will be graded by the independent testing service ~~((which will provide))~~ and each applicant ~~((with))~~ will be provided a score report, following examination. If the examination is passed, the score report must be forwarded by the applicant to the insurance commissioner with a completed insurance license application, ~~((two))~~ one finger print card~~((s)),~~ appointment form(s) for each insurer to be represented, and the ~~((appropriate))~~ applicable license, ~~((appointment))~~ finger print, and filing fees.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-421 ~~((What))~~ Definitions ~~((apply to WAC 284-17-421 through 284-17-483?))~~. The following definitions apply to WAC 284-17-421 through 284-17-499, unless the context clearly requires otherwise.

(1) "Business entity" means a corporation, partnership, firm, limited liability company, or limited liability partnership.

(2) "Sending written notice" or "sending a copy of the written notice" means transmitting the required information in writing and, where ~~((appropriate))~~ required, on forms designated by the commissioner for that purpose, via first class mail, commercial parcel delivery company, ~~((electronic))~~ telefacsimile ~~((transmission)),~~ or ~~((e-mail))~~ electronic transmission.

(3) "NIPR" means the National Insurance Producer Registry or other equivalent organization or entity designated or maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

NEW SECTION

WAC 284-17-422 Reciprocity for nonresident agents holding personal lines only authority in the home state. If an otherwise qualified applicant for a nonresident agent's license holds a license in his or her home state limited to personal lines only authority, this state will reciprocate by licensing the nonresident for property and casualty lines of authority.

(1) The licensee's authority to transact insurance in this state is limited to the scope of the license granted by the licensee's home state.

(2) For purposes of this section, "personal lines only authority" means property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-437 ~~((How may an agent be appointed?))~~ Appointments of agents. An agent may be appointed by using one of the following methods:

(1) By submitting the appointment electronically through NIPR ~~((preferred method))~~ or the commissioner's web site; or

(2) By submitting the appointment to the commissioner using the form provided by the commissioner for that purpose. The form may be ~~((obtained upon request or may be))~~ found ~~((at))~~ on the commissioner's web site (www.insurance.wa.gov).

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-439 ~~((How will the commissioner notify an insurer if))~~ Notice that an agent is not eligible for an electronic appointment~~((?))~~. If an agent is not eligible for an electronic appointment, the insurer will be notified ~~((when))~~ at the time the electronic notice of appointment is not accepted for transmission through NIPR or the commissioner's web site. An agent is not eligible for an appointment ~~((where))~~ if the agent's license is not valid or the agent is not licensed for all lines of insurance that the appointing insurer is authorized to transact in the state of Washington.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-441 ~~((How will the commissioner notify))~~ Notice to an insurer if an agent is ~~((ineligible))~~ not eligible for an appointment ~~((when))~~ if the appointment ~~((has))~~ was not ~~((been))~~ submitted electronically~~((?))~~. If an appointment was not submitted electronically, the commissioner will ~~((notify an))~~ send a notice to the insurer notifying the insurer that ~~((an))~~ the agent is ~~((ineligible))~~ not eligible for ~~((an))~~ appointment ~~((when the appointment has not been submitted electronically by sending written notice to the insurer)).~~

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-443 ~~((How may an insurer renew))~~ Renewal of an agent's appointment~~((?))~~. Prior to the renewal date of an agent's appointment, the commissioner will send the insurer an appointment renewal ~~((appointment list will be sent to the insurer identifying all of the insurer's agents whose appointments are due to expire))~~ notification. An insurer may renew an appointment by:

(1) Sending ~~((written))~~ notice to the commissioner that the appointment will be renewed on the form provided by the commissioner for that purpose or through the commissioner's web site (www.insurance.wa.gov); and

(2) Paying the renewal fee for each agent appointed by the insurer ~~((on))~~ no later than the renewal date assigned by the commissioner.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-445 ~~((How may an insurer terminate))~~ Termination of an appointment~~((?))~~ by an insurer. (1) An insurer may terminate an appointment by sending written notice of termination to the agent and by sending a notice of termination of the appointment to the commissioner~~((=~~

~~((1))~~ electronically through NIPR ~~((preferred method))~~, the commissioner's web site, or

~~((2))~~ Using) on the form provided by the commissioner for that purpose. The form may be obtained upon request or may be found ~~((at))~~ on the commissioner's web site (www.insurance.wa.gov).

(2) The effective date of the termination is the date of receipt by the commissioner.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-447 ((How may an agent terminate) Termination of an appointment((?)) by an agent. (1) An agent may terminate an appointment by sending advance written notice to the insurer, with a copy to the commissioner, stating(:

~~((1))~~ the agent ~~((will))~~ is no longer authorized to act as a representative of the insurer~~((; and))~~.

