

WSR 10-13-018
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 4, 2010, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-09-017.

Title of Rule and Other Identifying Information: WAC 392-122-205 State institutional education program and 392-122-228 Juvenile students in adult jails.

Hearing Location(s): Office of Superintendent of Public Instruction, Old Capitol Building, Wanamaker [Wanamaker], 600 South Washington, Olympia, WA, on July 27, 2010, at 10:00 a.m.

Date of Intended Adoption: July 27, 2010.

Submit Written Comments to: Becky McLean, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail becky.mclean@k12.wa.us, fax (360) 664-3683, by July 26, 2010.

Assistance for Persons with Disabilities: Contact Kristin Collins by July 26, 2010, TTY (360) 664-3631 or (360) 725-6270.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Add a new section and revise one existing section for rules regarding provision of state funding for juvenile students in adult jails.

Reasons Supporting Proposal: The 2010 legislature passed bill [2SSB] 6702 which provides public education for juvenile students in adult jails. This rule change provides procedures and processes for the implementation of this law.

Statutory Authority for Adoption: RCW 28A.150.290.

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

Name of Proponent: Office of superintendent of public instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Becky McLean, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6306; Implementation: Calvin W. Brodie, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6301; and Enforcement: Shawn Lewis, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6292.

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

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

June 4, 2010

Randy Dorn

Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 07-23-023, filed 11/9/07, effective 12/10/07)

WAC 392-122-205 State institutional education program—Eligible programs. Programs supported as state institutional education programs include those provided in:

(1) State operated group homes—i.e., facilities maintained by the division of juvenile rehabilitation of the depart-

ment of social and health services to house adjudicated youth twenty-four hours a day;

(2) Juvenile detention centers—i.e., facilities meeting the definition of a "detention facility" in RCW 13.40.020.

(3) Institutions for juvenile delinquents—i.e., facilities maintained by the division of juvenile rehabilitation of the department of social and health services for the diagnosis, confinement and rehabilitation of juveniles committed by the courts.

(4) Residential habilitation centers—i.e., facilities maintained by the division of developmental disabilities of the department of social and health services for care and treatment of persons with exceptional needs by reason of mental and/or physical deficiency.

Programs providing educational services to youth in a residential rehabilitation center may include services provided at facilities controlled and operated by the school district providing those services.

(5) Adult jails and correctional facilities housing juveniles—i.e., facilities maintained by the state department of corrections for juvenile inmates under eighteen years of age.

NEW SECTION

WAC 392-122-228 Alternative learning experiences for juvenile students incarcerated in adult jail facilities.

(1) A school district alternative learning experience for juvenile students incarcerated in adult jail facilities may make use of digital and/or on-line curricula, and may be delivered over the internet or using other electronic means. A school district alternative learning experience for juvenile students incarcerated in adult jail facilities may also include participation by students and parents in the design and implementation of a student's learning experience. This section provides an alternative method of determining full-time equivalent enrollment and claiming state funding for public school learning experiences that are:

(a) Individual courses of study for juvenile students incarcerated in adult jail facilities. "Adult jail facility" means any jail operated under the authority of chapter 70.48 RCW;

(b) Supervised, monitored, assessed, and evaluated by school staff. As used in this section, "school staff" means certificated instructional staff of the school district according to the provisions of chapter 181-82 WAC, or a contractor pursuant to WAC 392-121-188;

(c) Provided in accordance with a written alternative learning experience plan that is implemented pursuant to the school district board's policy for alternative learning experiences; and

(d) Provided in whole or part, outside the regular classroom setting, including those learning experiences provided digitally via the internet or other electronic means.

This section sets forth the standards, procedures, and requirements for state funded alternative learning experiences for juvenile students incarcerated in adult jail facilities. This section is not intended to prevent or limit alternative education programs provided by a school district with federal or local resources.

An alternative learning experience for a juvenile student incarcerated in adult jail facilities may be counted as a course

of study pursuant to WAC 392-121-107 if the following requirements are met:

(2) School district board policies for alternative learning experiences: The board of directors of a school district claiming state funding for alternative learning experiences for juvenile students incarcerated in adult jail facilities shall adopt and annually review written policies for each alternative learning experience program and program provider that:

(a) Require a written plan for each student participating in an alternative learning experience for juvenile students incarcerated in adult jail facilities that meets the minimum criteria pursuant to subsection (4) of this section;

(b) Describe how student performance will be supervised, monitored, assessed, evaluated, and recorded by school staff. Such description shall include methods for periodic grade reporting, if different from existing school district policy;

(c) Require each juvenile student who is incarcerated in an adult jail facility and enrolled in an alternative learning experience to have direct personal contact with school staff at least weekly, until the student completes the course objectives or the requirements of the learning plan. Such direct personal contact must be for a period not less than thirty minutes per week. Direct personal contact shall be for the purposes of instruction, review of assignments, testing, reporting of student progress, or other learning activities. Direct personal contact means a face-to-face meeting with the student;

(d) Require that each student's educational progress be reviewed at least monthly and that the results of each review be communicated to the student;

(e) Designate one or more school district official(s) responsible for approving specific alternative learning experience programs or courses, monitoring compliance with this section, and reporting at least annually to the school district board of directors on the program. This annual report shall include at least the following:

(i) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(ii) A description of how certificated and classified staff are assigned program management and instructional responsibilities that maximize student learning, including the ratio of certificated instructional staff to full-time equivalent students;

(iii) A description of how a written student learning plan pursuant to subsection (4) of this section, is developed, and student performance supervised and evaluated, by certificated staff;

(iv) A description of how the program supports the district's overall goals and objectives for student academic achievement; and

(v) Results of any self-evaluations conducted pursuant to subsection (7) of this section;

(f) Satisfy the office of superintendent of public instruction's requirements for courses of study and equivalencies (chapter 392-410 WAC); and

(g) For alternative learning experience courses offering credit, or for alternative learning experience programs issuing a high school diploma, satisfy the state board of educa-

tion's high school graduation requirements (chapter 180-51 WAC).

(3) Alternative learning experience implementation standards:

(a) Alternative learning experiences shall be accessible to all juveniles incarcerated in adult jail facilities, including those with disabilities. Alternative learning experiences for special education students shall be provided in accordance with chapter 392-172A WAC.

(b) It is the responsibility of the school district or school district contractor to ensure that enrolled juvenile students incarcerated in adult jail facilities have all curricula, course content, instructional materials, and other learning resources essential to successfully complete the requirements of the written student learning plan.

(c) Contracting for alternative learning experiences shall be subject to the provisions of WAC 392-121-188 and RCW 28A.150.305.

(d) The school district shall institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district.

(4) Written student learning plan: Each juvenile student incarcerated in an adult jail facility who is enrolled in an alternative learning experience course of study shall have a written student learning plan designed to meet the student's individual educational needs. The written student learning plan may be developed in partnership with the student, with recognition that school staff has the primary responsibility and accountability for the plan, including supervision and monitoring, and evaluation and assessment of the student's progress. The written student learning plan shall include, but not be limited to, the following elements:

(a) A beginning and ending date for the learning experience;

(b) An estimate of the average number of hours per week that the student will engage in learning activities to meet the requirements of the student learning plan. This estimate may be used in reporting enrollment in compliance with subsection (5) of this section and must be based upon the criteria in subsection (6) of this section;

(c) A description of how weekly contact requirements will be fulfilled;

(d) A description of the specific learning goals and performance objectives of the alternative learning experience. This requirement may be met through the use of course syllabi or other similarly detailed descriptions of learning requirements. The description shall clearly identify the requirements a student must meet to successfully complete the course or program;

(e) Identification of instructional materials essential to successful completion of the learning plan; and

(f) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan.

The written student learning plan shall identify whether the alternative learning experience meets one or more of the state essential academic learning requirements or any other

academic goals, objectives, and learning requirements defined by the school district. For a high school alternative learning experience, the plan shall specify whether the experience meets state and district graduation requirements.

(5) Enrollment reporting: Effective the 2009-10 school year, the full-time equivalency of juvenile students incarcerated in adult jail facilities who are enrolled in alternative learning experience programs shall be determined as follows:

(a) Using the definition of full-time equivalent student in WAC 392-121-122(1) and the estimated average weekly hours of learning activity described in the written student learning plan on the first enrollment count date on or after the start date specified in the written student learning plan; and

(b) The enrollment count shall exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had direct personal contact with school staff for ten consecutive school days. Any such student shall not be counted as an enrolled student until the student has met with appropriate school staff and resumed participation in his or her alternative learning experience or participated in another course of study as defined in WAC 392-121-107.

(6) Accountability for student performance:

(a) At minimum, juvenile students incarcerated in adult jails who are enrolled in alternative learning experiences shall have their educational performance evaluated according to the following process and schedule:

(i) Each student's educational progress shall be reviewed at least once per month. The progress review shall be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The progress review shall be conducted by school staff and shall include direct personal contact with the student. The results of the review shall be communicated to the student.

(iii) Based on the progress review, school staff shall determine and document whether the student is making satisfactory progress in completing the learning activities and reaching the learning goals and performance objectives defined in the written plan.

(iv) If the student fails to make satisfactory progress for no more than two consecutive evaluation periods or if the student fails to follow the written student learning plan, an intervention plan designed to improve student progress shall be developed and implemented. This intervention plan shall be developed by school staff in conjunction with the student.

(v) If, after no more than three subsequent evaluation periods, the student still is not making satisfactory progress, a plan designed to more appropriately meet the student's educational need shall be developed and implemented by school staff.

(b) The educational progress of juvenile students incarcerated in adult jail facilities who are enrolled in alternative learning experiences shall be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district.

(7) Program evaluation: School districts offering alternative learning experiences to juvenile students incarcerated in adult jail facilities shall engage in periodic self-evaluation

of these learning experiences in a manner designed to objectively measure their effectiveness, including the impact of the experiences on student learning and achievement. Self-evaluation shall follow a continuous improvement model, and may be implemented as part of the school district's school improvement planning efforts.

(8) Annual reporting: Each school district offering alternative learning experiences shall report annually to the superintendent of public instruction on the types of programs and course offerings subject to this section, including student headcount and full-time equivalent enrollment claimed for basic education funding. The report shall identify the ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience courses or programs. The report shall separately identify alternative learning experience enrollment of students provided under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

(9) Documentation: In accordance with required records retention schedules, a school district claiming state funding for alternative learning experiences shall maintain the following written documentation available for audit:

(a) School board policy for alternative learning experiences pursuant to this section;

(b) Annual reports to the school district board of directors as required by subsection (2)(g) of this section;

(c) Annual reports to the superintendent of public instruction as required by subsection (8) of this section;

(d) The written student learning plans required by subsection (4) of this section, including documentation of required weekly direct personal contact;

(e) Student progress reviews, evaluations, and assessments required by subsection (6) of this section; and

(f) Student enrollment detail substantiating full-time equivalent enrollment reported to the state, including estimated total hours of participation in educational activities, and any actual documentation of hours of learning for those students failing to make satisfactory progress.

WSR 10-13-019
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 4, 2010, 11:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-05-096.

Title of Rule and Other Identifying Information: WAC 392-300-025 and 392-300-035, access to record check information by district employee or applicant.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Wanamaker Conference Room, 600 South Washington Street, Olympia, WA 98504, on July 27, 2010, at 10:30 a.m.

Date of Intended Adoption: July 27, 2010.

Submit Written Comments to: Catherine Slagle, 600 Washington Street, Olympia, WA 98504, e-mail Cather-

rine.slagle@k12.wa.us, fax (360) 725-6136, by July 26, 2010.

Assistance for Persons with Disabilities: Contact Kristin Collins by July 26, 2010, TTY (360) 664-3631 or (360) 725-6270.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule change will provide consistency with the federal rule records maintained on individuals title 5 Part I Subchapter II 552a for district employees or applicants on how to obtain a copy of a RAP sheet.

Reasons Supporting Proposal: Alignment with federal policy.

Statutory Authority for Adoption: RCW 28A.400.303.

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

Name of Proponent: OSPI, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Catherine Slagle, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6136; and Enforcement: Martin Mueller, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6175.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not necessary for this rule change.

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

June 4, 2010

Randy Dorn

State Superintendent

AMENDATORY SECTION (Amending Order 96-12, filed 8/19/96, effective 9/19/96)

WAC 392-300-025 Access to record check information by district employee or applicant. All district employees and applicants shall have access to record check information about them maintained by the superintendent of public instruction or designee. ~~((Any record of arrest and prosecution (RAP sheet) received from the Washington state patrol or the Federal Bureau of Investigation shall be sent promptly by the superintendent of public instruction to the district employee or applicant undergoing the record check.))~~ Any additional information collected by the superintendent of public instruction or designee as a result of the investigation of any data shall be available for inspection and copying by the district employee or applicant to whom it pertains during normal office hours in the office where the information is located. Information that is gathered as part of an ongoing investigation, ~~((excluding RAP sheets,))~~ shall not be released to the district employee or applicant until the investigation is completed.

AMENDATORY SECTION (Amending WSR 09-02-024, filed 12/30/08, effective 1/30/09)

WAC 392-300-035 Requests for record check information. In accordance with the requirements of RCW 42.56.100 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganiza-

tion, and prevent excessive interference with essential functions of the agency, record check information is obtainable by district employees or applicants to whom it pertains when they comply with the following procedures:

~~((A))~~ The request shall be made in writing. The district employee or applicant shall complete, sign and return the request for Background Check Results form located at <http://www.k12.wa.us/profpractices/fingerprint>. The written request shall be presented to the fingerprint records office of the superintendent of public instruction during customary office hours or may be mailed or faxed to the office. The request shall include the following information:

- (1) The name of the person requesting the record;
- (2) The time of day and the calendar date on which the request was made;
- (3) The nature of the request;
- (4) Height, weight and date of birth of individual fingerprinted; and
- (5) Social Security number of individual fingerprinted (optional).

WSR 10-13-040

PROPOSED RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed June 8, 2010, 4:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-19-116.

Title of Rule and Other Identifying Information: Revises WAC 181-85-033 to provide continuing education credits for teachers successfully completing the professional certificate assessment.

Hearing Location(s): The Inn at Gig Harbor, 3211 56th Street N.W., Gig Harbor, WA 98335, on September 22, 2010, at 8:30 a.m.

Date of Intended Adoption: September 22, 2010.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by September 15, 2010.

Assistance for Persons with Disabilities: Contact David Brenna by September 15, 2010, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Awards credit to teachers completing the ProTeach Portfolio and passing.

Reasons Supporting Proposal: No cost salary schedule improvement for teachers achieving their professional certification.

Statutory Authority for Adoption: RCW 28A.410.210.

Statute Being Implemented: RCW 28A.410.270.

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

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Brenna, P.O. Box 47236 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

June 8, 2010
David Brenna
Legislative and
Policy Coordinator

AMENDATORY SECTION (Amending WSR 08-03-101, filed 1/20/08, effective 2/20/08)

WAC 181-85-033 Continuing education credit hour—Definition—Professional growth team consultation and collaboration—School accreditation site visit team participation—National Board for Professional Teaching Standards assessment—Supervisors—First peoples' language, culture and oral tribal traditions. (1) Notwithstanding any provisions of this chapter to the contrary, for consultation and collaboration as a member of an approved professional growth team, as defined by WAC 181-78A-010 and 181-78A-505, members of a professional growth team, excluding the candidate, shall receive the equivalent of ten continuing education credit hours. The team member may not receive more than the equivalent of twenty continuing education credit hours, as defined by this section, during a calendar year period.

(2) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for serving on a school accreditation site visit team. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(3)(a) Notwithstanding any provisions of this chapter to the contrary, individuals officially designated as a supervisor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students or the superintendent of public instruction, a person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for service as a supervisor. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(b) The term "supervisor" shall mean individuals officially designated as a supervisor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students, or the office of superintendent of public instruction for supervising the training of teacher interns, administrative

interns, educational staff associate interns, and paraprofessionals.

(4) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of forty-five continuing education credit hours for completion of an assessment process as part of the National Board for Professional Teaching Standards certificate application. Upon achieving National Board certification, the individual shall receive the equivalent of an additional forty-five continuing education credit hours for a total of ninety continuing education credit hours per National Board certificate.

(5) Teachers who achieve the professional certification through the external assessment per WAC 181-79A-206 will receive the equivalent of one hundred fifty continuing education credit hours.

(6) Notwithstanding any provisions of this chapter to the contrary, for designing and completing a professional growth plan under the provisions of WAC 181-85-034, participants shall receive the equivalent of no more than sixty continuing education credit hours over a period of two school years, as defined by this chapter.

~~((6))~~ (7) Notwithstanding any provision of this chapter to the contrary, individuals who receive in-service training or continuing education according to RCW 28A.415.020(6) in first peoples' language, culture and oral tribal traditions provided by a sovereign tribal government participating in the Washington state first peoples' language, culture and oral tribal traditions teacher certification program authorized under RCW 28A.410.045 shall be considered approved in-service training or approved continuing education under this section.

WSR 10-13-051
WITHDRAWAL OF PROPOSED RULES
HORSE RACING COMMISSION

[Filed June 9, 2010, 2:01 p.m.]

The Washington horse racing commission would like to withdraw from publication our proposed rule making (CR-102), WSR 10-08-106, filed on April 7, 2010. Additional negotiation with stakeholders will be needed and additional modifications to the rule added.

Douglas L. Moore
Deputy Secretary

WSR 10-13-054
PROPOSED RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed June 10, 2010, 10:26 a.m.]

Continuance of WSR 10-09-056.

Preproposal statement of inquiry was filed as WSR 10-06-076.

Title of Rule and Other Identifying Information: New chapter 196-13 WAC, Professional engineer licensure by comity.

Date of Intended Adoption: September 24, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The adoption date is being changed to a later date in order for the board to consider the comments that have been received regarding the proposed rule.

Reasons Supporting Proposal: Due to the volume of comments [that] were received late in the comment period, the board would like more time to formulate responses to the comments.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

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

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-1565.

June 10, 2010

George A. Twiss
Executive Director

WSR 10-13-062
PROPOSED RULES
HORSE RACING COMMISSION

[Filed June 10, 2010, 2:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-10-046.

Title of Rule and Other Identifying Information: WAC 260-36-015 Age requirement for license, amends the minimum age for exercise riders to sixteen.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on August 13, 2010, at 9:30 a.m.

Date of Intended Adoption: August 13, 2010.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail doug.moore@whrc.state.wa.us, fax (360) 459-6461, by August 9, 2010.

Assistance for Persons with Disabilities: Contact Patty Sorby by August 9, 2010, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently the minimum age for an exercise rider is sixteen, but given the inherent dangers associated with exercising horses in the mornings, staff believes that persons under the age of sixteen may not be fully capable of controlling a thoroughbred in training.

Reasons Supporting Proposal: Exercise riders are the highest risk class for labor and industries claims and this may prevent further injuries and claims.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

June 10, 2010

Douglas L. Moore
Deputy Secretary

AMENDATORY SECTION (Amending WSR 07-01-052, filed 12/14/06, effective 1/14/07)

WAC 260-36-015 Age requirement for license. Applicants for licensing must be at least fourteen years of age unless otherwise specified as follows:

(1) An applicant for an exercise rider's license must be at least sixteen years of age.

(2) An applicant for an apprentice jockey license or jockey license must be at least eighteen years of age.

(3) There is no age restriction for an owner's license under the conditions set forth in WAC 260-36-210.

An applicant may be required to submit a certified copy of his/her birth certificate.

WSR 10-13-073

WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed June 14, 2010, 2:03 p.m.]

The department is at this time formally withdrawing the WSR 09-24-031 filing, which was limited to recognizing only 2009 legislation.

The department of revenue (department) filed two CR-102 proposed rule making notices for WAC 458-20-273 Renewable energy cost recovery (Rule 273).

- WSR 09-24-031 was filed on November 23, 2009, and a public hearing held on January 6, 2010. The purpose of this filing was to propose an amended rule to recognize 2009 legislation.
- WSR 10-08-047 was filed on April 2, 2010, and a second public hearing was held on May 11, 2010. The purpose of this filing was to propose an amended rule to recognize both 2009 and 2010 legislation.

The department's proposal under WSR 10-08-047 remains active, and after fully considering public comments

the department anticipates adopting an amended Rule 273 under this filing.

Alan R. Lynn
Rules Coordinator

WSR 10-13-075

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

(By the Code Reviser's Office)

[Filed June 15, 2010, 8:29 a.m.]

WAC 16-750-020, proposed by the department of agriculture in WSR 09-24-095 appearing in issue 09-24 of the State Register, which was distributed on December 16, 2009, 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 10-13-076

**WITHDRAWAL OF PROPOSED RULES
SECRETARY OF STATE**

(By the Code Reviser's Office)

[Filed June 15, 2010, 8:30 a.m.]

WAC 434-215-004, proposed by the secretary of state in WSR 09-24-106 appearing in issue 09-24 of the State Register, which was distributed on December 16, 2009, 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 10-13-090

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 05-03—Filed June 16, 2010, 1:29 p.m.]

Continuance of WSR 10-09-071.

Preproposal statement of inquiry was filed as WSR 05-06-113.

Title of Rule and Other Identifying Information: Chapter 173-525 WAC, Water resources management program for the Grays-Elochoman Watershed (WRIA 25).

Date of Intended Adoption: October 15, 2010.

Submit Written Comments to: Travis Burns, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7207, e-mail tbur461@ecy.wa.gov, fax (360) 407-6574, by August 31, 2010 (preferably via e-mail).

Assistance for Persons with Disabilities: Contact Judy Beitel, TTY (800) 833-6388 or (360) 407-6878. Persons

with hearing loss, call 711 for Washington relay service. Persons with a speech disability, call (877) 833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To extend the public comment period to August 31, 2010.

Name of Proponent: Department of ecology.

June 16, 2010

Polly Zehm

Deputy Director

WSR 10-13-091

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 05-04—Filed June 16, 2010, 1:30 p.m.]