(2) The effective date of the termination is the date of receipt by the commissioner.

~~((The agent must also send a copy of the written notice to the commissioner.))~~

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-449 ((When an agent's appointment is terminated "for cause," what procedure must be followed in notifying the commissioner?)) Terminating an appointment "for cause." (1) If an insurer ~~((or its authorized representative))~~ terminates the appointment of an agent "for cause," the insurer must notify the insurance commissioner within thirty days following the effective date of the termination by sending ~~((written))~~ notice of the "for cause" termination ~~((of the appointment "for cause"))~~ to the commissioner. A form for this purpose is available on the commissioner's web site (www.insurance.wa.gov).

(2) If requested by the commissioner, the insurer must provide additional information, documents, records or other data pertaining to the "for cause" termination or activity of the agent.

(3) "For cause" includes the following conduct:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(b) Violating any insurance law, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of transacting the business of insurance;

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(f) Having been convicted of a felony;

(g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial

irresponsibility in the conduct of business in this state or elsewhere:

(i) Having an insurance license denied, suspended or revoked in any other state, province, district or territory;

(j) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(k) Knowingly accepting insurance business from an individual who is not licensed;

(l) Being incompetent;

(m) Failing to account for premiums;

(n) Rebating; and

(o) Abandonment.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-455 ((Is an) Agent ((required to be licensed for the same)) must be licensed for all lines of authority ((as)) of the appointing insurer((?)). An ~~((applicant for an agent's license))~~ agent must be licensed for all lines of ~~((insurance))~~ authority that the appointing insurer is authorized to transact in the state of Washington with the following exceptions:

(1) Insurers authorized to write lines of ~~((insurance))~~ authority in addition to vehicle insurance or surety insurance may appoint agents to write vehicle insurance or surety insurance only. It is only necessary that these appointees take a qualifying examination for vehicle insurance or surety insurance.

(2) ~~((Where))~~ If the agent's appointment is for the "limited" licenses of travel, credit life and disability, credit casualty, specialty producers, or rental car agents, it is not necessary for the applicant to be licensed for all lines of ~~((insurance))~~ authority that the appointing insurer is authorized to transact in the state of Washington.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-457 ((May a licensed) Authority of an agent to act as a representative of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment((?)). (1) A licensed agent may act as a representative of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment ~~((where))~~ only if:

~~((1))~~ (a) The agent is appointed by the insurer; and

~~((2))~~ (b) The notice of appointment is submitted electronically through NIPR or the commissioner's web site (www.insurance.wa.gov).

(2) This authority is limited to a thirty-day calendar period beginning the date the agent signs the first application for insurance.

(3) If the notice of appointment is not submitted electronically, the commissioner must receive written notice of the appointment and accept the appointment before the licensed agent may act as a representative of an insurer and solicit insurance on its behalf.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-467 ~~((What are the))~~ **Consequences** ~~((when an))~~ ~~—Agent ((has solicited insurance on behalf of an insurer as authorized by WAC 284-17-457 but is later determined))~~ **not** ~~((to be))~~ **eligible for appointment by the insurer** ~~((?)).~~ ~~((When))~~ If an agent ((has solicited)) solicits insurance on behalf of an insurer, as authorized by WAC 284-17-457, but it is later determined ((not to be)) that the agent was not eligible for appointment by the insurer:

- (1) The insurance contract will be effective;
- (2) The agent ~~((is not entitled to))~~ must not receive compensation for any ~~((insurance of))~~ insurance product sold by the agent; and
- (3) The agent and the insurer may be subject to disciplinary action under RCW 48.17.530.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-473 ~~((Is a business entity licensed as an agent, adjuster or broker required to affiliate an individual licensee?))~~ **"Affiliated, defined"—Procedures for affiliation, renewal.** "Affiliation" is a type of appointment where a business entity authorizes one or more individual licensed agents, brokers, surplus line brokers or adjusters to represent the business entity. An affiliated licensee may exercise only the authority the business entity confers. The commissioner must receive notice of an affiliation and accept the affiliation before the licensee is allowed to represent the business entity.

(1) Each business entity ~~((licensed as an agent, adjuster or broker))~~ must ((notify)) submit to the commissioner ((of)) a notice of affiliation for all ((individual)) licensees ((that)) authorized to represent the business entity and act on its behalf ((using the)). A form is provided by the commissioner for that purpose ~~((The form may))~~ which can be obtained upon request or ((may be)) found ((at)) on the commissioner's web site (www.insurance.wa.gov). ~~((Individual licensees that represent the business entity and act on its behalf are "affiliated" with the licensed business entity. A business entity licensee must have at least one individual licensee who is affiliated.))~~

(2) A licensed business entity must have at least one affiliated individual licensee.