Continuance of WSR 10-09-072.

Preproposal statement of inquiry was filed as WSR 05-06-114.

Title of Rule and Other Identifying Information: Chapter 173-526 WAC, Water resources management program for the Cowlitz Watershed (WRIA 26).

Date of Intended Adoption: October 15, 2010.

Submit Written Comments to: Travis Burns, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7207, e-mail tbur461@ecy.wa.gov, fax (360) 407-6574, by August 31, 2010 (preferably via e-mail).

Assistance for Persons with Disabilities: Contact Judy Beitel, TTY (800) 833-6388 or (360) 407-6878. Persons with hearing loss, call 711 for Washington relay service. Persons with a speech disability, call (877) 833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To extend the public comment period to August 31, 2010.

Name of Proponent: Department of ecology.

June 16, 2010

Polly Zehm

Deputy Director

WSR 10-13-097

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed June 16, 2010, 5:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-15-186.

Title of Rule and Other Identifying Information: Chapter 246-102 WAC, Cancer registry.

Hearing Location(s): Department of Health, Town Center 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on July 28, 2010, at 8:30 a.m.

Date of Intended Adoption: July 28, 2010.

Submit Written Comments to: Kathryn (Katie) Golub, Program Manager, Washington State Cancer Registry, Washington State Department of Health, P.O. Box 47855,

Tumwater, WA 98504-7855, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 586-2714, by July 26, 2010.

Assistance for Persons with Disabilities: Contact Beth Watkins by July 21, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update and clarify current rules to meet the expanded and revised scope and requirements of cancer surveillance and registration activities according to the Centers for Disease Control and Prevention's National Program of Cancer Registries.

Reasons Supporting Proposal: The Cancer Registries Amendment Act in 42 U.S.C. 280(e) requires that states receiving federal funds establish regulations to meet reporting requirements. The department must update the current rules in order to stay in compliance with the current federal regulations and standards and to maintain funding.

Statutory Authority for Adoption: RCW 70.54.270.

Statute Being Implemented: RCW 70.54.230 through 70.54.260.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kathryn Golub, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3624.

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 Kathryn (Katie) Golub, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-3624, fax (360) 586-2714, e-mail kathryn.golub@doh.wa.gov.

June 16, 2010
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

WAC 246-102-001 Purpose. The purpose of (~~the cancer case reporting~~) the Washington state cancer registry is to monitor the incidence of cancer in the state and report applicable limited data according to federal requirements. Information collected through the cancer registry system is used by (~~medical~~) research and public health professionals to understand, control and reduce occurrences of cancer in residents of Washington. This chapter establishes the criteria (~~and procedures~~) for identifying and reporting cancer cases (~~and~~). It also defines the standards for access and release of cancer case information.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

WAC 246-102-010 Definitions. (~~For the purposes of RCW 70.54.230, 70.54.240, 70.54.250, 70.54.260, 70.54.270, and this chapter, the following words and phrases shall have the following meaning unless the context clearly indicates otherwise:~~

- (1) "Cancer case" means:
 - (a) Any malignant neoplasm with the exception of basal and squamous cell carcinoma of the skin;
 - (b) All brain tumors;
 - (c) Basal and squamous cell carcinoma of the external genital organ sites (vulva, labia, clitoris, prepuce, penis, serotum);
 - (d) Cancer in situ, except carcinoma in situ of the uterine cervix; or
 - (e) Other diagnoses necessary to meet the reporting requirements of the Center for Disease Control's National Program of Cancer Registries, the National Cancer Institute's Surveillance Epidemiology and End Results Program, the Commission on Cancer, and the North American Association of Central Cancer Registries (a copy is available for review at the department).
- (2) "Cancer diagnosis or treatment facilities" means hospitals, surgical centers, outpatient radiation therapy centers, doctors' offices, independent clinical laboratories and any other facilities where cancer cases are diagnosed or treated.
- (3) "Confidential information" means any information which could lead to the identification of cancer patients, cancer diagnosis or treatment facilities, independent clinical laboratories, or attending health care providers.
- (4) "Contractors" means agencies designated by contract with the department of health to perform activities related to identification, collection, and processing of cancer data.
- (5) "Department" means the Washington state department of health.
- (6) "Designees" means hospital based cancer registries and other persons or entities designated by the department to perform data collection activities.
- (7) "Hospital based cancer registry" means a cancer registry which is maintained by a hospital or other health care facility.
- (8) "In situ" means tumors described as "in situ" by the pathologist reading the diagnostic report(s).
- (9) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects as defined in RCW 70.02.010.
- (10) "Patient" means a case, suspected case or contact.
- (11) "Principal health care provider" means the attending health care provider recognized as primarily responsible for diagnosis and treatment of a patient, or in the absence of such, the health care provider initiating diagnostic testing or treatment for the patient.
- (12) "Reportable cancer case" means any cancer case diagnosed in a Washington state resident after the effective date of these rules.

(13) "Resident" means an individual residing in Washington state at the time of cancer diagnosis.

(14) "Stage of disease" means a cancer classification system encompassing attributes of a tumor as determined and described by:

(a) *Summary Staging Guide, Surveillance Epidemiology and End Results (SEER), Program, April 1977*; except when superseded by more up-to-date measures (a copy is available for review at the department); and

(b) *Manual for Staging of Cancer, 5th Edition, American Joint Committee on Cancer, (AJCC), 1998*, except when superseded by more up-to-date measures (a copy is available for review at the department).

(15) "State cancer registry" means the statewide cancer data base maintained by the department of health.

(16) "State cancer registry contract" means the legal agreement by which contractors are authorized to obtain information on reportable cancer cases. It also means the document specifying the contractors' obligations to the state cancer registry with respect to how and when information is collected, processed, and provided and how quality assurance standards are met.) The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Cancer case" means:

(a) Any malignant or cancerous neoplasm except basal and squamous cell carcinoma of the skin;

(b) Carcinoma of the external genital organ sites, including those with histology identified as basal or squamous cell type. External genital organ sites include the vulva, labia, clitoris, prepuce, penis and scrotum;

(c) Neoplasms noted as carcinoma in situ or noninvasive carcinomas, except carcinoma in situ of the cervix uteri;

(d) All benign, uncertain, borderline or malignant solid intracranial and central nervous system tumors, including the meninges and intracranial endocrine structures;

(e) All hematopoietic and lymphoid neoplasms including certain potentially malignant hematopoietic conditions;

(f) Other diagnoses that meet the reporting requirements of:

(i) The Center for Disease Control's National Program of Cancer Registries;

(ii) The National Cancer Institute's Surveillance Epidemiology and End Results Program;

(iii) The North American Association of Central Cancer Registries as described by the *International Classification of Disease for Oncology, Third Edition (ICD-O-3)*;

(iv) The North American Association of Central Cancer Registries as described by the *WHO Classification of Tumours of Haematopoietic and Lymphoid Tissues, Fourth Edition, Volume 2* published by the World Health Organization.

(2) "Case report" means a complete report, including all items in WAC 246-102-040(2), documenting a cancer case.

(3) "Certified tumor registrar (CTR)" means an individual certified by the National Cancer Registrars Association.

(4) "Department" means the Washington state department of health.

(5) "First course treatment" means all methods of treatment documented in the treatment plan after the original

diagnosis and administered to the patient before disease progression or recurrence.

(6) "Health care facility" means any facility or institution which diagnoses, evaluates, provides treatment to patients or provides biomarker or other required prognostic or predictive information to physicians on patients with reportable or potentially reportable cancer cases. Health care facilities include:

(a) Hospitals providing either inpatient or outpatient services;

(b) Free-standing surgical, radiation therapy, imaging, and oncology centers;

(c) Health maintenance organizations;

(d) Multispecialty clinics;

(e) Hospices;

(f) Ambulatory surgical facilities; and

(g) Other outpatient facilities.

(7) "Health care provider" means a person licensed, certified, or registered under RCW 18.130.040 and who diagnoses, evaluates, or provides treatment to patients with reportable or potentially reportable cancer cases.

(8) "Laboratory" means pathology, cytology, biomarker, molecular, genetic and other clinical or reference laboratories, including both hospital laboratories and free-standing laboratories.

(9) "Potentially reportable cancer case" means the reporting of a cancer case based on ambiguous terminology.

(10) "Reporting entity" means any health care facility, laboratory, treatment center, or health care provider.

(11) "Stage of disease" means how far the cancer has spread from the organ or site of origin at the time of diagnosis and treatment planning.

(12) "State cancer registry" means the Washington state cancer registry.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

WAC 246-102-020 Who must report. ((By statute (RCW 70.54.240), the responsibility for identifying and reporting cases of cancer rests with health care facilities, independent clinical laboratories, and other principal health care providers. The department may, at its discretion, delegate some or all of these responsibilities to contractors or other designees. A list of the contractors and designees responsible for identifying and reporting cases of cancer diagnosed at specific sites in Washington is available for review at the department.)) (1) Reporting entities that diagnose, or provide first course treatment to a patient with a cancer case or potentially reportable cancer case registry shall report the cancer case to the state cancer registry.

(2) If a health care provider refers patients to a health care facility with cancer registry staffing for diagnostic or first course treatment services, then the health care facility is responsible for reporting the case to the state cancer registry.

(3) For purposes of this section "health care facility with cancer registry staffing" means those health care facilities with in-house cancer registries or contracted registry staff services.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

WAC 246-102-030 Cancer case identification. ~~((+) Contractors or designees shall identify reportable cancer cases diagnosed and treated at cancer diagnosis and treatment facilities:~~

~~(2) Cancer diagnosis or treatment facilities shall:~~

~~(a) Organize case finding documents by procedure or service date to permit identification of cancer cases; and~~

~~(b) Submit or make available, case finding documents including the following if maintained:~~

~~(i) Disease and operation indices for cancer cases;~~

~~(ii) Pathology and cytology reports;~~

~~(iii) New patient radiation logs;~~

~~(iv) New patient chemotherapy logs; and~~

~~(v) Other alternative case finding documents that are necessary to identify or verify reportable cancer cases;~~

~~(c) Cancer diagnosis or treatment facilities shall submit case finding documents by paper form, computer disk, or electronic file or make batched hard copy documents available for on-site review, within forty-five days of the date of service.~~

~~(3) On request, principal health care providers shall identify to contractors, designees, or the department reportable cancer cases diagnosed at facilities other than hospitals, surgical centers, and outpatient radiation therapy centers (as specified under WAC 246-102-030 and 246-102-040) unless the patient was hospitalized for additional cancer diagnosis or treatment services within one month of diagnosis.)~~ The state cancer registry shall:

(1) Publish a reportable list annually.

(2) Publish a recommended case finding list annually.

(3) Publish a list of required data items annually.

(4) Publish recommended reporting guidelines as needed.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

WAC 246-102-040 Data collection and submission requirements. (1) ~~((Contractors or designees shall complete cancer abstracts for patients identified through cancer diagnosis and treatment facilities:~~

~~(2) Cancer diagnosis or treatment facilities shall provide contractors or their designees with access to pathology and cytology reports and all medical records pertaining to identified cancer cases:~~

~~(3) On request by the contractor, designee or the department, principal health care providers or their staff shall be responsible for completing cancer abstracts for patients diagnosed at facilities other than hospitals, surgical centers, and outpatient radiation therapy centers, unless the patient was hospitalized for additional cancer diagnosis or treatment services within one month of diagnosis.~~

~~(4) The following information items shall be included in cancer abstracts, providing))~~ Reporting entities shall prepare and submit case reports in a format provided by the state cancer registry.

(2) Reporting entities shall submit completed case reports to the state cancer registry within six months of the

date of diagnosis or date patient is first seen for first course treatment, if the diagnosis was made at another health care facility or by another health care provider.

(3) Case reports shall include the following information ((is available)) from the patient's medical records:

(a) Patient information:

(i) Name (last, first, middle);

(ii) Address at time of diagnosis;

(iii) Sex;

(iv) Race(s);

(v) Spanish/hispanic origin;

(vi) Birthdate;

(vii) Age at time of diagnosis;

(viii) Social Security number;

(ix) State or country of birth;

(x) Usual occupation;

(xi) Primary payer;

(b) Diagnostic information:

(i) Date ((first seen for this cancer)) of patient's first contact with the reporting entity for the diagnosis or treatment of the cancer;

(ii) ((Primary site or sites;

(iii) Histologic type or types, behavior and grade;

(iv) Date of each diagnosis;

(v) Method or methods of diagnostic confirmation;

(vi) Stage of disease at diagnosis using:

(A) Summary stage; and

(B) AJCC system if maintained by the cancer diagnostic or treatment facility;

(vii) Sequence;

(viii) Laterality;

(c) First course of treatment information:

(i) Date of initial treatment;

(ii) All treatment modalities given as part of first course of therapy;

(d) Other information:

(i) Name and address of cancer diagnosis or treatment facility providing information;

(ii) Medical record number;

(iii) Name and address of principal health care provider; and

(iv) Other items necessary to meet the reporting requirements of the Center for Disease Control's National Program of Cancer Registries, the National Cancer Institute's Surveillance Epidemiology and End Results Program, the Commission on Cancer, and the North American Association of Central Cancer Registries (a copy is available at the department).

(5) The department may require submission of additional information from contractors or designees as needed to assess data reliability and validity.

(6) Contractors shall prepare detailed data collection protocols for inclusion in the state cancer registry contract.)

Date diagnosis made:

(iii) Primary site of originating tumor;

(iv) Laterality (if applicable);

(v) Histology type or types, behavior and grade of tumor;

(vi) Documentation, including dates, of pertinent diagnostic or evaluation studies, and biopsies;

(vii) Written documentation that describes the stage of disease at diagnosis, including Collaborative Staging coding used;

(viii) Sequence number;

(c) First course of treatment information:

(i) Date initial treatment began or the date the decision for no treatment was made;

(ii) Description of all treatment given as part of the first course treatment including, but not limited to, surgery, radiation, chemotherapy, BRM/immunotherapy, hormone or other therapies, or a statement as to why no treatment was given;

(d) Other information:

(i) Date of last contact;

(ii) Vital status at time of last contact;

(iii) Identification of reporting entity providing information:

(A) Name and address; or

(B) National Provider Identification number; and

(iv) Other items necessary to meet the reporting requirements of the state cancer registry as provided annually.

(4) For the purpose of assuring high quality data, the state cancer registry will publish reporting guidelines for assistance in completing the above information, which will be available on the registry's web site.

(5) All laboratories shall provide:

(a) Reports within ten days of the close of each month or on a schedule determined by the volume of reports acquired daily and approved by the state cancer registry;

(b) Updated information made to reports resulting in addendums and amendments; and

(c) Patient demographic information.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

WAC 246-102-060 Data quality assurance. ~~((+))~~ Contractors or designees shall:

~~(a) Assess the completeness and accuracy of case identification and data collection through computerized edit programs and on-site audits, or make available information and documentation for this purpose; and~~

~~(b) Maintain a system for retrieval of completed cancer abstracts for a period up to ten years.~~

~~(2) Cancer diagnosis or treatment facilities shall:~~

~~(a) Make available to the contractor, designee or the department, all case finding source documents and medical records for data quality assurance activities.~~

~~(b) Maintain a system for retrieval of case finding source documents and medical records for a period up to ten years.~~

~~(3) The department may require contractors or designees to make available all findings from data quality assurance activities for review and verification.))~~ (1) To assure accurate monitoring of the incidence of cancer in Washington, the state cancer registry shall review the overall quality of all cases received using national guidelines.

(2) The state cancer registry shall follow up with reporting entities for additional case information as needed to ensure the completeness and quality of a case report.

(3) The state cancer registry shall provide education and training related to identifying and reporting cases. The state cancer registry shall:

(a) Offer education and training opportunities to certified tumor registrars on staff at health care facilities.

(b) Offer education and training opportunities to individuals not certified as a certified tumor registrar, but who report cancer cases to the state.

(4) The state cancer registry shall provide technical assistance to reporting entities.

(5) The state cancer registry shall perform audits of reporting entities to ensure accurate and complete reporting.

(6) The state cancer registry will provide thirty days notice of an audit.

(7) The state cancer registry shall request the following documents, as appropriate from the reporting entity, as part of the audit process:

(a) Disease and operations indices files;

(b) Pathology, cytology, and autopsy reports or files;

(c) Report files providing results of specialized testing, such as biomarker results or results of any other tests providing prognostic or predictive information;

(d) Report files providing imaging results;

(e) Radiation therapy new patient or summary treatment files;

(f) Medical oncology new patient or summary treatment files;

(g) Office visit logs; and

(h) Other alternative reports or electronic files necessary to identify and provide information on reportable or potentially reportable cancer cases.

AMENDATORY SECTION (Amending WSR 01-04-086, filed 2/7/01, effective 3/10/01)

WAC 246-102-070 Access and release of information. (1) Information collected by the state cancer registry ((information)) shall only be used only for statistical, scientific, medical research and public health purposes. ((Contractors and designees must comply with chapter 70.02 RCW regarding the disclosure of patient health care information.))

(2) The department may release ((confidential)) state cancer registry information for research purposes:

((Research purposes)) (a) After the research project has been reviewed and approved by ((an institutional review board and a confidentiality agreement is negotiated (a copy of the institutional review board procedures and application are available from the department)).

(3) The department may release confidential registry information for projects to assess threats to public health or improve public health practice after the project has been reviewed and approved by the department and a data sharing agreement is negotiated (a copy of the procedures for data sharing agreements is available from the department).

(4) Cancer diagnosis or treatment facilities may require contractors or designees to sign an agreement of confidentiality regarding access and release of cancer data and prepare, administer, and maintain confidentiality oaths as needed.

~~(5) Cancer diagnosis or treatment facilities shall adhere to recommendations in RCW 70.54.260 regarding content of confidentiality agreement if confidentiality agreements are used.~~

~~(6) Cancer diagnosis and treatment centers shall make available to cancer patients printed information which describes the purpose of the state cancer registry, the statutory requirements which apply to health care facilities, independent clinical laboratories, and other principal health care providers to identify and report cases of cancer to the state cancer registry, and to protect the confidential information that is reported, the public health and research uses of information in the state cancer registry, the circumstances under which cancer registry information is disclosed for these purposes and the relevant RCW and WAC pertaining to the state cancer registry.)~~ the Washington state institutional review board; and

(b) After a written agreement between the department and the researcher is in place regarding state cancer registry information accessed, used or disclosed. Written agreements shall incorporate:

(i) The confidentiality requirements in RCW 42.48.020; and

(ii) The department's data security requirements.

(3) The department may release state cancer registry information for projects to assess threats to public health or improve public health practice after the project has been reviewed and approved by the department and a data-sharing agreement is in place.

(4) The state cancer registry shall publish an annual report that includes:

(a) Age-adjusted incidence rates;

(b) Age-adjusted mortality rates; and

(c) Age-adjusted incidence and mortality rates by sex, race, ethnicity, and county at diagnosis as it applies to confidentiality requirements.

(5) The state cancer registry shall make available to health care facilities and health care providers:

(a) Information for patients and their families that describes the purpose of the state cancer registry;

(b) The statutory requirements;

(c) The intended use of case information;

(d) The circumstances under which cancer registry information is disclosed.

(6) The state cancer registry shall exchange data with states that have a data exchange agreement in place. The data provided to other states shall only include cancer cases with an address at the time of diagnosis outside the borders of Washington state.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-102-050 Form, frequency, and format for reporting.

WSR 10-13-106

PROPOSED RULES

HORSE RACING COMMISSION

[Filed June 18, 2010, 8:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-10-045.

Title of Rule and Other Identifying Information: WAC 260-52-040 Post to finish.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on August 13, 2010, at 9:30 a.m.

Date of Intended Adoption: August 13, 2010.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail dmoore@whrc.state.wa.us, fax (360) 459-6461, by August 9, 2010.

Assistance for Persons with Disabilities: Contact Patty Sorby by August 9, 2010, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To allow the commission to determine the interval that an applicant must provide fingerprints.

Reasons Supporting Proposal: The Washington horse racing commission is clarifying the process in which the stewards use involving multiple disqualification in the same race and uncoupled horses that have a common ownership interest in disqualifications.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

June 18, 2010

Douglas L. Moore

Deputy Secretary

AMENDATORY SECTION (Amending WSR 10-07-050, filed 3/11/10, effective 4/11/10)

WAC 260-52-040 Post to finish. (1) All horses must be ridden out in every race. A jockey may not ease up or coast to the finish, without reasonable cause, even if the horse has no apparent chance to win prize money. A jockey must always give his/her best effort during a race. Each horse must be ridden to win. No jockey may cause his/her horse to shorten its stride so as to give the appearance of having suffered a foul.

(2) If a jockey strikes or touches another jockey or another jockey's horse or equipment, his/her mount may be disqualified.

(3) When clear in a race a horse may be ridden to any part of the course. If any horse swerves, or is ridden to either side, so as to interfere with, impede, or intimidate any other horse, the horse may be disqualified.

(4) A horse may not interfere with another horse and thereby cause the other horse to lose ground or position, or cause the other horse to break stride. When this interference occurs in the part of the race where the other horse loses the opportunity to place where it might reasonably be expected to finish, the stewards may disqualify the interfering horse.

(5) If the stewards determine the foul was intentional, or due to careless riding, the jockey may be held responsible.

(6) In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane and interferes, impedes, or intimidates another horse, it may be considered a foul and may result in the disqualification of the offending horse.

(7) When a horse is disqualified, the stewards may place the offending horse behind the horse(s) it interfered with, place it last, or declare it unplaced and ineligible for any purse money and/or time trial qualification. In the case of multiple disqualifications, under no circumstance may a horse regain its finishing (~~position once it has been disqualified~~) place in front of a horse that it interfered with.

(8) If a horse is disqualified, any horses (~~it is coupled with~~) that it shares a common ownership with may also be disqualified, if in the opinion of the stewards, the foul was intentional.

(9) When a horse is disqualified in a time trial race, for the purposes of qualifying only, it must receive the time of the horse it is placed behind plus one-hundredth of a second penalty or more exact measurement if photo finish equipment permits, and remain eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

(10) In time trials, horses must qualify on the basis of time and order of finish. Times are determined by the official timer. If the automatic timer malfunctions, averages of a minimum of three hand times must be used for that individual race. In the instance of horses competing in the same race receiving identical times, order of finish must determine qualifiers. In the event two or more horses receive identical times for the final qualifying position, a draw by lot conducted by the stewards will determine the final qualifying positions.

(11) If a horse that qualified for the finals should be unable to enter due to racing soundness or scratched for any other reason other than a positive test or rule violation, the owner will receive last place purse money. If more than one horse is scratched from the final, then those purse moneys will be added together and distributed equally among those owners.

(12) If a qualifier for a final or consolation is disqualified for ineligibility or a rule violation after the time trials are declared official, but prior to entry for the final or consolation, the nonqualifier with the next fastest time must replace the disqualified horse. If a qualifier is disqualified after entry for the final or consolation for any reason other than unsoundness, illness or death, the purse will be redistributed among the remaining qualifiers.

(13) Possession of any electrical or mechanical stimulating or shocking device by a jockey, horse owner, trainer or other person will be considered prima facie evidence of a violation of these rules and is sufficient grounds for the stewards to scratch or disqualify any horse involved, and summarily suspend the individual in possession of the device.

WSR 10-13-122

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 08-12—Filed June 22, 2010, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-021.

Title of Rule and Other Identifying Information: Upper Kittitas ground water rule, chapter 173-539A WAC.

Hearing Location(s): Walter Strom Middle School, Multipurpose Room, 2694 State Route 903, Cle Elum, WA, on July 28, 2010, at 5:00 p.m.

Date of Intended Adoption: October 15, 2010.

Submit Written Comments to: Mark Schuppe, Department of Ecology, Central Regional Office, 15 West Yakima Avenue, Suite 200, Yakima, WA 98902-3452, e-mail msch461@ecy.wa.gov, fax (509) 575-2809, by August 11, 2010.

Assistance for Persons with Disabilities: Contact Judy Beitel by July 21, 2010. Persons with hearing loss, call 711 for Washington relay service. Persons with a speech disability, call (877) 833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed upper Kittitas ground water rule (chapter 173-539A WAC) is based on comments received in response to a rule proposed by ecology in January 2009, and ongoing communications regarding the emergency rules now in effect since July 2009. These communications have been with the general public, Kittitas County Board of Commissioners, United States Bureau of Reclamation (USBR), Yakama Nation, Roza Irrigation District, Kittitas Reclamation District, Town of Roslyn, Center for Environmental Law Policy/Aqua Permanente, and other water right holders in the basin. In addition, in a letter dated April 6, 2010, Governor Gregoire directed ecology to immediately begin permanent rule making as required under the Administrative Procedure Act. The purpose of this rule is to withdraw from appropriation all unappropriated ground water within upper Kittitas County pending the completion of a ground water study with these exceptions:

- Uses determined to be water budget neutral pursuant to this rule under WAC 173-539A-050; and
- Uses of ground water for a structure for which a building permit application vested prior to July 16, 2009.

This exception does not apply or ceases to apply if the structure is not completed and a water system that uses the new appropriation is not operable within the time allowed under the building permit, which may not in any case exceed three years from the date the permit application vested. The withdrawal of all unappropriated ground water is designed to

prevent new uses of water that would negatively affect flows and existing water rights in the Yakima River and its tributaries. This proposed rule, like the seventh emergency rule, requires that new developments relying on ground water would have to demonstrate water budget neutrality in order to be approved.

The Upper Kittitas Water Exchange has been put in place. Suncadia has begun marketing one of its three available water rights for mitigation purposes. Transactions to supply water for seventy residential connections were presented to the Yakima Water Transfer Working Group on March 8, 2010. Suncadia submitted them, along with the associated permit applications, and water budget neutral request forms at the end of March 2010. The first water budget neutral requests were issued by ecology on April 30, 2010.

Reasons Supporting Proposal: The Yakima Basin is one of the state's most water-short areas. Water rights with priority dates as old as 1905 were shut off during the 2001 and 2005 droughts, and during 2004 when USBR prorated May 10, 1905, water rights. The town of Roslyn's municipal supply and another one hundred thirty-three single domestic, group domestic, and municipal water systems throughout the basin are subject to curtailment when USBR prorates the May 10, 1905, water rights. Water supply in the Yakima Basin is limited and overappropriated. Western portions of Kittitas County are experiencing rapid growth and new development in this area without mitigation for its impacts on the water supply negatively affect the flow of the Yakima River or its tributaries.

Statutory Authority for Adoption: RCW 90.54.050, 90.03.360, chapter 43.27A, 90.44 RCW.

Statute Being Implemented: RCW 90.54.050, 90.03.360, chapter 43.27A, 90.44 RCW.

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

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Schuppe, Central Regional Office, (509) 454-4258.

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

Small Business Economic Impact Statement

Introduction: The Washington state department of ecology (ecology) is proposing this rule for the upper Kittitas County ground water area to prevent additional adverse effects on flows and senior water rights in the Yakima River and its tributaries. The proposed rule withdraws all unappropriated ground water in accordance with RCW 90.54.050(2) due to insufficient information. A ground water study the legislature funded in 2009 will be performed.

The ground water code, chapter 90.44 RCW, is supplemental to chapter 90.03 RCW, which regulates the surface waters of the state. The legislature enacted the ground water code to extend the application of such surface water statutes to the appropriation and beneficial use of ground water within the state.

Ecology is developing and issuing this small business economic impact statement (SBEIS) as part of its rule adoption process and to meet chapter 19.85 RCW. Ecology intends to use the information in the SBEIS to ensure that the proposed rule is consistent with legislative policy.

The key elements of the proposed rule include:

- Mitigating all new ground water withdrawals.
- Measuring and reporting new ground water withdrawals.

Analysis of Compliance Costs for Washington Businesses: We have assessed the impacts of the proposed rule by analyzing and comparing water right management under the proposed rule, in contrast to current practices. The current framework or "baseline" includes the use of water by permit-exempt wells (RCW 90.44.050) and any administrative procedures for considering applications for both new water rights and changes to existing water rights. Chapter 90.44 RCW is also part of this legal baseline.

We provide a brief description of compliance requirements below.

Water Rights Administration under the Rule: The proposed rule sets the requirement for new uses of ground water, whether they require a permit or are permit-exempt, to be mitigated by an equal amount of consumptive use associated with a senior surface water right. To facilitate the process of obtaining mitigation, ecology has established the Upper Kittitas Water Exchange.¹

For more detail on changes to water right administration, see the cost-benefit analysis.

Surface water: There are no changes under this rule to surface water right permit processing. In some cases, there may be expedited processing to place surface water rights into the trust water program. Ecology may also issue new surface water permits where trust water rights are held for mitigation purposes in the Yakima pilot water bank.

Ground water permits: Ecology may also issue new ground water permits when trust water rights are held for mitigation purposes in the Yakima pilot water bank. This cannot occur, absent case-by-case review, until ecology reaches a new agreement with the Yakima [Yakama] Nation and the USBR that replaces or amends the 1999 settlement agreement. Developers and new water users are required to provide mitigation prior to obtaining permission to use water, whether the proposed use requires a water right permit or is exempt from permitting. All new withdrawals within the upper Kittitas ground water area must meter.

Permit-exempt ground water: The proposed rule withdraws ground water from further appropriation. An exception is made for new withdrawals which are offset or mitigate their impact to the total water supply available through acquisition of a senior water right. Developers and new water users are required to provide mitigation prior to obtaining permission to use water, whether the proposed use requires a water right permit or is exempt from permitting. All new withdrawals within the upper Kittitas ground water area must meter.

Changes and transfers of water rights: Ecology will continue to process changes and transfers of existing water rights as allowed by chapters 90.03 and 90.44 RCW.

Impacts to Businesses in the Upper Kittitas Ground

Water Area: Small businesses are not required to comply with the proposed rule. Businesses that locate in areas with established water rights are not required to comply with the rule. Businesses that are currently located in areas with established water rights are not required to comply with the rule. The proposed rule will not directly affect any existing water right holders or future businesses using an established water right.

Businesses that choose to locate a new operation outside a water service area may be affected by the proposed rule for the upper Kittitas ground water area. Those that are required to comply with the rule are only those seeking new water rights.

Impacts to Businesses Dependent on Residential Permit-exempt Wells: As stated above, the proposed rule does not directly affect current or future businesses that have or use established water rights.

Costs to Firms and Required Professional Services: As mentioned above, generally no business entities are required to comply with the proposed rule unless they seek a new water right. For those who require mitigation outside a current water right, they will likely need to employ or retain engineers, hydrogeologists, and possibly legal advice. The Upper Kittitas Water Exchange provides these services at a fixed mitigation cost.²

Reporting and Record Keeping: The proposed rule adds metering, reporting, and record-keeping requirements for small businesses using new ground water withdrawals.

Additional Professional Services: All additional professional services are included in the water exchange mitigation costs.

Equipment, Supplies, Labor, and Increased Administrative Costs: We expect small equipment, supplies, labor, and administrative costs in conjunction with the required meter installation and reporting.

Other Compliance Requirements: Ecology does not anticipate additional compliance requirements.

Quantification of Costs and Ratios: It is the purpose of this section to evaluate whether:

- The proposed rules could cause businesses to lose sales or revenue.
- The proposed rules would have a disproportionate impact on small businesses.

Revenue Impacts: As noted previously, the rule only affects new appropriators of ground water.

Distribution of Compliance Costs: Small businesses would have costs equal to the cost of acquiring mitigation. These businesses are required to comply with the rule if they would rely on a new appropriation of ground water. They could avoid these costs if they were to locate in an area with an existing water service, such as a municipal or public water supply system or an existing permit-exempt well.

Known Costs: Ecology has determined that this is a minor cost as defined in RCW 19.85.020(2). RCW 19.85.030 exempts ecology from needing to prepare a small business economic impact analysis.

The small costs to those required to comply with the proposed rule may impose disproportionate costs to small businesses.

Conclusions: The proposed rule requires only new consumptive uses of ground water to be mitigated by an equal amount of a senior surface water right. The rule affects only businesses that are seeking new appropriations of ground water. All currently established businesses using an established water right are not required to comply with the proposed rule. All new withdrawals within the upper Kittitas ground water area must meter.

Because no small businesses are required to comply with rule, ecology has determined that this is a minor cost as defined in RCW 19.85.020(2). RCW 19.85.030 exempts ecology from needing to prepare a small business economic impact analysis. Ecology prepares this analysis for informational purposes only.

Actions Taken to Reduce the Impact of the Rule on Small Business: Ecology proposed alternative forms of the rule now proposed. Cooperation with Kittitas County provided opportunities for the least impact on small businesses associated with land and real estate development. However, the attorney general in a formal opinion determined that ecology lacked authority for a rule in the form proposed in 2009. Consequently, this proposed rule follows the procedure specified in RCW 90.54.020 by withdrawing all unappropriated water while a ground water study is performed.

As noted above, it is unlikely that there will be significant adverse impacts on businesses (small or large) as part of this rule making versus the baseline. The additional costs incurred by new water users who are small businesses are matched with an equal value gained in the water right obtained for mitigation. Therefore, ecology took no specific measures to reduce or mitigate these rule impacts.

The Involvement of Small Business in the Development of the Proposed Rule Amendments: Ecology and Kittitas County entered into a memorandum of agreement calling for a study to better define the hydrogeology of upper Kittitas County. The study will provide information about water availability and the relationship between surface waters and ground water. Ecology will use the information from the study to develop long-term water management strategies.

The proposed rule withdraws all unappropriated ground water in upper Kittitas County. All new appropriations of water are required to provide mitigation in the form of a pre-May 10, 1905, water right in order to achieve "water budget neutrality," as defined in the proposed rule. Small business representatives, particularly those associated with land development and water well drilling, were involved in this public process.

The SIC Codes of Impacted Industries: The industries listed below may be required to comply with the proposed rule. The following list shows standard industrial codes (SIC)³ for small businesses that may be affected in complying with the rule. This serves as a representative sample of potential future businesses that may be affected.

TABLE 1. INDUSTRIES POTENTIALLY AFFECTED BY PROPOSED RULES (NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM)

Deciduous tree fruits	Code 0175
Fruit farming	Code 111339
Horticulture nurseries	Code 1114
Storage/packing agricultural produce	Code 1151
Animal production	Code 115210
Commercial greenhouses	Code 1114
Hatcheries	Code 1129
Mining, mineral extraction	Code 21
Construction	Code 23
Land subdivision and development	Code 2331
Residential building construction	Code 2361
Nonresidential building construction	Code 2362
Land subdivision	Code 2372
Manufacturing	Code 33
Produce market	Code 445230
Fresh fruits and vegetables	Code 5148
Accommodation and food services	Code 722310
Golf facility	Code 713910
Stables	Code 713990

Impacts on Jobs: Current small businesses or those that are using a water right established before July 16, 2009, are not affected by this rule. Small businesses that decide they want a new water right may be affected. Ecology expects that these small businesses may rely on land use planning professionals (planners, architects, hydrogeologists, and engineers) to help prepare materials to show how their proposals meet the mitigation requirements described in the proposed rule. Small businesses may also rely on attorneys to develop the covenants that are required. Ecology expects little or no net job impacts to come from this proposed rule.

References: Huppert, Daniel, Gareth Green, William Beyers, Andrew Subkoviak, and Andrew Wenzl, *Economics of Columbia River Initiative*, 2004.

R.S. Means, *Building Construction Cost Data*, 55th Annual Edition, 1997.

¹ <http://www.ecy.wa.gov/programs/wr/cwp/wtrxchnng.html>.

² Water exchange.

³ Ecology has used NAICS codes rather than SIC. It is a comparable system, used at the federal and state level, and has replaced SIC codes in common use.

A copy of the statement may be obtained by contacting Barbara Anderson, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6607, fax (360) 407-6574, e-mail btov461@ecy.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Barbara Anderson, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360)

407-6607, fax (360) 407-6574, e-mail btov461@ecy.wa.gov.

June 20, 2010

Ted Sturdevant

Director

Chapter 173-539A WAC

UPPER KITTITAS GROUND WATER RULE

NEW SECTION

WAC 173-539A-010 Purpose. The purpose of this rule is to withdraw from appropriation all unappropriated ground water within upper Kittitas County pending completion of a ground water study. New ground water withdrawals will be limited to those that are water budget neutral, as defined in this rule.

NEW SECTION

WAC 173-539A-020 Authority. RCW 90.54.050 provides that when lacking enough information to support sound decisions, ecology may withdraw waters of the state from new appropriations until sufficient information is available. Before withdrawing waters of the state, ecology must consult with standing committees of the legislature on water management. Further, RCW 90.44.050 authorizes ecology to establish metering requirements for permit-exempt wells where needed.

In 1999, ecology imposed an administrative moratorium on issuing any ground water permits for new consumptive uses in the Yakima basin, which includes Kittitas County. That moratorium did not apply to permit-exempt withdrawals. In 2007, ecology received a petition seeking unconditional withdrawal of all unappropriated ground water in Kittitas County until enough is known about potential effects from new permit-exempt wells on senior water rights and stream flows. Ecology consulted with standing committees of the Washington state legislature on the petition and proposed withdrawal. Ecology rejected the proposed unconditional withdrawal, and instead signed a memorandum of agreement (MOA) with Kittitas County. Ecology proposed a rule in January 2009 and Kittitas County questioned ecology's authority for the proposed rule. Ecology later invoked the dispute resolution process under the MOA and the MOA was later terminated.

NEW SECTION

WAC 173-539A-025 Applicability. This rule applies to new uses of ground water relying on the authority of the exemption from permitting found at RCW 90.44.050, as defined in WAC 173-539A-030, and to any new permit authorizing the withdrawal of public ground water within the upper Kittitas area boundaries issued on or after July 16, 2009.

NEW SECTION

WAC 173-539A-027 Advisory. All unmitigated withdrawals that began after May 10, 1905, may be subject to future curtailment due to conflicts with senior water rights. All unmitigated users are advised to obtain mitigation through senior trust water rights to avoid such curtailment.

NEW SECTION

WAC 173-539A-030 Definitions. The definitions provided below apply only to this chapter.

"Applicant" includes the owner(s) of parcels that are the subject of a land use application, a person making a request for water budget neutral determination, or a person requesting a permit to appropriate public ground water.

"Common ownership" means any type or degree of legal or equitable property interest held by an applicant in any proximate parcel. Common ownership also includes a joint development arrangement between an applicant and any owner of a proximate parcel. A joint development arrangement is defined as involving significant voluntary joint activity and cooperation between the applicant and the owner(s) of one or more proximate parcels with respect to the development of parcels in question. Joint activity and cooperation that is customary or required by land use or other legal requirements does not itself constitute a joint development arrangement. A joint development arrangement may be evidenced by, but is not limited to, agreements for coordinated development and shared use of services or materials for permitting, design, engineering, architecture, plat or legal documents, financing, marketing, environmental review, clearing or preparing land, or construction (including road construction); covenants; agreements for common use of building materials, equipment, structures, facilities, lands, water, sewer, or other infrastructure.

"Consumptive use" of a proposed withdrawal is the total depletion that the withdrawal has on any affected surface water bodies.

"Ecology" means the department of ecology.

"Exemption" or **"ground water exemption"** means the exemption from the permit requirement for a withdrawal of ground water provided under RCW 90.44.050.

"Existing use of the ground water exemption" means a use of ground water under the authority of the exemption from permitting where water was:

(a) First regularly and beneficially used prior to July 16, 2009; and

(b) The water right is perfected within the five years following the first regular beneficial use for that purpose. Water to serve a parcel that is part of a group use begun within five years of the date water was first regularly and beneficially used on one or more parcels in the group is an existing use if the group use remains within the limit of the permit exemption.

"Group use" means use of the ground water exemption for two or more parcels. A group use includes use of the exemption for all parcels of a proposed development. It further includes use of the exemption for all parcels that are proximate and held in common ownership with a proposed new development. If a parcel that is part of a group use is

later divided into multiple parcels more than five years following the first use, the new uses of the exemption on the resulting multiple parcels will be considered a separate group use distinct from the original group.

"Land use application" means an application to Kittitas County requesting a:

- Subdivision;
- Short subdivision;
- Large lot subdivision;
- Administrative or exempt segregation;
- Binding site plan; or
- Performance based cluster plat.

"New use of the ground water exemption" means a valid permit-exempt use of ground water begun on or after July 16, 2009. When an existing group use is expanded to serve a parcel in the future, the expanded use is a new use if it begins more than five years after the date water was first regularly and beneficially used for that purpose on any parcel in the group.

"Parcel" means any parcel, land, lot, tract or other unit of land.

"Proximate" means all parcels that have at least one of the following attributes:

- Share any common boundary; or
- Are separated only by roads, easements, or parcels in common ownership; or
- Are within five hundred feet of each other at the nearest point.

"Proximate shortplat" means a shortplat that would be considered a group use with another subdivision or shortplat.

"Regular beneficial use" means a use of water under the ground water permit exemption that is recurring or functioning at fixed, uniform, or normal intervals and is done in conformity with established usages, rules, or discipline.

"Total water supply available" means the amount of water available in any year from natural flow of the Yakima River, and its tributaries, from storage in the various government reservoirs on the Yakima watershed and from other sources, to supply the contract obligations of the United States to deliver water and to supply claimed rights to the use of water on the Yakima River, and its tributaries, heretofore recognized by the United States.

"Upper Kittitas County" is the area of Kittitas County delineated in WAC 173-539A-990.

"Water budget neutral project" means an appropriation or project where withdrawals of public ground water are proposed in exchange for placement of other water rights into the trust water right program that are at least equivalent to the amount of consumptive use.

NEW SECTION

WAC 173-539A-040 Withdrawal of unappropriated water in upper Kittitas County. (1) Beginning on the effective date of this rule, all public ground waters within the upper Kittitas County are withdrawn from appropriation. No new appropriation or withdrawal of ground water may occur, including those exempt from permitting, except:

(a) Uses of ground water for a structure for which a building permit is granted and the building permit application vested prior to July 16, 2009; and

(b) Uses determined to be water budget neutral under WAC 173-539A-050.

(2) The exception for water used at structures provided in subsection (1)(a) of this section shall not apply or shall cease to apply if the structure is not completed and a water system that uses the new appropriation is not operable within the time allowed under the building permit. This shall not in any case exceed three years from the date the permit application vested. The exception is to avoid potential hardship and does not reflect ecology's view on when the priority date for a permit-exempt water right is established.

(3) Water to serve a parcel that is part of an existing group use is not a new appropriation or withdrawal if the water use to serve such parcel began within five years of the date water was first beneficially used on any parcel in the group, if the first use was prior to July 16, 2009, and the group use remains within the limit of the permit exemption.

NEW SECTION

WAC 173-539A-050 Water budget neutral projects.

(1) Persons proposing a new use of ground water shall apply to ecology for a permit to appropriate public ground water or, if seeking to rely on the ground water permit-exemption, shall submit to ecology a request for determination that the proposed permit-exempt use would be water budget neutral.

(2) As part of a permit application to appropriate public ground water or a request for a determination of water budget neutrality, applicants or requestors shall include the following information:

(a) Identification of one or more water rights that would be placed into the trust water right program to offset the consumptive use (as calculated pursuant to subsection (3) of this section) associated with the proposed new use of ground water;

(b) A site map;

(c) The area to be irrigated (in acres);

(d) A soil report, if proposed discharge is to a septic system and the applicant or requestor proposes to deviate from the values in subsection (3) of this section;

(e) A property covenant that prohibits trees or shrubs over the septic drain field; and

(f) A copy of the sewer utility agreement, if the proposed wastewater discharge is to a sanitary sewer system.