(3) If an agent is affiliated with a licensed business entity, the agent is not required to be directly appointed by an insurer to sell its products if the business entity is appointed by the insurer.

(4) The affiliated agent's, broker's, or surplus line broker's authority to act as a representative of a business entity is limited to those lines of authority for which the agent, broker, or surplus line broker is qualified and that are consistent with the business entity's lines of authority.

(5) If an agent, broker, surplus line broker, or adjuster cannot be affiliated electronically, the commissioner will notify the business entity that the licensee is not eligible for affiliation. A licensee cannot be affiliated under the following circumstances:

- (a) The person's license is not valid;

(b) The agent, broker, or surplus line broker is not licensed for at least one of the lines or limited lines of authority that the business entity is authorized to transact in this state; or

(c) The agent is not licensed for at least one of the lines or limited lines of authority of the business entity's appointing insurers.

(6)(a) At the time of renewal of a business entity license, a renewal affiliation list will be sent to the business entity listing the affiliated agents, brokers, surplus line brokers, or adjusters whose affiliations are due to expire.

(b) A business entity may renew an affiliation by sending a list of affiliations to be renewed to the commissioner and paying the renewal fees or through the commissioner's web site (www.insurance.wa.gov).

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-477 ~~((How long is))~~ **Valid period of an affiliation** ~~((valid?)).~~ ~~((An))~~ A business entity affiliation ((by a business entity)) which is not revoked ((will be)) by the commissioner or is not terminated by the business entity or licensee, is valid until the first renewal date after the notice of affiliation. ((Thereafter)) After the first year, each affiliation may be renewed for a period of two years upon payment of the annual affiliation renewal fee for each affiliation ((at the time of renewal of the business entity license)).

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-479 ~~((How may a business entity terminate))~~ **Termination of an affiliation** ~~((?))~~ **by a business entity.** (1) A business entity may terminate ((an)) the affiliation of an individual licensee by sending ((written)) notice of termination to the agent and a copy to the commissioner electronically through the commissioner's web site, or by submitting the form provided by the commissioner for that purpose. A form to notify the commissioner of termination of an affiliation by a business entity is available on the commissioner's web site (www.insurance.wa.gov).

(2) The effective date of the termination is the date of receipt by the commissioner.

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-481 ~~((How should an insurer notify the commissioner of a))~~ **Requirements for termination of an affiliation by a business entity "for cause,"** ~~((?))~~ (1) If a business entity or its authorized representative terminates the affiliation of a ((producer)) licensee "for cause," the business entity must notify the commissioner within thirty days following the effective date of the termination by sending ((written)) notice of termination of the affiliation to the commissioner on the form provided by the commissioner for that purpose, which is available on the commissioner's web site (www.insurance.wa.gov). For purposes of this section, "for cause" has the meaning set forth in WAC 284-17-449(3).

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-482 ~~((What)) Information ((must)) to be provided relating to a "for cause" termination((?)) to the commissioner.~~ Upon the ~~((written))~~ request of the commissioner, the business entity ~~((shall))~~ must provide additional information, documents, records or other data pertaining to the "for cause" termination or conduct of the affiliated person. If available in electronic format, the information requested should be provided electronically through the commissioner's web site (www.insurance.wa.gov).

ness entity license be individually appointed by insurers if the business entity is appointed by the insurer?

AMENDATORY SECTION (Amending Matter No. R 2005-06, filed 5/30/06, effective 6/30/06)

WAC 284-17-483 ~~((How may an individual agent terminate)) Termination of an affiliation((?)) by a licensee.~~

(1) An individual agent may terminate ~~((the agent's))~~ an affiliation with a business entity by sending advance ~~((written))~~ notice to the business entity ~~((stating:~~

~~(1))~~, with a copy to the commissioner, electronically or on the form provided by the commissioner for that purpose. The form is available on the commissioner's web site (www.insurance.wa.gov). The notice must state that the ~~((agent will))~~ licensee is no longer authorized to act on behalf of the business entity~~((; and~~

~~(2) The effective date of the termination))~~. The agent must also send a copy of the written notice to the commissioner.

(2) The effective date of the termination is the date of receipt by the commissioner.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-17-451	What information must be provided relating to a "for cause" termination?
WAC 284-17-453	What conduct constitutes "for cause"?
WAC 284-17-459	How long may a licensed agent act as a representative of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment?
WAC 284-17-461	May a licensed agent act as a representative of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment if the notice of appointment is not submitted electronically?
WAC 284-17-475	Must an individual licensee who is affiliated with a busi-