(3) Consumptive use will be calculated using the following assumptions: Thirty percent of domestic in-house use on a septic system is consumptively used; ninety percent of outdoor use is consumptively used; twenty percent of domestic in-house use treated through a wastewater treatment plant which discharges to surface water is consumptively used.

(4) Applications for public ground water or requests for a determination of water budget neutrality will be processed concurrent with trust water right applications necessary to achieve water budget neutrality, unless:

(a) A suitable trust water right is already held by the state in the trust water right program; and

(b) The applicant or requestor has executed an agreement to designate a portion of the trust water right for mitigation of the applicant's proposed use.

(5) Applications to appropriate public ground water or requests for determination of water budget neutrality that do not include the information listed in subsection (2) of this section will be rejected and returned to the applicant.

(6) To the extent that ecology determines that the mitigation offered would not reliably mitigate to be water budget neutral, ecology may deny the request or limit its approval to a lesser amount.

NEW SECTION

WAC 173-539A-060 Expedited processing of trust water applications, and new water right applications or requests for a determination of water budget neutrality associated with trust water rights. (1) RCW 90.42.100 authorizes ecology to use the trust water right program for water banking purposes within the Yakima River Basin.

(2) Ecology may expedite the processing of an application for a new water right or a request for a determination of water budget neutrality under Water Resources Program Procedures PRO-1000, Chapter One, including any amendments thereof, if the following requirements are met:

(a) The application or request must identify an existing trust water right or pending application to place a water right in trust, and such trust water right would have an equal or greater contribution to flow during the irrigation season, as measured on the Yakima River at Parker that would serve to mitigate the proposed use. This trust water right must have priority earlier than May 10, 1905, and be eligible to be used for instream flow protection and mitigation of out-of-priority uses.

(b) The proposed use on the new application or request must be for domestic, group domestic, lawn or noncommercial garden, municipal water supply, stock watering, or industrial purposes within the Yakima River Basin. The proposed use must be consistent with any agreement governing the use of the trust water right.

(3) If an application for a new water right or a request for a determination of water budget neutrality is eligible for expedited processing under subsection (2) of this section and is based upon one or more pending applications to place one or more water rights in trust, processing of the pending trust water right application(s) shall also be expedited.

(4) Upon determining that the application or request is eligible for expedited processing, ecology will do the following:

(a) Review the application or request to withdraw ground water to ensure that ground water is available from the aquifer without detriment or injury to existing rights, considering the mitigation offered.

(b) Condition the permit or determination to ensure that existing water rights, including instream flow water rights, are not impaired if the trust water right is from a different source or located downstream of the proposed diversion or withdrawal. The applicant or requestor also has the option to change their application to prevent the impairment. If

impairment cannot be prevented, ecology must deny the permit or determination.

(c) Condition each permit or determination to ensure that the tie to the trust water right is clear, and to accurately reflect any limitations or constraints in the trust water right.

(d) Condition or otherwise require that the trust water right will serve as mitigation for impacts to "total water supply available."

review by the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-539A-990 Appendix 1—Map of upper Kittitas County boundaries.

NEW SECTION

WAC 173-539A-070 Measuring and reporting water use. (1) For residential uses (domestic use and irrigation of not more than 1/2 acre of noncommercial lawn and garden) of ground water within upper Kittitas County that begin after July 8, 2008, a meter must be installed for each residential connection or each source well that serves multiple residential connections in compliance with the requirements of WAC 173-173-100.

(2) For all other uses within upper Kittitas County that begin after November 25, 2009, including permit-exempt uses, a meter must be installed for each source well in compliance with such requirements as prescribed in WAC 173-173-100.

(3) Water users must collect and report metering data to ecology within thirty days of the end of each recording period. The following table shows the recording periods and the due dates for each metering report:

Recording Period	Report Due No Later Than:
October 1 - March 31	April 30
April - June 30	July 30
July 1 - July 31	August 30
August 1 - August 31	September 30
September 1 - September 30	October 30

NEW SECTION

WAC 173-539A-080 Educational information, technical assistance and enforcement. (1) To help the public comply with this chapter, ecology may prepare and distribute technical and educational information on the scope and requirements of this chapter.

(2) When ecology finds that a violation of this rule has occurred, we shall first attempt to achieve voluntary compliance. One approach is to offer information and technical assistance to the person, in writing, identifying one or more means to legally carry out the person's purposes.

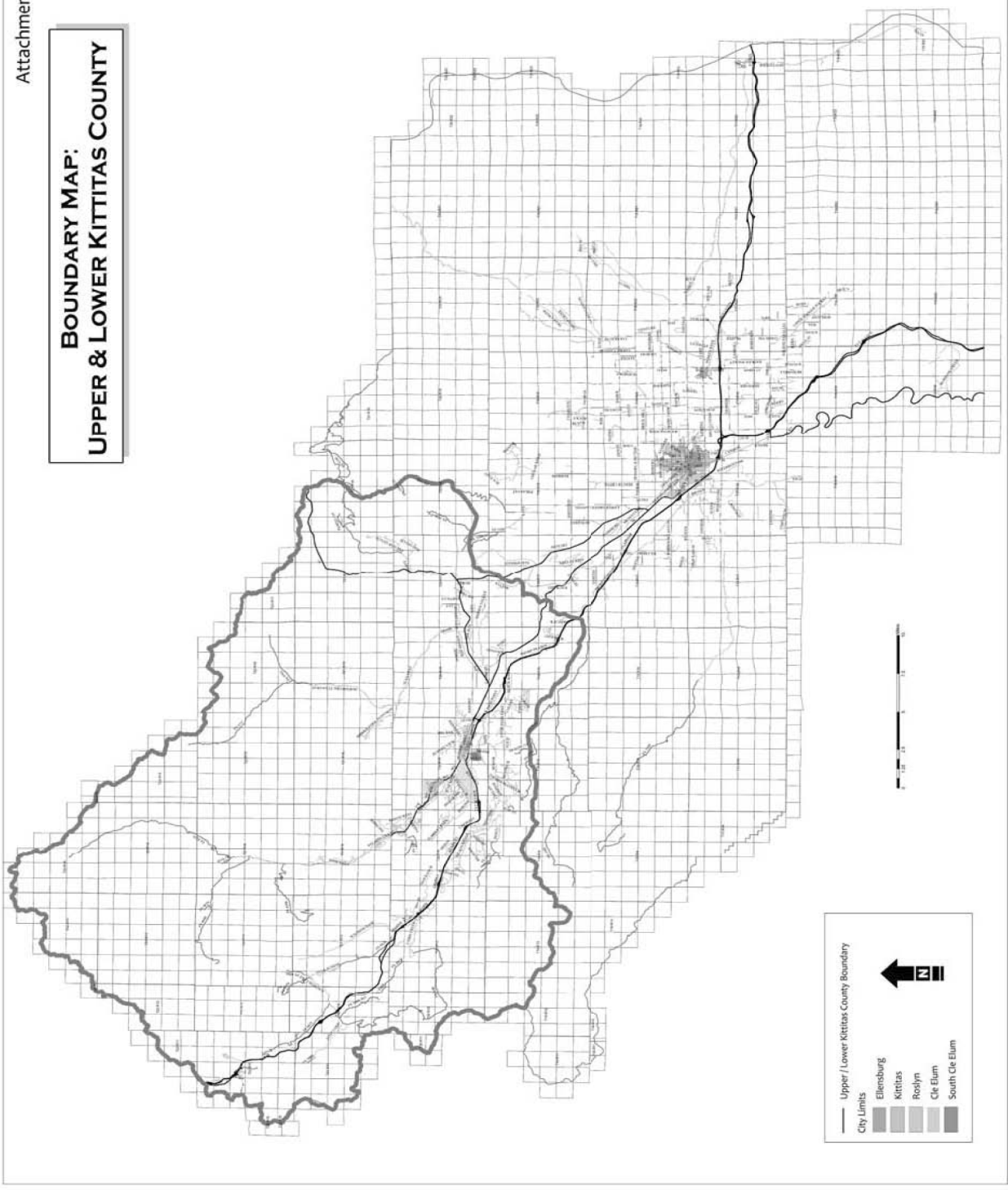
(3) To obtain compliance and enforce this chapter, ecology may impose such sanctions as suitable, including, but not limited to, issuing regulatory orders under RCW 43.27A.190 and imposing civil penalties under RCW 90.03.600.

NEW SECTION

WAC 173-539A-090 Appeals. All of ecology's final written decisions pertaining to permits, regulatory orders, and other related decisions made under this chapter are subject to

Attachment 1

**BOUNDARY MAP:
UPPER & LOWER KITTITAS COUNTY**



WSR 10-13-127
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed June 22, 2010, 2:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-10-076.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-476-0005 to better align with requirements under C.F.R. 273.6 for Basic Food and to update text related to all programs for clarity.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on July 27, 2010, at 10:00 a.m.

Date of Intended Adoption: No earlier than July 28, 2010.

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 DSH-SRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 27, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by June 22 [July 6], 2010, 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: Current WAC states that "a newborn may receive benefits for up to six months from the date of birth if the household is unable to provide proof of application for a SSN at the time of birth." The department's proposed language will clarify that the household may provide proof at the "next recertification or within six months following the month the baby is born, whichever is later."

Reasons Supporting Proposal: The proposed rule will be to better align with requirements under C.F.R. 273.6 for Basic Food which allows the household to provide proof at the "next recertification or within six months following the month the baby is born, whichever is later."

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.055, 74.04.057, and 74.04.510.

Statute Being Implemented: RCW 74.08.090, 74.04.-050, 74.04.055, 74.04.057, and 74.04.510.

Rule is necessary because of federal law, Title 7 C.F.R. 273.6.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Holly St. John, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4895.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses.

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, "this 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."

May 24, 2010

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-20-061, filed 9/26/03, effective 10/27/03)

WAC 388-476-0005 Social Security number requirements. (1) With certain exceptions, each person who applies for or receives cash, medical or food assistance benefits must provide to the department a Social Security number (SSN), or numbers if more than one has been issued. For SSN requirements for immigrants, see WAC 388-424-0009.

(2) If the person is unable to provide the SSN, either because it is not known or has not been issued, the person must:

- (a) Apply for the SSN;
- (b) Provide proof that the SSN has been applied for; and
- (c) Provide the SSN when it is received.

(3) Assistance will not be delayed, denied or terminated pending the issuance of an SSN by the Social Security Administration. However, a person who does not comply with these requirements is not eligible for assistance.

(4) For cash, medical, and food assistance benefits, a person cannot be disqualified from receiving benefits for refusing to apply for or supply an SSN based on religious grounds.

(5) For food assistance programs:

(a) A person can receive benefits for the month of application and the following month if the person attempted to apply for the SSN and made every effort to provide the needed information to the Social Security Administration.

~~(b) ((A newborn may receive benefits for up to six months from the date of birth if the household is unable to provide proof of application for an SSN at the time of birth))~~
If a person is unable to provide proof of application for a SSN for a newborn:

(i) The newborn can receive Basic Food with the household while effort is being made to get the SSN.

(ii) For the newborn to continue receiving Basic Food benefits; the household must provide proof of application for SSN or the SSN for the newborn, at the next recertification, or within six months following the month the baby is born, whichever is later.

(6) For medical programs, a newborn as described in WAC 388-505-0210(1) is eligible for categorically needy (CN) medical without meeting the SSN requirement until the baby's first birthday.

(7) There is no SSN requirement for the following programs:

- (a) The consolidated emergency assistance program;
- (b) The refugee cash and medical assistance program;
- (c) The alien emergency medical program;
- (d) The state-funded pregnant woman program; and
- (e) Detoxification services.

WSR 10-13-133
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 22, 2010, 3:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-04-096.

Title of Rule and Other Identifying Information: Chapter 296-17A WAC, Classifications for workers' compensation insurance.

Hearing Location(s): Tumwater L&I Building, 7273 Linderson Way S.W., Tumwater, WA 98501, on August 25, 2010, at 2:30 p.m.

Date of Intended Adoption: October 20, 2010.

Submit Written Comments to: Richard Bredeson, P.O. Box 44140, Olympia, WA 98501, e-mail BRED235@lni.wa.gov, fax (360) 902-4988, by 5 p.m., August 25, 2010.

Assistance for Persons with Disabilities: Contact office of information and assistance by August 20, 2010, TTY (306) [(360)] 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 296-17A-4900 Construction: Superintendent or project manager, this proposal clarifies allowed and excluded exposure and permits a division of hours by project.

Reasons Supporting Proposal: The amendment maintains current exposure restrictions, but as defined by project. This should allow increased use by smaller employers previously excluded by its restrictive "no division of hours" clause. This will also reduce confusion over what was meant by "no division of hours" and the extent of its span.

Statutory Authority for Adoption: RCW 51.16.035.

Statute Being Implemented: RCW 51.16.035.

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: Richard Bredeson, Tumwater, Washington, (360) 902-4985; Implementation: Ronald C. Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this case the agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates to legislative standards described in RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed rules adjust fees pursuant to legislative standards they are exempted by RCW 34.05.328 (5)(b)(vi) from the requirement for a cost-benefit analysis.

June 22, 2010

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-4900 Classification 4900.

4900-00 Construction: Superintendent or project manager

~~((Applies to those employees, of general or specialty construction contractors, whose job duties are exclusively that of construction superintendents or project managers. Construction superintendents spend some time in an office and spend the remainder of time visiting various job sites to confer with construction foreman to keep track of the progress occurring at each construction site or project location. Project managers are generally stationed at the construction site or project location and confined to a temporary type of office to schedule activities and arrival of supplies such as the delivery of iron, steel, rebar, lumber, concrete ready mix, concrete pump truck services, and cranes.~~

~~This classification excludes construction superintendents or project managers who are employed by a business that specializes in offering construction management and consulting services. These businesses do not do any of the actual construction or erection activities and are to be reported separately in classification 4901.~~

~~**Special notes:** This classification is a special exception classification and as such is not treated as nor subject to normal rules of the construction classifications. This classification is applicable *only* to construction superintendents or project managers who have no direct control over work crews and do not perform construction labor at the construction site or project location. A superintendent or project manager performing duties subject to this classification who also is engaged in operating equipment, performing manual labor, or who directly supervises a work crew at the construction site or project location is excluded from this classification. They are to be reported separately in the applicable construction or erection classification assigned to their employer without any division of hours. *A division of hours is not permitted between classification 4900 and any other classification.* Under no circumstances can this be the only classification assigned to a contractor, as a basic construction classification must also be assigned.)) Applies to employees of a construction company with administrative oversight or management duties. It permits working at a construction site when overseeing a project if not directly taking part in any construction operations. The work can include:~~

- Consulting with engineers, architects, or other design experts;
- Managing foremen and coordinating subcontractor schedules;
- Ordering and scheduling equipment and supplies;
- Inspection of work.

This classification excludes anyone who performs any of the following duties:

- Foremen and others directly supervising the work of employees or independent contractors;
- Performing manual labor;
- Operating or repairing equipment;
- Delivering supplies or equipment.

Classification 4900 is a special exception classification. It can only be assigned to an account along with a basic construction classification and a division of hours between classification 4900 and the basic construction classification is not permitted on a construction project. A construction project is

defined by a unique location and unique building permit. When employees perform any duties excluded from classification 4900 on a construction project, none of their hours from that project may be reported in classification 4900. A division of hours by project requires the employer to maintain records from which the department can determine the hours worked on each project. An explanation of the payroll records an employer must keep is in WAC 296-17-35201.

WSR 10-13-134
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 22, 2010, 3:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-05-108 and 10-10-105.

Title of Rule and Other Identifying Information: Chapter 296-46B WAC, Electrical safety standards, administration, and installation.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Room S119, Tumwater, WA, on July 29, 2010, at 9:00 a.m.

Date of Intended Adoption: August 17, 2010.

Submit Written Comments to: Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by July 29, 2010.

Assistance for Persons with Disabilities: Contact Sally Elliott by July 10, 2010, at yous235@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 564, Laws of 2009 (ESHB 1244) gave the department the authority to raise fees for the electrical program in order to cover the program's operating expenses. The purpose of this rule making is to increase the electrical fees in order to cover the costs for ongoing services for the electrical program.

From February 2009, through January 2010, the department spent \$14,146,712 to staff field electrical inspectors. For the same period, the inspectors' electrical permit and compliance revenue was \$11,792,943. The difference between the expenditures for the field inspectors and the revenue is \$2,353,769 or twenty percent. The program needs to increase electrical permit fees over the fiscal growth factor in order to cover operating expenses and try to prevent further drops in inspection response time.

The program has eliminated forty-nine electrical inspectors and eleven support positions, which is a thirty-one percent reduction for the program. Even with the most recent layoff, the program must increase licensing fees by 4.17% and permit fees by thirteen percent in order to remain solvent and provide essential services such as inspections, licensing and regulatory compliance.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 19.28 RCW and chapter 564, Laws of 2009 (ESHB 1244).

Statute Being Implemented: Chapter 19.28 RCW and chapter 564, Laws of 2009 (ESHB 1244).

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

Name of Proponent: Department of labor and industries (L&I), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McInain, Tumwater, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. L&I is exempt from preparing a small business economic impact statement under RCW 19.85.025(3) referencing RCW 34.05.310 (4)(f) since the purpose of this rule making is to set or adjust fees pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. L&I is exempt from preparing a cost-benefit analysis under RCW 34.05.328 (5)(b)(vi) since the purpose of this rule making is to set or adjust fees pursuant to legislative standards.

June 22, 2010

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-906 Inspection fees. To calculate inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) of this section, PROGRESS INSPECTIONS.

The amount of the fee due is calculated based on the fee effective at the date of a department assessed fee (e.g., plan review or fee due) or when the electrical permit is purchased.

(1) **Residential.**

(a) **Single- and two-family residential (New Construction).**

Notes:

- (1) Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)
- (2) "Inspected with the service" means that a separate service inspection fee is included on the same electrical work permit.
- (3) "Inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.
- (4) An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

(i) First 1300 sq. ft.	\$((76-70))
	<u>86.60</u>
Each additional 500 sq. ft. or portion of	\$((24-60))
	<u>27.70</u>
(ii) Each outbuilding or detached garage - inspected at the same time as a dwelling unit on the property	\$((32-00))
	<u>36.10</u>
(iii) Each outbuilding or detached garage - inspected separately	\$((50-60))
	<u>57.10</u>
(iv) Each swimming pool - inspected with the service	\$((50-60))
	<u>57.10</u>

(v) Each swimming pool - inspected separately	\$(76.70) 86.60
(vi) Each hot tub, spa, or sauna - inspected with the service	\$(32.00) 36.10
(vii) Each hot tub, spa, or sauna - inspected separately	\$(50.60) 57.10
(viii) Each septic pumping system - inspected with the service	\$(32.00) 36.10
(ix) Each septic pumping system - inspected separately	\$(50.60) 57.10

(b) Multifamily residential and miscellaneous residential structures, services and feeders (New Construction).

Each service and/or feeder		
Ampacity	Service/Feeder	Additional Feeder
0 to 200	\$(82.70) 93.40	\$(24.60) 27.70
201 to 400	\$(102.80) 116.10	\$(50.60) 57.10
401 to 600	\$(141.20) 159.50	\$(70.30) 79.40
601 to 800	\$(181.20) 204.70	\$(96.50) 109.00
801 and over	\$(258.40) 291.90	\$(193.80) 218.90

(c) Single or multifamily altered services or feeders including circuits.

(i) Each altered service and/or altered feeder		
Ampacity	Service/Feeder	
0 to 200	\$(70.30) 79.40	
201 to 600	\$(102.80) 116.10	
601 and over	\$(155.00) 175.10	
(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder)		\$(38.10) 43.00

(d) Single or multifamily residential circuits only (no service inspection).

Note:
Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c) (table) of this section.

(i) 1 to 4 circuits (see note above)	\$(50.60) 57.10
(ii) Each additional circuit (see note above)	\$(5.50) 6.20

(e) Mobile homes, modular homes, mobile home parks, and RV parks.

(i) Mobile home or modular home service or feeder only	\$(50.60) 57.10
(ii) Mobile home service and feeder	\$(82.70) 93.40

(f) Mobile home park sites and RV park sites.

Note:
For master service installations, see subsection (2) COMMERCIAL/INDUSTRIAL of this section.

(i) First site service or site feeder	\$(50.60) 57.10
(ii) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder	\$(32.00) 36.10

(2) Commercial/industrial.

(a) New service or feeder, and additional new feeders inspected at the same time (includes circuits).

Note:
For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects must be calculated using this section. However, the total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) PROGRESS INSPECTIONS of this section.

Ampacity	Service/Feeder	Additional Feeder
0 to 100	\$(82.70) 93.40	\$(50.60) 57.10
101 to 200	\$(100.70) 113.70	\$(64.40) 72.70
201 to 400	\$(193.80) 218.90	\$(76.70) 86.60
401 to 600	\$(225.90) 255.20	\$(90.20) 101.90
601 to 800	\$(292.10) 330.00	\$(122.90) 138.80
801 to 1000	\$(356.60) 402.90	\$(148.70) 168.00
1001 and over	\$(389.00) 439.50	\$(207.50) 234.40

(b) Altered services/feeders (no circuits).

(i) Service/feeder		
Ampacity	Service/Feeder	
0 to 200	\$(82.70) 93.40	
201 to 600	\$(193.80) 218.90	
601 to 1000	\$(292.10) 330.00	
1001 and over	\$(324.40) 366.50	
(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder)		\$(70.30) 79.40

(c) Circuits only.

Note:
Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (2)(a)(table) above.

(i) First 5 circuits per branch circuit panel	\$(64.40) 72.70
(ii) Each additional circuit per branch circuit panel	\$(5.50) 6.20
(d) Over 600 volts surcharge per permit.	\$(64.40) 72.70

(3) Temporary service(s).

Notes:
(1) See WAC 296-46B-590 for information about temporary installations.
(2) Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal-to-portal hourly fees in subsection (11) OTHER INSPECTIONS. The fee for such after hours inspections shall be the greater of the fee from this subsection or the portal-to-portal fee.

Temporary services, temporary stage or concert productions.

Amcapacity	Service/Feeder	Additional Feeder
0 to 60	\$(44.30) 50.00	\$(22.70) 25.60
61 to 100	\$(50.60) 57.10	\$(24.60) 27.70
101 to 200	\$(64.40) 72.70	\$(32.00) 36.10
201 to 400	\$(76.70) 86.60	\$(38.20) 43.10
401 to 600	\$(102.80) 116.10	\$(50.60) 57.10
601 and over	\$(116.60) 131.70	\$(58.10) 65.60

(4) Irrigation machines, pumps, and equipment.
Irrigation machines.

- (a) Each tower - when inspected at the same time as a service and feeder from (2) COMMERCIAL/INDUSTRIAL ~~\$(5.50)~~ 6.20
- (b) Towers - when not inspected at the same time as a service and feeder - 1 to 6 towers ~~\$(76.70)~~ 86.60
- (c) Each additional tower ~~\$(5.50)~~ 6.20

(5) Miscellaneous - commercial/industrial and residential.

(a) **A Class 2 low-voltage thermostat** and its associated cable controlling a single piece of utilization equipment or a single furnace and air conditioner combination.

- (i) First thermostat ~~\$(38.20)~~ 43.10
- (ii) Each additional thermostat inspected at the same time as the first ~~\$(11.90)~~ 13.40

(b) **Class 2 or 3 low-voltage systems and telecommunications systems.** Includes all telecommunications installations, fire alarm, nurse call, energy management control systems, industrial and automation control systems, lighting control systems, and similar Class 2 or 3 low-energy circuits and equipment not included in WAC 296-46B-908 for Class B work.

- (i) First 2500 sq. ft. or less ~~\$(44.30)~~ 50.00
- (ii) Each additional 2500 sq. ft. or portion thereof ~~\$(11.90)~~ 13.40

(c) Signs and outline lighting.

- (i) First sign (no service included) ~~\$(38.20)~~ 43.10
- (ii) Each additional sign inspected at the same time on the same building or structure ~~\$(18.10)~~ 20.40

(d) Berth at a marina or dock.

Note:

Five berths or more shall be permitted to have the inspection fees based on appropriate service and feeder fees from section (2) COMMERCIAL/INDUSTRIAL above.

- (i) Berth at a marina or dock ~~\$(50.60)~~ 57.10
- (ii) Each additional berth inspected at the same time ~~\$(32.00)~~ 36.10

(e) Yard pole, pedestal, or other meter loops only.

- (i) Yard pole, pedestal, or other meter loops only ~~\$(50.60)~~ 57.10
- (ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations ~~\$(11.90)~~ 13.40

(f) Emergency inspections requested outside of normal working hours.

Regular fee plus surcharge of: ~~\$(96.50)~~ 109.00

(g) Generators.

Note:

Permanently installed generators: Refer to the appropriate residential or commercial new/altered service or feeder section.

Portable generators: Permanently installed transfer equipment for portable generators ~~\$(70.30)~~ 79.40

(h) Electrical - annual permit fee.

Note:

See WAC 296-46B-901(14).

For commercial/industrial location employing full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Note, all yearly maintenance contracts must detail the number of contractor electricians necessary to complete the work required under the contract. This number will be used as a basis for calculating the appropriate fee. Each inspection is based on a 2-hour maximum.

	Inspections	Fee
1 to 3 plant electricians	12	\$(1,857.30) 2,098.70
4 to 6 plant electricians	24	\$(3,716.50) 4,199.60
7 to 12 plant electricians	36	\$(5,574.40) 6,299.00
13 to 25 plant electricians	52	\$(7,433.60) 8,399.90
More than 25 plant electricians	52	\$(9,292.80) 10,500.80

(i) Telecommunications - annual permit fee.

Notes:

(1) See WAC 296-46B-901(13).

(2) Annual inspection time required may be estimated by the purchaser at the rate for "OTHER INSPECTIONS" in this section, charged portal-to-portal per hour.

For commercial/industrial location employing full-time telecommunications maintenance staff or having a yearly maintenance contract with a licensed electrical/telecommunications contractor.

2-hour minimum ~~\$(153.60)~~ 173.50

Each additional hour, or portion thereof, of portal-to-portal inspection time ~~\$(76.70)~~ 86.60

(j) Permit requiring ditch cover inspection only.

Each 1/2 hour, or portion thereof ~~\$(38.20)~~ 43.10

(k) Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor. ~~\$(64.40)~~ 72.70

(6) Carnival inspections.

(a) First carnival field inspection each calendar year.

(i) Each ride and generator truck ~~\$(18.10)~~ 20.40

(ii) Each remote distribution equipment, concession, or gaming show ~~\$(5.50)~~ 6.20

(iii) If the calculated fee for first carnival field inspection above is less than ~~\$(89.00)~~ 100.50, the minimum inspection fee shall be: 109.00

(b) Subsequent carnival inspections.

(i) First ten rides, concessions, generators, remote distribution equipment, or gaming show ~~\$(96.50)~~ 109.00

(ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show ~~\$(5.50)~~ 6.20

(c) Concession(s) or ride(s) not part of a carnival.	
(i) First field inspection each year of a single concession or ride, not part of a carnival	\$((76.70)) <u>86.60</u>
(ii) Subsequent inspection of a single concession or ride, not part of a carnival	\$((50.60)) <u>57.10</u>
(7) Trip fees.	
(a) Requests by property owners to inspect existing installations. (This fee includes a maximum of one hour of inspection time. All inspection time exceeding one hour will be charged at the rate for progressive inspections.)	\$((76.70)) <u>86.60</u>
(b) Submitter notifies the department that work is ready for inspection when it is not ready.	\$((38.20)) <u>43.10</u>
(c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection.	\$((38.20)) <u>43.10</u>
(d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work.	\$((38.20)) <u>43.10</u>
(e) Each trip necessary to remove a noncompliance notice.	\$((38.20)) <u>43.10</u>
(f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted.	\$((38.20)) <u>43.10</u>
(g) Installations that are covered or concealed before inspection.	\$((38.20)) <u>43.10</u>
(8) Progress inspections.	
Note:	
The fees calculated in subsections (1) through (6) of this section will apply to all electrical work. This section will be applied to a permit where the permit holder has requested additional inspections beyond the number supported by the permit fee calculated at the rate in subsections (1) through (6) of this section.	
On partial or progress inspections, each 1/2 hour.	\$((38.20)) <u>43.10</u>
(9) Plan review.	
Fee is thirty-five percent of the electrical work permit fee as determined by WAC 296-46B-906, plus a plan review submission and shipping/handling fee of:	\$((64.40)) <u>72.70</u>
(a) Supplemental submissions of plans per hour or fraction of an hour of review time.	\$((76.70)) <u>86.60</u>
(b) Plan review shipping and handling fee.	\$((18.10)) <u>20.40</u>
(10) Out-of-state inspections.	
(a) Permit fees will be charged according to the fees listed in this section.	
(b) Travel expenses:	
All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in subsection (11) of this section.	
(11) Other inspections.	
Inspections not covered by above inspection fees must be charged portal-to-portal per hour:	\$((76.70)) <u>86.60</u>
(12) Variance request processing fee.	
Variance request processing fee. This fee is nonrefundable once the transaction has been validated.	\$((76.70)) <u>86.60</u>
(13) Marking of industrial utilization equipment.	
(a) Standard(s) letter review (per hour of review time).	\$((76.70)) <u>86.60</u>
(b) Equipment marking - charged portal-to-portal per hour:	\$((76.70)) <u>86.60</u>

(c) All travel expenses and per diem for in/out-of-state review and/or equipment marking are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in (b) of this subsection.

(14) Class B basic electrical work labels.

(a) Block of twenty Class B basic electrical work labels (not refundable).	\$((210.40)) <u>237.70</u>
(b) Reinspection of Class B basic electrical work to assure that corrections have been made (per 1/2 hour timed from leaving the previous inspection until the reinspection is completed). See WAC 296-46B-908(5).	\$((38.20)) <u>43.10</u>
(c) Reinspection of Class B basic electrical work because of a failed inspection of another Class B label (per 1/2 hour from previous inspection until the reinspection is completed). See WAC 296-46B-908(5).	\$((38.20)) <u>43.10</u>

(15) Provisional electrical work permit labels.

Block of twenty provisional electrical work permit labels.	\$((210.40)) <u>237.70</u>
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AMENDATORY SECTION (Amending WSR 09-20-032, filed 9/29/09, effective 10/31/09)

WAC 296-46B-909 Electrical/telecommunications contractor's license, administrator certificate and examination, electrician certificate and examination, copy, and miscellaneous fees.

- Notes:**
- (1) The department will deny renewal of a license, certificate, or permit if an individual owes money as a result of an outstanding final judgment(s) to the department or is in revoked status. The department will deny application of a license, certificate, or permit if an individual is in suspended status or owes money as a result of an outstanding final judgment(s) to the electrical program.
 - (2) Certificates may be prorated for shorter renewal periods in one-year increments. Each year or part of a year will be calculated to be one year.
 - (3) The amount of the fee due is calculated based on the fee effective at the date payment is made.

(1) General or specialty contractor's license per twenty-four month period. (Nonrefundable after license has been issued.)	
(a) Initial application or renewal made in person, by mail, or by fax	\$((245.00)) <u>255.20</u>
(b) Renewal fully completed using the on-line web process	\$((221.00)) <u>230.20</u>
(c) Reinstatement of a general or specialty contractor's license after a suspension	\$((49.70)) <u>51.70</u>
(2) Master electrician/administrator/electrician/trainee certificate.	
(a) Examination application (nonrefundable)	
Administrator certificate examination application. (Required only for department administered examinations.) (Not required when testing with the department's contractor.)	\$((30.80)) <u>32.00</u>
(b) Examination fees (nonrefundable)	
Note:	
Normal examination administration is performed by a state authorized contractor. The fees for such examinations are set by contract with the department. For written examinations administered by the department, use the following fee schedule.	
(i) Master electrician or administrator first-time examination fee (when administered by the department)	\$((74.10)) <u>77.10</u>

(ii) Master electrician or administrator retest examination fee (when administered by the department)	\$(86.70) 90.30	(vi) Late renewal of journeyman or specialty electrician certificate	
(iii) Journeyman or specialty electrician examination fee (first test or retest when administered by the department)	\$(55.70) 58.00	(A) Renewal made in person, by mail, or by fax	\$(147.60) 153.70
(iv) Certification examination review fee	\$(114.80) 119.50	(B) Renewal fully completed using the on-line web process	\$(134.00) 139.50
(c) Original certificates (nonrefundable after certificate has been issued)		(vii) Trainee update of hours outside of renewal period (i.e., submission of affidavit of experience outside of the timeline in WAC 296-46B-965 (7)(d))	\$(47.20) 49.10
(i) Electrical administrator original certificate (except 09 telecommunication)	\$(110.80) 115.40	(viii) Trainee certificate renewal	
(ii) Telecommunications administrator original certificate (for 09 telecommunications)	\$(73.80) 76.80	(A) Renewal made in person, by mail, or by fax	\$(47.20) 49.10
(iii) Master electrician exam application (includes original certificate and application processing fee) (\$30.80 is nonrefundable after application is submitted)	\$(141.70) 147.60	(B) Renewal fully completed using the on-line web process when the affidavit of experience is submitted per WAC 296-46B-965 (7)(d)	\$(43.00) 44.70
(iv) Journeyman or specialty electrician application (includes original certificate and application processing fee) \$(30.80) 32.00 is nonrefundable after application is submitted)	\$(79.50) 82.80	(ix) Late trainee certificate renewal	
(v) Training certificate		(A) Renewal made in person, by mail, or by fax	\$(66.20) 68.90
(A) Initial application made in person, by mail, or by fax	\$(39.00) 40.60	(B) Renewal fully completed using the on-line web process	\$(60.00) 62.50
(B) Initial application fully completed on-line using the on-line web process	\$(35.00) 36.40	(e) Certificate - reinstatement (nonrefundable)	
(C) 0% supervision modified training certificate. Includes trainee update of hours (i.e., submission of affidavit of experience) \$(47.20) 51.30 is nonrefundable after application is submitted)	\$(70.90) 73.80	(i) Reinstatement of a suspended master electrician or administrator's certificate (in addition to normal renewal fee)	\$(49.70) 51.70
(D) 75% supervision modified training certificate.	\$(47.20) 49.10	(ii) Reinstatement of suspended journeyman, or specialty electrician certificate (in addition to normal renewal fee)	\$(23.50) 24.40
(E) Unsupervised training certificate as allowed by RCW 19.28.161 (4)(b).	\$(23.50) 24.40	(f) Assignment/unassignment of master electrician/administrator designation (nonrefundable)	\$(36.80) 38.30
(d) Certificate renewal (nonrefundable)		(3) Certificate/license.	
(i) Master electrician or administrator certificate renewal		(a) Replacement for lost or damaged certificate/license. (Nonrefundable.)	\$(16.20) 16.80
(A) Renewal made in person, by mail, or by fax	\$(140.10) 145.90	(b) Optional display quality General Master Electrician certificate.	\$(26.30) 27.30
(B) Renewal fully completed using the on-line web process	\$(127.00) 132.20	(4) Continuing education courses or instructors. (Nonrefundable.)	
(ii) Telecommunications (09) administrator certificate renewal		(a) If the course or instructor review is performed by the electrical board or the department	
(A) Renewal made in person, by mail, or by fax	\$(93.40) 97.20	The course or instructor review	\$(47.30) 49.20
(B) Renewal fully completed using the on-line web process	\$(84.00) 87.50	(b) If the course or instructor review is contracted out by the electrical board or the department	
(iii) Late renewal of master electrician or administrator certificate		(i) Continuing education course or instructor submittal and approval (per course or instructor)	As set in contract
(A) Renewal made in person, by mail, or by fax	\$(280.20) 291.80	(ii) Applicant's request for review, by the chief electrical inspector, of the contractor's denial	\$(115.10) 119.80
(B) Renewal fully completed using the on-line web process	\$(254.00) 264.50	(5) Copy fees. (Nonrefundable.)	
(iv) Late renewal of telecommunications (09) administrator certificate		(a) Certified copy of each document (maximum charge per file):	\$(52.30) 54.40
(A) Renewal made in person, by mail, or by fax	\$(186.80) 194.50	(i) First page:	\$(23.50) 24.40
(B) Renewal fully completed using the on-line web process	\$(168.00) 175.00	(ii) Each additional page:	\$2.10
(v) Journeyman or specialty electrician certificate renewal		(b) Replacement RCW/WAC printed document:	\$(5.20) 5.40
(A) Renewal made in person, by mail, or by fax	\$(73.80) 76.80	(6) Training school program review fees. Initial training school program review fee. (Nonrefundable.)	
(B) Renewal fully completed using the on-line web process	\$(67.00) 69.70	(a) Initial training school program review fee submitted for approval. Valid for three years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$(542.80) 565.40

(b) Renewal of training school program review fee submitted for renewal. Valid for 3 years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$((271.40)) <u>282.70</u>
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AMENDATORY SECTION (Amending WSR 06-05-028, filed 2/7/06, effective 5/1/06)

WAC 296-46B-911 Electrical testing laboratory and engineer accreditation fees. The amount of the fee due is calculated based on the fee effective at the date payment is made.

Electrical testing laboratory	
Initial filing fee: (Nonrefundable)	\$((516.00)) <u>537.50</u>
Initial accreditation fee:	
1 product category	\$((258.00)) <u>268.70</u>
Each additional category for the next 19 categories	\$((403.20)) <u>107.50</u> each
Maximum for 20 categories or more	\$((2,218.80)) <u>2,311.30</u>
Renewal fee: (Nonrefundable)	50% of initial filing fee
Renewal of existing accreditations	
Each additional category for the next 19 categories	\$((403.20)) <u>107.50</u> each
Maximum for 20 categories or more	\$((2,218.80)) <u>2,311.30</u>
Engineer for evaluating industrial utilization equipment	
Initial filing fee: (Nonrefundable)	\$((516.00)) <u>537.50</u>
Renewal fee: (Nonrefundable)	50% of initial filing fee

**WSR 10-13-135
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed June 22, 2010, 3:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-10-122.

Title of Rule and Other Identifying Information: Chapter 296-17A WAC, Classifications for workers' compensation insurance, WAC 296-17-31014(7) Farming and agriculture and 296-17-89503 Farm internship program industrial insurance, accident fund, medical aid, and supplemental pension by class.

Hearing Location(s): Labor and Industries, 525 East College Way, Mt. Vernon, WA 98273, on July 28, 2010, at 10:00 a.m.

Date of Intended Adoption: August 9, 2010.

Submit Written Comments to: Mr. Ronald Moore, P.O. Box 44140, Olympia, WA 98504-4140, e-mail GRON235@lni.wa.gov, fax (360) 902-4729, by July 28, 2010, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Julee Gronley at (360) 902-4726 or office of information and assistance, by July 21, 2010, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is being proposed in response to SSB 6349 (chapter 160, Laws of 2010) for the farm internship program. Small farms located in San Juan and Skagit counties with annual sales of less than \$250,000 per year are eligible to enroll in the program. The purpose of this pilot program is to allow small farms to provide a program for interns to learn about farming practices and farming enterprise. Three new farm intern risk classifications will be created. Each classification will have a different composite rate depending on the type of farm. Farms must have a valid labor and industries certification to be qualified to participate in the program; WAC 296-17A-4814-00 Farms: Internship program, 296-17A-4815-00 Farms: Internship program, 296-17A-4816-00 Farms: Internship program, 296-17-89503 Farm internship program industrial insurance, accident fund, medical aid, and supplemental pension by class, and 296-17-31014(7) Farming and agriculture.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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: Julee Gronley, Tumwater, (360) 902-4726; Implementation: Ronald C. Moore, Tumwater, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this case, the agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates to legislative standards described in RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. In this case, the agency is exempt from conducting a cost-benefit analysis since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.328 (5)(b)(vi) and because the content of the rules are specifically dictated by statute [statute] described in RCW 34.05.328 (5)(b)(v). Preparation of a small business [economic] impact statement and the evaluation of probable costs is required when a rule proposal has the potential of placing a more than minor economic impact on business.

June 22, 2010
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

WAC 296-17-31014 Farming and agriculture. (1) Does this same classification approach apply to farming or agricultural operations?

Yes, but it may not appear so without further explanation. We classify farming and agricultural operations by type of crop or livestock raised. This is done because each type of grower will use different processes and grow or raise multiple crops and livestock which have different levels of hazards. It is common for farmers and ranchers to have several basic classifications assigned to their account covering various types of crops or livestock. If you fail to keep the records required in the auditing recordkeeping section of this manual, and we discover this, we will assign all worker hours for which records were not maintained to the highest rated classification applicable to the work performed.

(2) I am involved in diversified farming and have several basic classifications assigned to my business. Can I have one classification assigned to my account to cover the different types of farming I am involved in?

Yes, your account manager can assist you in determining the single classification that will apply to your business. The name and phone number of your account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at 360-902-4817 and we will put you in contact with your assigned account manager.

(3) How do you determine what single farming classification will be assigned to my business?

The approach used to assign a single classification to a farming business is much the same as we use for construction or erection contractors. To do this, we will need a break down of exposure (*estimate of hours to be worked by your employees*) by type of crop or livestock being cared for (*classification*). This information will be used to estimate the premium which would be paid using multiple classifications. The total premium is then divided by the total estimated hours to produce an average rate per hour. We will select the classification assigned to your business which carries the hourly premium rate which is the closest to the average rate that we produced from the estimated hours. Classification 4806 is not to be assigned to any grower as the single farming classification.

(4) How will I know what single farming classification you have assigned to my business?

We will send you a written notice of the basic classification that will apply to your business.

(5) If I requested a single classification for my farming operation can I change my mind and use multiple classifications?

Yes, but you will need to call your account manager to verify the applicable classifications.

The name and phone number of your account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at 360-902-4817 and we will put you in contact with your assigned account manager.

(6) I am a farm labor contractor. How is my business classified?

If you are a farm labor contractor we will assign the basic classification that applies to the type of crop being grown, or livestock being cared for. If you contract to supply both machine operators and machinery on a project, all operations are to be assigned to classification 4808.

(7) Farm internship pilot program. Who may participate in the farm internship pilot program created by the department as a result of Title 49 RCW, effective June 10, 2010?

Small farms with annual sales of less than two hundred fifty thousand dollars per year located in Island or Skagit counties that receive a special certification from the department may have farm interns. Employers who qualify may report no more than three farm interns. Farm internship program risk classifications are: WAC 296-17A-4814, 296-17A-4815, and 296-17A-4816.

NEW SECTION

WAC 296-17-89503 Farm internship program industrial insurance, accident fund and medical aid fund by class.

Class	Base Rates Effective June 11, 2010	
	Accident Fund	Medical Aid Fund
4814	.0960	.1384
4815	.2042	.3300
4816	.3345	.4912

NEW SECTION

WAC 296-17A-4814 Classification 4814.

4814-00 Farms: Internship program (to be assigned only by the agricultural specialist)

Applies to qualified farms engaged in providing an internship program for agricultural education. To qualify, the farm must hold a valid certification from labor and industries to provide an internship program that includes a curriculum of learning modules and supervised participation. The internship program is designed to teach farm interns about farming practices and farm enterprise.

Classification 4814 can only be assigned to those farms which have one of the following classifications assigned to their account as the governing classification: 4806, 4810, or 4813. For governing classification, reference: WAC 296-17-310171.

Special note: The term "farm intern" applies to those certified to participate in the farm internship program. Intern hours must be reported exclusively in classification 4814. All other farm employees hours are to be reported separately in the applicable farm classification that applies to the farm operation.

NEW SECTION

WAC 296-17A-4815 Classification 4815.

4815-00 Farms: Internship program (to be assigned only by the agricultural specialist)

Applies to qualified farms engaged in providing an internship program for agricultural education. To qualify, the farm must hold a valid certification from labor and industries to provide an internship program that includes a curriculum of learning modules and supervised participation. The internship program is designed to teach farm interns about farming practices and farm enterprise.

Classification 4815 can only be assigned to those farms which have one of the following classifications assigned to their account as the governing classification: 4802, 4803, 4805, 4809, 4811, or 4812. For governing classification, reference: WAC 296-17-310171.

Special note: The term "farm intern" applies to those certified to participate in the farm internship program. Intern hours must be reported exclusively in classification 4815. All other farm employees hours are to be reported separately in the applicable farm classification that applies to the farm operation.

NEW SECTION

WAC 296-17A-4816 Classification 4816.

4816-00 Farms: Internship program (to be assigned only by the agricultural specialist)

Applies to qualified farms engaged in providing an internship program for agricultural education. To qualify, the farm must hold a valid certification from labor and industries to provide an internship program that includes a curriculum of learning modules and supervised participation. The internship program is designed to teach farm interns about farming practices and farm enterprise.

Classification 4816 can only be assigned to those farms which have one of the following classifications assigned to their account as the governing classification: 4804, 4808, 7301, 7302, or 7307. For governing classification, reference: WAC 296-17-310171.

Special note: The term "farm intern" applies to those certified to participate in the farm internship program. Intern hours must be reported exclusively in classification 4816. All other farm employees hours are to be reported separately in the applicable farm classification that applies to the farm operation.

WSR 10-13-139
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 22, 2010, 4:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-09-101.

Title of Rule and Other Identifying Information: Chapter 296-17A WAC, Classifications for Washington workers' compensation insurance.

Hearing Location(s): Tumwater L&I Building, 7273 Linderson Way S.W., Tumwater, WA 98501, on July 28, 2010, at 10:00 a.m.

Date of Intended Adoption: August 24, 2010.

Submit Written Comments to: Ronald C. Moore, P.O. Box 44140, Olympia, WA 98501, e-mail smij235@lni.wa.gov, fax (360) 902-4729, by 5 p.m., July 28, 2010.

Assistance for Persons with Disabilities: Contact office of information and assistance by July 26, 2010, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is being proposed for housekeeping updates to a number of classifications in the workers' compensation program. The proposal is to correct text and reference errors, update language which has changed as a result of technology, and make classification instructions and/or definitions clearer.

- WAC 296-17A-0108-01 Sewer construction; septic tank installation, the purpose of the change is to update the language according to technology advancements in the industry.
- WAC 296-17A-0502 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal, remove the reference "(only to be assigned by the floor covering specialist)." There is no longer a floor covering specialist and this class may be assigned by any level 3 underwriter.
- WAC 296-17A-0510 Wood frame building: Construction or alterations, N.O.C., add clarifying reference to the guidelines for vinyl siding on a new addition vs. on an existing structure.
- WAC 296-17A-1007 Geophysical exploration, N.O.C., clarify multiple subclassifications for consistency and more accurate assignment to employer accounts. Presently there are contradictory statements in the classifications which we will correct.
- WAC 296-17A-1501 Community action organizations - all other employees N.O.C., update references to 6511 Chore service workers which have changed due to a recent rule making.
- WAC 296-17A-3403 Aircraft: Manufacturing, correct the WAC number referenced from WAC 296-17-58201 to 296-17A-3405. In 2007 we separated the classifications out into their own WAC section from chapter 296-17 WAC and created chapter 296-17A WAC. This is one reference that was missed in the change-over.
- WAC 296-17A-4904 Community action organizations - clerical office employees, update references to 6511 Chore service workers which have changed due to a recent rule making.
- WAC 296-17A-5308 Community action organizations - professional services and administrative employees, update references to 6511 Chore service workers which have changed due to a recent rule making.
- WAC 296-17A-6303 Outside sales personnel, N.O.C.; messengers, create a reference stating door to door sales are to be reported in classification 6309 Sales personnel, door to door.
- WAC 296-17A-7205 Life and rescue - emergency workers, correct a typographical error for the RCW reference from RCW 51.16.130 to 51.16.220.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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: Jo Anne Attwood, Tumwater, Washington, (360) 902-4777; Implementation: Ronald C. Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The change to WAC 296-17A-0502 does not require a small business economic impact statement (SBEIS) under RCW 34.05.310 (4)(b) because the change relates only to internal government operations. The remaining changes do not require a SBEIS under RCW 34.05.310 (4)(d) because they only correct typographical errors and clarify language without changing the effect of the sections being amended.

A cost-benefit analysis is not required under RCW 34.05.328. The change to WAC 296-17A-0502 does not require a cost-benefit analysis under RCW 34.05.328 (5)(b)(ii) because the change relates only to internal government operations. The remaining changes do not require a cost-benefit analysis under RCW 34.05.328 (5)(b)(iv) because they only correct typographical errors and clarify language without changing the effect of the sections being amended.

June 22, 2010
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-0108 Classification 0108.

0108-00 Ditches and canals, N.O.C.

Applies to contractors engaged in the construction of ditches and canals not covered by another classification (N.O.C.). A ditch or canal consists of a long trench dug in the ground that will remain uncovered to serve as an artificial waterway or artificially improved river such as for irrigation, drainage, or a boundary line. Work contemplated by this classification includes digging of main irrigation canals or drainage ditches and all laterals extending from the canal or ditch, installation of pipe, making connections as needed, and filling or backfilling as needed. Equipment used by contractors subject to this classification includes a variety of machinery and equipment such as power shovels, backhoes, bulldozers, dump trucks, and mechanical or hand tool trench diggers.

This classification excludes asphalt surfacing/resurfacing which is to be reported separately in classification 0210 or 0212, and concrete construction which is to be reported separately in the applicable concrete construction classification(s).

0108-01 Sewer construction; septic tank installation

Applies to contractors engaged in the construction or repair of new or existing sewer lines and systems. This includes, but is not limited to, sewers, cesspools, drainpools, storm drains, and septic tanks including the drainfield construction. Work contemplated by this classification includes the installation and maintenance of all types of storm, sanitary or sewage lines and systems. Installation of these types of pipelines and systems occur entirely, or in part, at a depth greater than 3'. This classification includes such activities as excavation, trench digging, leveling trench with fill material such as sand or gravel, filling or backfilling, installation of force main type sewage work, the installation of storm sewer lines including the outfall construction of drain concrete boxes, catch basins, manholes, handling and laying of pipe (regardless of the size of pipe or depth below the ground), making connections, etc. Equipment used by contractors subject to this classification includes a variety of machinery and equipment such as power shovels, backhoes, bulldozers, dump trucks, ~~((and mechanical or manual trench diggers))~~ trenchless or directional boring equipment, and manual digging.

This classification excludes side sewer hookups (street to house) when performed by a plumbing contractor as part of a plumbing contract which is to be reported separately in classification 0306; and sewer pipe cleaning including services engaged in line cleaning and unplugging of waste lines which is to be reported separately in classification 0306.

0108-02 Tanks, N.O.C. - underground: Installation, repair, or removal

Applies to contractors engaged in the installation, repair or removal of underground tanks not covered by another classification (N.O.C.) such as those used to store gas or oil. Activities include excavating or digging of holes, placement or removal of tank, and filling or backfilling. This classification makes no distinction as to the size of tank being placed or removed. Usually, the actual lifting into or out of the ground occurs with the use of a power shovel, front end loader or backhoe. Equipment used by contractors subject to this classification includes a variety of earth moving equipment such as power shovels, front end loaders, backhoes, bulldozers, and dump trucks.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-0502 Classification 0502.

0502-04 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal

Applies to contractors engaged in the installation or removal of floor or counter top coverings such as, but not limited to, wall to wall carpet, vinyl, laminate, tile, or artificial turf in residential or commercial settings. Work contemplated by this classification includes, but is not limited to, the installation and/or removal of foam or rubber padding, floor coverings such as rugs or carpet, tack strips, door strips, sub-flooring (particle board or plywood), linoleum, vinyl, base board or door strips, and hauling existing floor covering

debris away. This classification also includes the installation of clay or ceramic tiles on counter tops and backsplashes.

This classification excludes contractors engaged in the installation of counter tops as part of an interior finish carpentry or cabinetry contract which is to be reported separately in classification 0513; the installation of hardwood floors which is to be reported separately in classification 0513; the installation of brick, slate, marble or granite which is to be reported separately in classification 0302; installation of roofing tiles which is to be reported separately in classification 0507; and floor covering stores which are to be reported separately in the applicable classification.

0502-99 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal ((only to be assigned by the floor covering specialist))

Applies to floor covering contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

WAC 296-17A-0510 Classification 0510.

0510-00 Wood frame building: Construction or alterations, N.O.C.

Applies to contractors engaged in wood frame building construction or alterations not covered by another classification (N.O.C.). For the purposes of this classification, wood frame building construction means buildings erected exclusively of wood or wood products. This classification includes all building framing activities done in connection with wood frame building construction including the placement of roof trusses, sheathing roofs, installation of exterior building siding, and the installation of exterior doors and door frames. This classification also includes the installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract on a wood frame building. This classification also includes the erection of log home shells at customer's location. The manufacturing of log homes in a permanent yard which includes peeling the logs, notching the logs with chainsaws, and assembly is to be reported in classification 1003-06.

This classification excludes all other phases of wood frame building construction not listed as part of the framing activities above such as, but not limited to, site preparation and excavation (0101); overhead or underground utilities, asphalt work, or concrete work which is to be reported separately in the applicable classification; new landscape work (0301); brick work (0302); stucco work (0303); plumbing work (0306); HVAC work (0307); carpet and tile work (0502); exterior painting (0504); roof work (0507); insulation work (0512); interior finish carpentry - interior doors, cabi-

nets, fixtures or molding (0513); installation of garage doors (0514); installation of sheet metal siding, gutters, and non-structural sheet metal patio covers/carports (0519); interior painting (0521); electrical work (0601) or wallboard installation, taping or texturing which are to be reported separately in the applicable classifications. For a more thorough description of the activities included and excluded from wood frame building construction, review the Construction Industry Guide.

Special note: Classification 0510 also includes wood frame building alterations or remodel work when the activity involves building new additions. The term "new additions" is defined as adding on to an existing wood frame building (upwards or outwards) in which the use of structural supports and main bearing beams is required. This is distinguishable from classification 0516 - building repair or carpentry work that typically does not require the placement of structural supports or main bearing beams. The purpose of classification 0516 is to build or rebuild with nonstructural or bearing beams, or to replace an existing portion (including existing structural and bearing beams) of a wood frame building for appearances or as a result of deterioration to make it appear new again. Care should be exercised as the terminology to build, rebuild, remodel, construct or reconstruct is irrelevant to assignment of classification which should recognize what the project actually involves.

Guidelines:

Constructing a new wood frame building that never existed - 0510

Altering all or part of an existing wood frame building by adding on new additions - 0510

Remodeling all or part of an existing wood frame building *without* adding on new additions - 0516

Installation of wood or vinyl siding on a new or existing wood frame building - 0510

Installation of wood or vinyl siding on a new addition by the remodeling contractor - 0510-02

Installation of wood or vinyl siding on an existing structure by a remodeling contractor - 0516-00

Constructing a new wood garage that never existed - 0510

Altering all or part of an existing wood garage by adding on new additions - 0510

Remodeling all or part of an existing wood garage without adding on new additions - 0516

Constructing a new wood carport or wood shed that never existed - 0510

Rebuilding an existing wood carport or wood shed (all or part) with or without new additions - 0516

Construction of a new wood deck by the framing contractor when a new wood house is being built - 0510

Constructing or replacing a wood deck on an existing wood house - 0516

Constructing or replacing a wood deck for any type of nonwood building - 0516

Altering the existing interior of a wood frame building by adding exterior additions - 0510

Remodeling the existing interior of a wood frame building without adding exterior additions - 0516

Constructing, altering, or remodeling the interiors of nonwood frame buildings - 0516

Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract of a wood frame building - 0510.

0510-99 Wood frame building: Construction or alteration, N.O.C. (only to be assigned by the wood framing specialist)

Applies to framing contractors, who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1007 Classification 1007.

1007-08 Geophysical exploration, N.O.C.

Applies to contractors engaged in geophysical exploration, with no core drilling, and without seismic detection, who are not covered by another classification (N.O.C.). The more common methods of geophysical exploration are gravitational, electric and magnetic. In the gravitational method, delicate pendulums and torsion balances capable of detecting differences in the gravitational pull of the earth at various places enable the geologist to tell where oil is likely to be found. There are two electrical methods, resistivity and inductive. In the resistivity method, measurements are taken on an ohmmeter, which indicate the resistivity of the subsurface. The inductive method is somewhat comparable, but instead of determining the resistivity of the subsurface formations, the conductivity is measured enabling the geologist to determine the character of the subsurface being studied. The magnetic method is accomplished by means of a highly developed form of magnetic dipping needle with a telescope magnifier. The magnetic attraction exerted by magnetic rocks and formations causes the needle to deflect from its horizontal plane, thereby enabling a geologist to develop contour maps with lines of equal magnetic attraction. This classification includes prospectors who may specialize in particular instrumentation such as electrical, gravity, magnetic or seismic. The prospector studies structure of subsurface rock formations to locate petroleum deposits; conducts research using geophysical instruments such as seismograph, gravimeter, torsion balance, and magnetometer, pendulum devices, and electrical resistivity apparatus to measure characteristics of the earth; computes variations in physical forces existing at different locations and interprets data to reveal subsurface structures likely to contain petroleum deposits; and determines desirable locations for drilling operations. This classification includes prospecting for mineral ores and the testing of soil for percolation when performed by employees of an employer subject to this classification.

This classification excludes core drilling and seismic geophysical exploration which are to be reported separately in classification 0103, and geophysical crews employed by oil companies who are to be reported in the classification applicable to the business.

Special note: When assigning classifications 1007-08, 4901-16 - Geologists, and 0103-10 - Seismic geophysical exploration, care must be taken to look beyond the word "geologist" to determine the actual nature of the activities being performed.

1007-09 Testing and inspecting of pipelines or utility lines using radiographic, video, infrared thermography or X-ray analysis process by contractor at industrial plants or construction sites

Applies to establishments engaged in the testing or inspecting of pipelines, utility lines or conduits for others, provided the testing or inspecting is not performed in conjunction with the construction of the pipeline. This classification includes testing or inspecting involving radiographic, video, infrared thermography or X-ray analysis processes such as the X raying of containers, inspecting of utility lines, and the drawing of oil samples on-site when performed by employees of an employer subject to this classification. Classification 1007-09 is assigned primarily to field activities.

This classification excludes testing or inspecting done in conjunction with construction which is to be reported separately in the appropriate construction classification.

1007-15 Inspection and grading bureaus, N.O.C.; log scaling and grading bureaus; lumber inspection services; weigh scale attendants, N.O.C.; weather stations; rain-making - no aircraft; air flow/heat balancing and testing

Applies to establishments operating as *inspection and grading bureaus*, not covered by another classification (N.O.C.), including, but not limited to, those involved in inspecting and grading commodities such as logs, lumber, shingles, shakes, poles, and railroad ties. The commodity is examined and stamped with a grademark which indicates the grade, species, producer's name or number and other pertinent data. A certificate of inspection may be issued in lieu of a grademark. The purpose of the inspection is to grade, tally, and stamp only those products which meet certain required specifications and to cull those products which do not meet the established standards. *Log scaling and grading bureaus* measure the logs, and by applying log rule formulas, determine the net yield, usually expressed in board feet. A scale ticket containing descriptive data is attached to the end of the log. This classification also applies to *weigh scale attendants* not covered by another classification (N.O.C.), when the service is available to the general public, otherwise the weigh scale attendants are to be included in the basic classification of the business. This classification includes establishments engaged exclusively in such services as auto emission control testing, air flow balancing and testing, the balancing and testing of heating, ventilating and air conditioning systems, hydrostatic testing of such objects as boilers, tanks, pipes and fittings using compressed air or water pressure to detect leaks, the strength testing of building material such as, but not limited to, asphalt, concrete and steel; and the testing or inspecting of steel weldments. This classification also

includes *weather stations* which observe and record weather conditions for use in forecasting, and which read weather instruments, including thermometers, barometers, and hygrometers to ascertain elements such as temperature, barometric pressure, humidity, wind velocity, and precipitation. Weather data is transmitted and received also from other stations. A fully automated (computerized) weather station can be reported under classification 4904. This classification also covers rainmaking without the use of aircraft.

~~((**Special note:** Classification 1007, classification 5001, and classification 5004, shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.))~~

1007-16 Foresters (to be assigned only by reforestation underwriter)

Applies to foresters engaged in forest management. Foresters may plan and direct forestation or reforestation projects, map forest areas, estimate standing timber and future growth, or manage timber sales. Foresters also may plan cutting programs to assure continuous production of timber, and determine methods of cutting and removing timber with a minimum of waste and environmental damage. They may plan and design forest fire suppression and fire-prevention programs, plan and design construction of fire towers, trails, roads and fire breaks and may also plan and design projects for control of floods, soil erosion, tree diseases, and insect pests in forests. Foresters may specialize in one aspect of forest management.

This classification excludes manual labor or direct supervision of manual labor.

1007-18 Foresters and timber cruisers - scientific tree, forestry, and watershed studies (to be assigned only by reforestation underwriter)

Applies to establishments engaged in scientific tree studies for others. Scientific tree studies are research oriented; random sample plots are measured and data such as the size of trees, species, disease and insect or animal damage, and seedling mortality, are recorded. Plots are maintained where each tree is tagged, its genealogy recorded, and growth statistics entered. A scion (a detached living shoot or twig) may be grafted onto a root stock and detailed records maintained of its genealogy and growth. Other data, such as fertilizers used, also may be maintained. These test plots are sometimes referred to as progeny plots or progeny studies. This classification includes scientific studies of watersheds or watershed restoration which involves the evaluation of slopes, road systems, streams and the entire ecosystem (an ecological community with its physical environment, regarded as a unit). This classification also includes precommercial thinning layouts or pruning inspections to determine if an area is ready for thinning or pruning.

This classification excludes manual labor or direct supervision of manual labor.

~~((**Special note:** Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the con-~~

~~ditions set forth in the general reporting rules covering the operation of a secondary business have been met.))~~

1007-19 Timber cruisers (to be assigned only by reforestation underwriter)

Applies to timber cruisers engaged in cruising timber land to estimate the volume and quality of a timber stand through an on-site visual inspection. A timber cruiser collects data concerning forest conditions for appraisal, sales, administration, logging, land use, and forest management planning. A forest area is traversed on foot in an established pattern and sampling techniques applied. The height and diameter of each tree in a test site is recorded as are defects such as rot and bends, to estimate the useable wood in each tree. From the data collected a summary report is prepared giving the timber types, sizes, condition and outstanding features of an area, such as existing roads, streams, and communication facilities. Trees may be marked with spray paint to denote trail, boundary, or for cutting.

This classification excludes manual labor or direct supervision of manual labor.

1007-20 Foresters and timber cruisers - tree auditing (to be assigned only by reforestation underwriter)

Applies to establishments engaged in tree auditing for others. This service is generally associated with new plantations and is the process of evaluating the quality and the rate of planting of new trees, as well as surveying newly planted sites on a periodic schedule to determine the survival rate.

This classification excludes tree auditing services when planting is in process, which is to be reported separately in classification 5004(~~(, and manual labor or direct supervision of manual labor)~~).

~~((**Special note:** Classification 1007, classification 5001, and classification 5004 shall not be assigned to the same business unless the operations described by these classifications are conducted as separate and distinct businesses and the conditions set forth in the general reporting rules covering the operation of a secondary business have been met.))~~ This classification excludes manual labor or direct supervision of manual labor.

1007-21 Environmental and ecological surveyor services, N.O.C.

Applies to establishments engaged in providing environmental and ecological surveying services not covered by another classification (N.O.C.) for others. Environmental and ecological surveying firms typically serve as consultants to industrial or commercial enterprises, governmental agencies or private citizens. Environmental engineer is a term applied to engineering personnel who apply knowledge of chemical, civil, mechanical, or other engineering disciplines to preserve the quality of life by correcting and improving various areas of environmental concern, such as air, soil, or water pollution. Services include identifying and projecting potential environmental impact resulting from proposed projects, assessing the source, severity and extent of environmental damage resulting from human or natural causes, and recommending solutions to protect or regain the natural balance between organisms and their environment. Activities of environmental surveying/consulting establishments include, but are not limited to, locating archaeological sites for preserva-

tion, researching and collecting field data on birds and insects, preparing impact statement for landowners and developers, stream and fish monitoring, botanical surveys, wetland surveys, soil and ground water testing for contamination, air monitoring including industrial hygiene services, monitoring and testing at hazardous waste sites, providing advice on pollution control at its source, and developing a plan for cleaning up already recognized problems such as waste disposal sites, radon or asbestos contamination. Other services provided may include helping clients develop a system for complying with various governmental regulations. This classification includes employees of the environmental surveying service who conduct field work as well as those who are assigned to act as project managers or project superintendents to oversee the work of remediation contractors.

This classification excludes all types of remediation work which is to be reported separately in the classification applicable to the type of remediation work being performed, and surveyors employed by construction companies or other types of businesses who are to be reported separately in the applicable classifications.

Special note: When assigning classifications 1007 or 4901, care must be taken to look beyond the words "consulting" or "engineering" to determine the actual nature of the activities being performed.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/09)

WAC 296-17A-1501 Classification 1501.

1501-00 Counties and taxing districts, N.O.C. - all other employees

Applies to employees of counties and taxing districts, not covered by another classification (N.O.C.), who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators including transit bus drivers. This classification includes administrative personnel such as engineers, safety inspectors, and biologists who have field exposure, and internal inventory and supply clerks. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to or from a work assignment.

This classification excludes electric light and power public utility districts which are to be reported separately in classification 1301; privately owned and operated bus or transit systems which are to be reported separately in classification 1407; water distribution or purification system public utility districts which are to be reported separately in classification 1507; irrigation system public utility districts which are to be reported separately in classification 1507; port districts which are to be reported separately in classification 4201; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905 and 6906, as appropriate; clerical office and administrative employees who are to be reported separately in classification 5306, and volun-

teers who are to be reported separately in classifications 6901 or 6906, as appropriate.

1501-01 Housing authorities, N.O.C. - all other employees

Applies to employees of housing authorities, not covered by another classification, who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes all functional operations of a housing authority such as inspection, maintenance and repairs, including minor structural repairs, janitorial service, and building and grounds maintenance. Also included in this classification are meter readers, security personnel, other than those with law enforcement powers, administrative personnel such as engineers and safety inspectors who have field exposure, and internal inventory and supply clerks. For purposes of this classification, housing authorities are defined as nonprofit, public and political entities which serve the needs of a specific city, county or Indian tribe. The nature and objectives of some of the projects undertaken by housing authorities include providing decent, safe and sanitary living accommodations for low income persons, or providing group homes or halfway houses to serve developmentally or otherwise disabled persons or juveniles released from correctional facilities. A housing authority has the power to prepare, carry out, lease and operate housing facilities; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project; to sell or rent dwellings forming part of the project to or for persons of low income; to acquire, lease, rent or sell or otherwise dispose of any commercial space located in buildings or structures containing a housing project; to arrange or contract for the furnishing of the units; and to investigate into the means and methods of improving such conditions where there is a shortage of suitable, safe and sanitary dwelling accommodations for persons of low income.

This classification excludes new construction or major alteration activities which are to be reported separately in the appropriate construction classifications; clerical office and administrative employees who are to be reported separately in classification 5306; security personnel with law enforcement powers who are to be reported separately in classification 6905; and volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

1501-08 Native American tribal councils - all other employees

Applies to employees of Native American tribal councils who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes administrative personnel such as engineers, safety inspectors, and biologists who have field exposure, and internal inventory and supply clerks of the tribal council. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to and from a work assignment.

This classification excludes electric light and power public utility districts which are to be reported separately in classification 1301; water distribution or purification system public utility districts which are to be reported separately in clas-

sification 1507; irrigation system public utility districts which are to be reported separately in classification 1507; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classifications 6905 and 6906; new construction or reconstruction activities which are to be reported separately in the appropriate construction classification; clerical office and administrative employees who are to be reported separately in classification 5306.

Special notes: Housing authorities operating under the name of, and for the benefit of, a particular tribe are not exempt from mandatory coverage. These housing authorities are federally funded and are not owned or controlled by a tribe.

Only those tribal operations which are also provided by county governments are subject to classification 1501. The following activities, such as but not limited to, visiting nurses and home health care, grounds keepers, building maintenance, park maintenance, road maintenance, and garbage and sewer works, are considered to be normal operations to be included in this classification. All other tribal council operations which are not normally performed by a county government shall be assigned the appropriate classification for the activities being performed. The following operations, such as but not limited to, meals on wheels, bingo parlors, casinos, liquor stores, tobacco stores, grocery stores, food banks, gift shops, restaurants, motels/hotels, Head Start programs, fish/shellfish hatcheries, logging, and tree planting/reforestation are outside the scope of classification 1501 and are to be reported separately in the applicable classifications.

1501-09 Military base maintenance, N.O.C.

Applies to establishments, not covered by another classification (N.O.C.), engaged in providing all support operations and services on a military base on a contract basis. Such services include, but are not limited to, data processing, photography, mail delivery (on post and to other military facilities), hotel/motel services, mess halls, recreational facilities, grounds and building maintenance, vehicle maintenance, and may also include the maintenance of such facilities as water works, sewer treatment plants and roads.

This classification excludes new construction or construction repair projects which are to be reported separately in the applicable construction classification for the work being performed; contracts for specific activities on a military base such as, but not limited to, building maintenance, club or mess hall operations, or vehicle maintenance, which are to be reported separately in the applicable classification for the work being performed; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905; and clerical office and administrative employees who are to be reported separately in classification 5306.

Special note: Classification 1501-09 is to be assigned to an establishment only when *all* support services on a military base are being provided by the contractor. Care should be taken when assigning classification 1501-09 to firms whose military support services include loading, unloading, repair

or construction of vessels, or the repair of buildings or structures used for such activities as that firm may be subject to federal maritime law.

1501-20 Community action organizations - all other employees N.O.C.

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations may include, but are not limited to: Child care; after school care; alternative schools; in home chore services; employment or independence training, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens; transitional or emergency housing; weatherization; food and clothing banks; meals; or medical services.

This classification applies to employees of community action organizations N.O.C. (not otherwise classified) who perform manual-type labor, or who supervise a work crew performing manual labor. Work in this classification includes, but is not limited to: Cooks, food banks, drivers, (~~chore workers/home service workers,~~) janitorial or maintenance and repair work, or weatherization services.

Excluded from this risk classification is new construction or major alteration activities which are to be reported separately in the appropriate construction classifications; office employees who work exclusively in an administrative office environment who are to be reported in classification 4904-20; professional or administrative employees who may also have duties outside of the office who are to be reported in classification 5308-20; chore workers/home service workers who are to be reported in classification 6511-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers which are to be reported in 7309; and volunteers who are to be reported in classification 6901.

See classifications 5308-20 and 4904-20 for other community action operations.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3403 Classification 3403.

3403-00 Aircraft: Manufacturing

Applies to establishments engaged in the manufacture of aircraft. For the purposes of this classification "aircraft manufacturing" means the original manufacture of such aircraft as distinguished from rebuilding, modifying, or converting existing aircraft and applies *only* to the production of units that, when completed, are capable of in-air flight as distinguished from aircraft kits to be assembled by the purchaser that are not capable of air flight when sold. This classification includes aircraft operations incidental to the manufacture, such as test flights.

This classification excludes establishments engaged in the original manufacture of aircraft parts which are to be reported separately in classification 3405 or as otherwise provided for in WAC (~~(296-17-5820+)~~) 296-17A-3405; the manufacture of aircraft kits which is to be reported separately in the classification applicable to the work being performed;

modification, repair or conversions made to an existing aircraft which are to be reported separately in classification 6804; and the *assembly of aircraft kits into an airplane* which is to be reported separately in classification 6804.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/09)

WAC 296-17A-4904 Classification 4904.

4904-00 Clerical office, N.O.C.

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering clerical office standard exception employees who are not covered by another classification (N.O.C.) assigned to their employer's account. Duties of clerical office personnel contemplated by this classification are limited to answering telephones, handling correspondence, creating or maintaining financial, employment, personnel or payroll records, composing informational material on a computer, creating or maintaining computer software, and technical drafting.

Special note: When considering this classification, care must be taken to look beyond titles of employees. Employees with occupational titles such as, but not limited to, cashiers, clerks, or ticket sellers, may or may not qualify for this classification. This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

4904-13 Clerical office: Insurance companies, agents or brokers

Applies to clerical office employees of insurance companies, including insurance agents or brokers who perform duties exclusively of clerical nature and without an interchange of labor between clerical and nonclerical duties. This classification is limited to duties defined as responding to telephone inquiries, assisting walk-in customers, handling correspondence such as the preparation of insurance policies and billing, receiving and processing payments and invoices, maintaining personnel and payroll records, and performing the necessary computer work.

Special note: Individuals performing duties as an agent, broker, or solicitor (and hold a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010, 48.17.020, and 48.17.030. To elect voluntary coverage these individuals must submit a completed optional coverage form to the department. In addition, care should be exercised to determine if the insurance company employs individuals such as receptionists, bookkeepers, or claims clerks who perform clerical duties which may include the incidental taking of insurance applications and receiving premiums in the office of an agent or broker. Such individuals may or may not hold a license as issued by the office of the insurance commissioner, and are not deemed to be a solicitor, agent or broker when compensation is not related to the volume of such applications, insurance, or premiums. In these instances, the clerical individuals fall under mandatory workers' compensation coverage, and do not meet the requirements to be exempt from coverage as specified in RCW 51.12.020(11).

4904-17 Clerical office: Employee leasing companies

Applies to clerical office employees of employee leasing companies. This classification requires that clerical office employees perform duties exclusively of a clerical nature, without an interchange of labor between clerical and nonclerical duties, and that these duties be performed in an area or areas separated from the operative hazards of the business. This classification is limited to duties defined as responding to telephone inquiries, receptionist and administrative duties, handling correspondence such as preparing and processing billing statements and forms, maintaining personnel and payroll records, and performing the necessary computer entry work.

Special note: This is a standard exception classification and is not to be assigned unless all the conditions of the general reporting rule covering clerical office standard exception employees have been met.

4904-20 Community action organizations - Clerical office employees

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations include: Child care; after school care; alternative schools; in-home chore services; employment or independence training, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens; transitional or emergency housing; weatherization; food and clothing banks; meals; medical services.

This classification includes employees whose work duties include administrative office work such as answering phones, completing correspondence and forms, reception work, computer work, maintaining financial, personnel and payroll records, conducting meetings, providing counseling services within the offices of the organization. All work is performed exclusively in an office environment where no other types of work are conducted, and the office is separated from any other work activity by walls, partitions, or other physical barriers. Work performed outside of the office is limited to banking or post office type duties performed by workers who qualify for this classification. A worker's reported hours may not be divided between this classification and any other risk classifications.

Excluded from this risk classification are all other employees including: Medical, dental or nursing professionals, and administrative employees whose duties are not performed exclusively in an administrative office, who are to be reported in risk classification 5308-20; chore workers/home service workers who are to be reported in 6511-20; employees who perform labor such as (~~cooking, cleaning and chore services~~) food bank operations, driving, weatherization, janitorial, property management, maintenance and repair work which are to be reported in risk classification 1501-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers which are to be reported in 7309; and volunteers who are to be reported separately in classification 6901.

See classifications 1501-20 and 5308-20 for other community action operations.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/09)

WAC 296-17A-5308 Classification 5308.

5308-20 Community action organizations - Professional services and administrative employees

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations include: Child care; after school care; alternative schools; in-home chore services; employment or independence training, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens; transitional or emergency housing; weatherization; food and clothing banks; meals; medical services.

This classification applies to professional services and administrative employees. Work duties in this classification are not performed exclusively in an administrative office environment. Travel may be necessary to perform work at an alternate work site for appointments with clients, patients, meetings, presentations, agency promotions, or other required out-of-office administrative type work. Work performed in this classification may include, but is not limited to, counselors or educators for various programs, medical, dental and nursing services; child care professionals or teachers, program coordinators and directors. Also included are estimators and project managers who do not supervise a work crew or perform any type of labor.

Excluded from this risk classification is any manual labor or supervision of a work crew that performs manual labor, construction or maintenance work, work in a food bank, delivery, (~~cooking, cleaning, chore services,~~) or other similar work which is to be reported in risk classification 1501-20; chore workers/home service workers who are to be reported in 6511-20; office employees who work exclusively in an administrative office environment who are to be reported in risk classification 4904-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers which are to be reported in 7309; and volunteers who are to be reported in risk classification 6901.

See classifications 1501-20 and 4904-20 for other community action operations.

AMENDATORY SECTION (Amending WSR 09-20-039, filed 9/30/09, effective 1/1/10)

WAC 296-17A-6303 Classification 6303.

6303-00 Outside sales personnel, N.O.C.; messengers

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering outside sales personnel, and who are not covered by another classification (N.O.C.) assigned to the employer's account. Duties of outside sales personnel contemplated by this classification are limited to soliciting new customers by telephone or in person, showing, selling, and explaining products or services, servicing existing accounts, completing correspondence, placing orders, performing public relations duties, and estimating. Duties of messengers are

limited to delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business.

This classification excludes the delivery of products or merchandise or the stocking of shelves which is to be reported separately as applicable; the demonstration or delivery of machinery or equipment which are to be reported separately as applicable, establishments engaged as collection agencies or public relations agencies which are to be reported separately in classification 5301; sales personnel engaged in home or door-to-door sales which are to be reported in classification 6309; establishments engaged in providing inspection and valuations exclusively for insurance companies which are to be reported separately in classification 4903; establishments engaged in process and legal messenger services which are to be reported separately in classification 6601.

Special note: When considering this classification care must be taken to look beyond titles of employees. Employees with occupational titles such as, but not limited to, collectors, counselors, consultants, or appraisers may or may not qualify for this classification. This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

6303-03 Insurance sales personnel and claims adjusters

Applies to insurances sales personnel and claims adjusters with outside duties. Duties of employees subject to this classification are limited to selling insurance policies at their place of business or at the client's home, or going to the scene of an accident or catastrophe to assess damage. Work may be performed within an office or away from the employer's premises.

Special note: Individuals performing duties as an agent, broker, or solicitor (and hold a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010, 48.17.020, and 48.17.030. To elect voluntary coverage these individuals must submit a completed optional coverage form to the department.

6303-21 Home health care services: Social workers and dietitians

Applies to social workers and dietitians employed by home health care service establishments who provide care for handicapped individuals. Duties of these employees include teaching physically or developmentally disabled individuals in their own home to manage daily living skills such as caring for themselves, dressing, cooking, shopping, and going to the doctor. This classification also includes dietitians, sometimes called nutritionists, who usually are referred to patients by their physicians. The dietitian assesses the patient's current nutritional status, including current food intake, medical background, family history, currently prescribed medications, and social and psychological needs, then develops a food plan to meet the patient's needs. Employees subject to this classification do no cooking.

This classification excludes nursing and home health care services which are to be reported separately in classification 6110; therapy services which are to be reported separately

rately in classification 6109; domestic servants who are to be reported separately in classification 6510; and chore workers who are to be reported separately in classification 6511.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met. *This classification is not to be assigned to any account that does not also have classification 6110 and/or 6511.*

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-7205 Classification 7205.

Life and rescue - Emergency workers

Applies to employees of nongovernmental employers provided in response to a request for assistance by a state or local official in the "life and rescue phase" of a declared emergency. This classification is only applicable for reporting the exposures (worker hours and claims) of nongovernmental employees occurring during this phase of the declared emergency. The phrase "life and rescue phase" is defined in RCW ((~~51.16.130(3))~~) 51.16.220 as being the first seventy-two hours after a natural or man-made disaster has occurred. To qualify for this special classification, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing disaster survivors.

WSR 10-13-143

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2009-19—Filed June 23, 2010, 7:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-23-062.

Title of Rule and Other Identifying Information: Utilization review of medical services.

Hearing Location(s): OIC Tumwater Office, Training Room 120, 5000 Capitol Boulevard, Tumwater, WA, <http://www.insurance.wa.gov/about/directions.shtml>, on July 27, 2010, at 10:00 a.m.

Date of Intended Adoption: August 9, 2010.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail kacys@oic.wa.gov, fax (360) 586-3106, by July 26, 2010.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by July 26, 2010, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 284-43-410 was originally adopted in 2001. RCW 48.165.050 was enacted in 2009 and requires the development of guidelines

to require payers (health carriers) to use common and consistent time frames when responding to provider requests for preauthorization of medical services. The statute also directs that the time frames, when possible, shall be consistent with those established by leading national organizations and be based upon the acuity of the patient's need for care or treatment. The proposed rule amends WAC 284-43-410 to comply with the directions of RCW 48.165.050. The rule change will promote more standardization of the terminology and time frames used for health carrier preauthorization processes and will reduce the administrative burden of the preauthorization processes on health care providers.

Reasons Supporting Proposal: This proposed amendment would eliminate a conflict with RCW 48.165.050 and help standardize the deadlines for health carrier responses to preauthorization requests. The proposed changes have been developed through a collaborative process involving health carriers and health care providers and have been endorsed by that group.

Statutory Authority for Adoption: RCW 48.02.060, 48.-43.520.

Statute Being Implemented: RCW 48.165.050 and 48.-43.520.

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: Pete Cutler, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-9651; 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. None of the current domestic health care service contractors or health maintenance organizations meets the definition of small business under the law. Therefore, no small business economic impact statement is required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 725-7041, fax (360) 586-3109, e-mail kacys@oic.wa.gov.

June 23, 2010

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2000-02, filed 1/9/01, effective 7/1/01)

WAC 284-43-410 Utilization review—Generally. (1) These definitions apply to this section:

(a) "Concurrent care review request" means any request for an extension of a previously authorized inpatient stay or a previously authorized ongoing outpatient service, e.g., physical therapy, home health, etc.

(b) "Immediate review request" means any request for approval of an intervention, care or treatment where passage of time without treatment would, in the judgment of the pro-

vider, result in an imminent emergency room visit or hospital admission and deterioration of the patient's health status. Examples of situations that do not qualify under an immediate review request include, but are not limited to, situations where:

(i) The requested service was prescheduled, was not an emergency when scheduled, and there has been no change in the patient's condition;

(ii) The requested service is experimental or in a clinical trial;

(iii) The request is for the convenience of the patient's schedule or physician's schedule; and

(iv) The results of the requested service are not likely to lead to an immediate change in the patient's treatment.

(c) "Nonurgent preservice review request" means any request for approval of care or treatment where the request is made in advance of the patient obtaining medical care or services and is not an urgent care request.

(d) "Postservice review request" means any request for approval of care or treatment that has already been received by the patient.

(e) "Urgent care review request" means any request for approval of care or treatment where the passage of time could seriously jeopardize the life or health of the patient, seriously jeopardize the patient's ability to regain maximum function, or, in the opinion of a physician with knowledge of the patient's medical condition, would subject the patient to severe pain that cannot be adequately managed without the care or treatment that is the subject of the request.

~~((4))~~ (2) Each carrier shall maintain a documented utilization review program description and written clinical review criteria based on reasonable medical evidence. The program must include a method for reviewing and updating criteria. Carriers shall make clinical review criteria available upon request to participating providers. A carrier need not use medical evidence or standards in its utilization review of religious nonmedical treatment or religious nonmedical nursing care.

~~((2))~~ (3) The utilization review program shall meet accepted national certification standards such as those used by the National Committee for Quality Assurance except as otherwise required by this chapter and shall have staff who are properly qualified, trained, supervised, and supported by explicit written clinical review criteria and review procedures.

~~((3))~~ (4) Each carrier when conducting utilization review shall:

(a) Accept information from any reasonably reliable source that will assist in the certification process;

(b) Collect only the information necessary to certify the admission, procedure or treatment, length of stay, or frequency or duration of services;

(c) Not routinely require providers or facilities to numerically code diagnoses or procedures to be considered for certification, but may request such codes, if available;

(d) Not routinely request copies of medical records on all patients reviewed;

(e) Require only the section(s) of the medical record during prospective review or concurrent review necessary in that specific case to certify medical necessity or appropriateness

of the admission or extension of stay, frequency or duration of service;

(f) For prospective and concurrent review, base review determinations solely on the medical information obtained by the carrier at the time of the review determination;

(g) For retrospective review, base review determinations solely on the medical information available to the attending physician or order provider at the time the health service was provided;

(h) Not retrospectively deny coverage for emergency and nonemergency care that had prior authorization under the plan's written policies at the time the care was rendered unless the prior authorization was based upon a material misrepresentation by the provider;

(i) Not retrospectively deny coverage or payment for care based upon standards or protocols not communicated to the provider or facility within a sufficient time period for the provider or facility to modify care in accordance with such standard or protocol; and

(j) Reverse its certification determination only when information provided to the carrier is materially different from that which was reasonably available at the time of the original determination.

~~((4))~~ (5) Each carrier shall reimburse reasonable costs of medical record duplication for reviews.

~~((5))~~ (6) Each carrier shall have written procedures to assure that reviews and second opinions are conducted in a timely manner.

(a) Review ~~((determinations must be made within two business days of receipt of the necessary information on a proposed admission or service requiring a review determination))~~ time frames must be appropriate to the severity of the patient condition and the urgency of the need for treatment, as documented in the review request.

(b) ~~((The frequency of reviews for the extension of initial determinations must be based upon the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity))~~ If the review request from the provider is not accompanied by all necessary information, the carrier will tell the provider what additional information is needed and the deadline for its submission. Upon the sooner of the receipt of all necessary information or the expiration of the deadline for providing information, the time frames for carrier review determination and notification will be no less favorable than federal Department of Labor standards, as follows:

(i) For immediate request situations, within one business day when the lack of treatment may result in an emergency visit or emergency admission;

(ii) For concurrent review requests, as soon as possible, taking into account the medical exigencies, and no later than twenty-four hours, provided that the request is made at least twenty-four hours prior to the previously approved period of time or number of treatments;

(iii) For urgent care review requests, within forty-eight hours;

(iv) For nonurgent preservice review requests, within five calendar days; or

(v) For postservice review requests, within thirty calendar days.

(c) ~~(Retrospective review determinations must be completed within thirty days of receipt of the necessary information.~~

~~(d))~~ Notification of the determination shall be provided as follows:

(i) Information about whether a request was approved or denied shall be made available to the attending physician ~~((or)), ordering provider ~~((or)), facility, and ~~((to the))~~ covered person ~~((within two days of the determination and shall be provided within one day of concurrent review determination))~~ on the carrier's web site or from the carrier's call center.~~~~

(ii) Whenever there is an adverse determination the carrier shall notify the ordering provider or facility and the covered person. For example, when a request is denied or requested services are not approved in full. The carrier must inform the parties in advance of how it will provide notification whether by phone, mail, fax, or other means.

(d) As appropriate to the type of request, notification shall include the number of extended days, the next anticipated review point, the new total number of days or services approved, and the date of admission or onset of services.

~~((6))~~ (e) The frequency of reviews for the extension of initial determinations must be based upon the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity.

(7) No carrier may penalize or threaten a provider or facility with a reduction in future payment or termination of participating provider or participating facility status because the provider or facility disputes the carrier's determination with respect to coverage or payment for health care service.

WSR 10-13-144

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2010-03—Filed June 23, 2010, 7:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-08-052.

Title of Rule and Other Identifying Information: Excess flood or business interruption insurance market assistance plan.

Hearing Location(s): Insurance Commissioner's Office, TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, on August 2, 2010, at 1:00 p.m.

Date of Intended Adoption: August 3, 2010.

Submit Written Comments to: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, e-mail jimt@oic.wa.gov, fax (360) 586-3109, by July 30, 2010.

Assistance for Persons with Disabilities: Contact Lorrie [Lorie] Villaflores by July 30, 2010, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 230, Laws of 2010, provides that the commissioner must by rule establish a market assistance plan to assist persons located in the geographical area protected by any dam that are unable to

purchase excess flood or business interruption insurance in an adequate amount from either the admitted or nonadmitted market. These proposed rules will allow the commissioner to establish this market assistance plan so that excess flood insurance and business interruption insurance is available for sale and issue.

Reasons Supporting Proposal: Chapter 230, Laws of 2010, provides that the commissioner must by rule establish a market assistance plan to assist persons located in the geographical area protected by any dam that are unable to purchase excess flood or business interruption insurance in an adequate amount from either the admitted or nonadmitted market. The commissioner is proposing these rules to establish this market assistance plan so that excess flood insurance and business interruption insurance is available for sale and issue.

Statutory Authority for Adoption: RCW 48.02.060 and sections 14 and 15, chapter 230, Laws of 2010.

Statute Being Implemented: Section 15, chapter 230, Laws of 2010.

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: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7036; Implementation and Enforcement: John Hamje, P.O. Box 40256, Olympia, WA 98504-0256, (360) 725-7262.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The enacting law limits the number of insurers who can be required by the commissioner to participate in the market assistance plan (MAP) to be just enough to ensure that there are twenty-five participants in the MAP. The law further requires the commissioner to make the designation based on the insurers' premium volume of property insurance in this state. These two provisions effectively guarantee that no domestic insurer defined as a small business in RCW 19.85.020 will be involuntarily designated; a check of the property and casualty insurance companies whose 2008 premium levels would place them in the top twenty-five verified this. As a result, this proposed rule does not require a small business economic impact statement.

A cost-benefit analysis is not required under RCW 34.05.328. ESHB 2560 clearly instructs the commissioner to "by rule require insurers ... to form a market assistance plan" (MAP) and further states that "the commissioner must make this requirement (requiring insurers to participate) to fulfill the quota of at least twenty-five insurers." This pair of instructions leaves no other options to the commissioner besides designating the 25+ insurers who are voluntarily active in issuing coverage ("willing to insure risks within the class designated") or requiring participation of insurers, in order of descending premium level, to fulfill the law's requirement of having at least twenty-five insurers participate in the MAP.

The proposed rule complies with the mandate in ESHB 2560 that the commissioner by rule require insurers to form a MAP. The proposed rule does not vary materially from the bill's clear instructions and intention for the composition of

the MAP and therefore is not a significant legislative rule. Therefore, this proposed rule does not require a cost-benefit analysis under the provisions of RCW 34.05.328 (5)(b)(iii).

June 23, 2010

Mike Kreidler

Insurance Commissioner

Chapter 284-164 WAC

FLOOD INSURANCE

NEW SECTION

WAC 284-164-100 Voluntary flood market assistance plan (MAP). If the commissioner determines that at least twenty-five or more insurers have volunteered to issue the coverage contemplated by chapter 230, Laws of 2010, the commissioner may require the insurers to form a market assistance plan (MAP) under section 15, chapter 230, Laws of 2010 and this section. The commissioner will list the names of the insurers that have volunteered to participate in the MAP on the commissioner's web site, www.insurance.wa.gov.

NEW SECTION

WAC 284-164-200 Compulsory participation in market assistance plan (MAP). (1) Certain companies offering either property insurance, or property and casualty insurance, or both, are required to become members of the market assistance plan (MAP) as established by chapter 230, Laws of 2010.

(2) The number of companies required to participate in the MAP must be sufficient to fulfill the quota of twenty-five insurers participating in the MAP.

(3) If the commissioner determines that fewer than twenty-five insurers have volunteered to issue the coverage contemplated by chapter 230, Laws of 2010, the commissioner may require the insurers to participate in a MAP under section 15, chapter 230, Laws of 2010 and this section. The commissioner will identify and notify the additional companies that are required to complete and participate in the MAP and will list their names on the commissioner's web site, www.insurance.wa.gov.

WSR 10-13-145

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed June 23, 2010, 7:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-06-086.

Title of Rule and Other Identifying Information: Revisions to chapter 388-61A WAC, Shelters for victims of domestic violence.

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://www.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on August 24, 2010, at 10:00 a.m.

Date of Intended Adoption: Not sooner than August 25, 2010.

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 DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 24, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by August 10, 2010, 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 of social and health services (DSHS), children's administration, division of program and practice improvement is proposing to repeal all sections in chapter 388-61A WAC, Shelters for victims of domestic violence, and to replace them with new sections. The purpose of the chapter is to have uniform statewide standards for domestic violence shelters and supportive services funded by DSHS. These standards address issues such as adequate food, clothing, emergency housing, safety, security, and advocacy.

The proposed major changes to the chapter: New definitions and changes to existing definitions; adds new section that describes the model that must be used in providing the minimum services standards established by the proposed rule; describes the supportive services that must be provided by domestic violence agencies funded by DSHS; adds supportive services and resources for children/youth residing in emergency domestic violence shelter; describes requirements for an agency's crisis hotline; updates the requirements for cribs and bassinets, provision of food/clothing, and storing resident medications in the emergency domestic violence shelter.

Reasons Supporting Proposal: Updates, revises and augments the minimum standards that were first enacted in 1979.

Statutory Authority for Adoption: Chapter 70.123 RCW.

Statute Being Implemented: Chapter 70.123 RCW.

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 Hannibal, 4045 Delridge Way S.W., Room 200, Seattle, 98106, (206) 923-4910.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute defines small businesses as those businesses that employ fifty or fewer people and are independently owned and operated.

The proposed rules affect forty-three emergency domestic violence shelter agencies that DSHS/CA contracts with for client services. In a December 2009, on-line cost-benefit survey distributed to these agencies, thirty-four of the forty-three domestic violence shelter contractors responded for a response rate of seventy-nine percent. Large and small domestic violence shelter agencies were represented in the range of contractors responding to the survey. The number of individuals employed by the thirty-four survey respondents ranged from a low of four to a high of thirty-nine.

Preparation of a small business economic impact statement (SBEIS) is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses. The statute outlines information that must be included in an SBEIS. CA has analyzed the proposed rule amendments and concludes that they will not impose disproportionate costs on small businesses. All the agencies affected by the proposed rules are small businesses employing fewer than fifty full-time equivalent employees. Consequently, there is no disproportionate impact on small businesses from the proposed rule amendments. The preparation of a comprehensive SBEIS is not required.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Susan Hannibal, DSHS/CA, c/o QA/Training Office, 4045 Delridge Way S.W., Room 200, Seattle, WA 98106, phone (206) 923-4910, fax (206) 923-4899, e-mail hsus300@dshs.wa.gov.

June 9, 2010
Katherine I. Vasquez
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 10-14 issue of the Register.

WSR 10-13-147
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed June 23, 2010, 8:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-09-046.

Title of Rule and Other Identifying Information: The community services division is proposing changes and additions to these WAC sections in order to comply with the changes outlined in E2SHB 2782, chapter 8, Laws of 2010, as signed by the governor on March 29, 2010: WAC 388-400-0025 Who is eligible for general assistance-unemployable benefits?, 388-448-0010 How do we decide if you are incapacitated?, 388-448-0130 Treatment and referral requirements, 388-448-0140 Good cause for refusing medical treatment or other agency referrals, 388-448-0150 Penalty for refusing medical treatment or other agency referrals, and 388-448-0160 When do my general assistance benefits end?; and new sections WAC 388-448-0220 How does alcohol or drug dependence affect my eligibility for disability lifeline?

and 388-448-0250 Are there limits on the number of months I may receive disability lifeline benefits?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on July 27, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 28, 2010.

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 DSH-SRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 27, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by July 6, 2010, 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: The proposed amendments include a renaming of the general assistance program to disability lifeline, specific treatment and referrals requirements as conditions of eligibility, and limits on benefits months.

Reasons Supporting Proposal: The amendments and additions are necessary to comply with the changes outlined in E2SHB 2782, chapter 8, Laws of 2010, as signed by the governor on March 29, 2010.

Statutory Authority for Adoption: RCW 74.04.005, 74.-04.050, 74.04.055, 74.04.057, 74.04.51 [74.04.510], 74.08.-090, 74.08A.100, and 74.04.770.

Statute Being Implemented: RCW 74.04.0005 [74.04.-005], E2SHB 2782, chapter 8, Laws of 2010, as signed by the governor on March 29, 2010.

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: Melissa Mathson, 712 Pear Street S.E., Olympia, WA 98503, (360) 725-4563.

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 clarifying the description of medical evidence requirements to determine incapacity.

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."

May 26, 2010
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-13-043, filed 6/15/06, effective 7/17/06)

WAC 388-400-0025 Who is eligible for (~~general assistance-unemployable~~) disability lifeline benefits? (1) Effective March 29, 2010, the "general assistance" program was replaced by "disability lifeline." Any reference in Washington Administrative Code (WAC) to general assistance also applies to disability lifeline.

(2) You (~~can get general assistance-unemployable (GAU)~~) are eligible for disability lifeline (DL) benefits if you:

(a) Are incapacitated as required under WAC (~~388-448-0010~~) 388-448-0001 through 388-448-0120;

(b) Are at least eighteen years old or, if under eighteen, a member of a married couple;

(c) Are in financial need according to (~~GAU~~) DL income and resource rules in chapters 388-450, 388-470 and 388-488 WAC. We determine who is in your assistance unit according to WAC 388-408-0010;

(d) Meet the (~~general assistance~~) disability lifeline citizenship/alien status requirements under WAC 388-424-0015(2);

(e) Provide a Social Security number as required under WAC 388-476-0005;

(f) Reside in the state of Washington as required under WAC 388-468-0005;

(g) Undergo (~~a~~) referrals for assessment, treatment (and referral assessment), or to other agencies as provided under WAC 388-448-0130 through 388-448-0150;

(h) (~~Assign~~) Sign an interim assistance reimbursement authorization and agree to repay general assistance or disability lifeline benefits duplicated by supplemental security income benefits as (provided) described under WACs 388-448-0200, 388-448-0210 and 388-474-0020;

(i) Report changes of circumstances as required under WAC 388-418-0005; and

(j) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.

(~~2~~) (3) You (~~cannot get GAU~~) aren't eligible for disability lifeline benefits if you:

(a) (~~You~~) Have received general assistance or disability lifeline benefits for more than the maximum number of months as defined in WAC 388-448-0250.

(b) Are eligible for temporary assistance for needy families (TANF) benefits(;

(~~b~~-You) (c) Are eligible for state family assistance (SFA) benefits (unless you are not eligible under WAC 388-400-0010;);

(~~e~~-You have the ability to, but) (d) Refuse or fail to meet a TANF or SFA eligibility rule(;

(~~d~~-You) (e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-448-0220.

(f) Are eligible for supplemental security income (SSI) benefits(;

(~~e~~-You) (g) Are an ineligible spouse of an SSI recipient(;-or);

(~~f~~-Social Security Administration (SSA) denied your application for benefits or terminated your benefits for failing to follow a SSI program rule or application requirement.

(3) ~~We determine who is in your assistance unit according to WAC 388-408-0010)~~ (h) Failed to follow a social security administration (SSA) program rule or application requirement and SSA denied or terminated your benefits.

(4) If you reside in a public institution and meet all other requirements, your eligibility for DL depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it. (~~If you live in a public institution, you may be eligible for GAU depending on the type of institution you are in.)~~)

(a) (~~If you reside in a public institution and are otherwise eligible for GAU,)~~ You may be eligible for (general assistance) disability lifeline if you are:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and (~~are~~):

(A) Sixty-five years of age or older; or

(B) Twenty years of age or younger.

(b) You (~~are not~~) aren't eligible for (GAU) DL when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement:

(i) In a work release program; or

(ii) Outside of the institution including home detention.

AMENDATORY SECTION (Amending WSR 04-07-140, filed 3/22/04, effective 5/1/04)

WAC 388-448-0010 How do we decide if you are incapacitated? When you apply for (~~GA~~) disability lifeline program benefits, you must provide medical evidence to us to show that you are unable to work.

If you are gainfully employed at the time of your application for (~~GA~~) DL, we deny incapacity. "**Gainful employment**" means you are performing, in a regular and predictable manner, an activity usually done for pay or profit.

(1) We (~~do not~~) don't consider work to be gainful employment when you are working:

(a) Under special conditions that go beyond the employer providing reasonable accommodation, such as in a sheltered workshop we have approved; or

(b) Occasionally or part-time because your impairment limits the hours you are able to work compared to unimpaired workers in the same job as verified by your employer.

(2) We (~~decide~~) determine if you are incapacitated when:

(a) You apply for (~~GA~~) disability lifeline benefits(~~-We may waive this decision if we use the criteria in WAC 388-448-0001 except the PEP to determine you are incapacitated);~~)

(b) You become employed;

(c) You obtain work skills by completing a training program; or

(d) We (~~get~~) receive new information that indicates you may be employable.

(3) Unless you meet the other incapacity criteria in WAC 388-448-0001, we decide incapacity by applying the progressive evaluation process (PEP) to the medical evidence that you provide that meets WAC 388-448-0030. The PEP is the

sequence of seven steps described in WAC 388-448-0035 through 388-448-0110.

(4) You ~~((are not))~~ aren't eligible for ~~((GA))~~ DL benefits if you are incapacitated ~~((only))~~ primarily because of alcoholism or drug addiction. If you have a physical or mental impairment and you are impaired by alcohol or drug addiction, we decide if you are eligible for ~~((general assistance))~~ disability lifeline. ~~((If you qualify for both GA and the ADATSA Shelter program, you may choose either program.))~~

(5) In determining incapacity, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating, and understanding and following instructions.

AMENDATORY SECTION (Amending WSR 01-14-059, filed 6/29/01, effective 8/1/01)

WAC 388-448-0130 Treatment and referral requirements. We refer you ~~((to medical providers for available))~~ for medical treatment or to other agencies for ~~((treatment))~~ services, rehabilitation, or work activities when we decide ~~((#))~~ medical treatment or services are available, and will improve your ability to ~~((be))~~ become gainfully employed or reduce your need for ~~((GAU))~~ disability lifeline benefits. "~~((Available))~~ Medical treatment" means any medical, surgical, ~~((chemical dependency, or))~~ mental health service(s), or ~~((a combination of them))~~ any other treatment or service recommended by a medical or mental health provider.

(1) When you are first approved, and at each review determination, we give you written information regarding your medical treatment and agency referral requirements.

(2) You must accept and follow through on required medical treatment and referrals to other agencies and services, ~~((including applying for SSI,))~~ unless you have good cause for not doing so. ~~((Examples of good cause are found))~~ Good cause for medical treatment and referrals is defined in WAC 388-448-0140.

(3) ~~((We may require you to undergo alcohol or drug treatment before reviewing your eligibility for GAU.~~

(4)) You may request ~~((a fair))~~ an administrative hearing if you disagree with the medical treatment or agency referral requirements we set for you (see WAC 388-458-0040).

AMENDATORY SECTION (Amending WSR 01-14-059, filed 6/29/01, effective 8/1/01)

WAC 388-448-0140 When does a person have good cause for refusing or failing to participate in medical treatment or referrals to other ((agency referrals)) agencies? ~~((We may determine that you have good cause for refusing))~~ When you refuse or fail to participate in required medical treatment or referrals to other agencies, you may claim good cause by providing a reason for your refusal or failure. We determine whether your reason is valid. We may require you to provide proof to support your good cause claim. ~~((Valid reasons for refusing treatment and other~~

~~agency referrals include, but are not limited to, the following.))~~ These rules do not apply to participation requirements listed in WACs 388-448-0200 through 388-448-0250.

(1) Valid reasons for refusing or failing to participate in medical treatment ((referrals)):

(a) You are so fearful of the treatment that your fear could interfere with the treatment or reduce its benefits;

(b) ~~((Treatment could))~~ The treatment provider has identified a risk that the treatment may cause further limitations or loss of a function or an organ and you are not willing to take that risk;

(c) You practice an organized religion that prohibits the treatment; or

(d) We determine that treatment is not available because you can't obtain it without cost to you.

(2) Valid reasons for refusing ~~((treatment or))~~ or failing to participate in referrals to other ~~((agency referrals))~~ agencies:

(a) ~~((We did not))~~ You are unable to participate because we didn't give you enough information about the requirement;

(b) You ~~((did not))~~ didn't receive written notice of the requirement;

(c) The requirement was made in error;

(d) You ~~((are))~~ provide proof of interference beyond your control that temporarily ((unable to participate because of documented interference,)) prevented you from participating; or

(e) Your medical condition or limitations are consistent with the ~~((definition of))~~ need for necessary supplemental accommodation (NSA), as defined in WAC 388-472-0020 and ~~((your condition or limitations))~~ contributed to your refusal or failure, per WAC 388-472-0050.

AMENDATORY SECTION (Amending WSR 00-16-113, filed 8/2/00, effective 9/1/00)

WAC 388-448-0150 Penalty for refusing or failure to participate in medical treatment or other agency referrals. (1) If you refuse or fail to participate in required medical treatment or agency referral without having good cause, we will ~~((stop))~~ terminate your ~~((GAU))~~ disability lifeline benefits.

(2) ~~((We stop))~~ You are ineligible for cash and medical benefits until you participate in:

(a) Chemical dependency treatment as required under WAC 388-448-0220.

(b) Obtaining federal aid assistance as required under WAC 388-448-0200.

(3) If we terminate your ~~((GAU))~~ disability lifeline benefits ((until you agree to accept and pursue the)) because you didn't have good cause to refuse, or fail to participate in, other required medical treatment services or referrals to other agencies, you are not eligible for cash and medical benefits until you verify that you have agreed to accept and pursue the medical treatment service or referral to other agencies.

~~((#))~~ (4) If you reapply for disability lifeline, you must participate as described in subsection (2) and (3) and wait for a penalty period to pass before you begin ~~((getting))~~ receiv-

ing benefits. The penalty is based on how often you have refused:

Refusal	Penalty
First	One week
Second within six months	One month
Third and subsequent within one year	Two months

AMENDATORY SECTION (Amending WSR 04-07-140, filed 3/22/04, effective 5/1/04)

WAC 388-448-0160 When do my ~~((general assistance))~~ disability lifeline benefits end? (1) The maximum period of eligibility for ~~((general assistance))~~ disability lifeline is twelve months before we must review ~~((additional medical evidence))~~ incapacity.

(a) We use current medical evidence and the expected length of time before you are capable of gainful employment to decide when your benefits will end.

~~(b) If you meet the incapacity criteria in WAC 388-448-0001 (1)(a) through (e), you must provide information about your cooperation and progress with treatment or agency referrals we required according to WAC 388-448-0130.~~

(2) Your benefits stop at the end of your incapacity period unless you provide additional medical evidence that demonstrates during your current incapacity period that there was no material improvement in your impairment. No material improvement means that your impairment continues to meet the progressive evaluation process criteria in WAC 388-448-0010 through 388-448-0110, excluding the requirement that your impairment(s) prevent employment for ninety days.

~~(3) ((Additional))~~ The medical evidence must meet all of the criteria defined in WAC 388-448-0030.

(4) We use ~~((additional))~~ medical evidence received after your incapacity period had ended when:

(a) The delay was not due to your failure to cooperate; and

(b) We receive the evidence within thirty days of the end of your incapacity period; and

(c) The evidence meets the progressive evaluation process criteria in WAC 388-448-0010 through 388-448-0110.

~~(5) ((You must provide information about your cooperation and progress with treatment or agency referrals we required according to WAC 388-448-0130.~~

~~(6))~~ Even if your condition has not improved, you ~~((are not))~~ aren't eligible for ~~((general assistance))~~ disability lifeline when:

(a) We ~~((get))~~ receive current medical evidence that ~~((does not))~~ doesn't meet the progressive evaluation process criteria in WAC 388-448-0035 through 388-448-0110; and

(b) Our prior decision that your incapacity met the requirements was incorrect because:

(i) The information we had was incorrect or not ~~((enough))~~ sufficient to show incapacity; or

(ii) We ~~((did not))~~ didn't apply the rules correctly to the information we had at that time.

NEW SECTION

WAC 388-448-0220 How does alcohol or drug dependence affect my eligibility for disability lifeline? (1) You must complete a chemical dependency assessment when we have information that indicates you may be chemically dependent.

(2) You must accept an assessment referral and participate in drug or alcohol treatment if a certified chemical dependency counselor indicates a need for treatment, unless you meet one of the following good cause reasons:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment.

(b) The outpatient chemical dependency treatment you need isn't available in the county you live in.

(c) You need inpatient chemical dependency treatment at a location that you can't reasonably access.

NEW SECTION

WAC 388-448-0250 Are there limits on the number of months I may receive disability lifeline benefits? (1) Beginning September 1, 2010, you may be eligible to receive disability lifeline benefits for a maximum of twenty-four out of any sixty month period.

(2) You aren't subject to a benefit month limit if:

(a) You are aged sixty-five or older.

(b) Blind as defined in WAC 388-475-0050.

(c) We have determined you meet, or are likely to meet, the social security administration (SSA) disability standard.

(3) We count months you received general assistance or disability lifeline benefits in the last sixty months towards your maximum benefit limit.

(4) We don't count any benefit month that you were determined to meet the criteria in subsection (2) towards your maximum benefit limit.

(5) We will review your case record to determine if you are likely to meet the SSA disability standard before we terminate your benefits.

WSR 10-13-148
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medicaid Purchasing Administration)
 [Filed June 23, 2010, 8:26 a.m.]

Original Notice.
 Preproposal statement of inquiry was filed as WSR 08-22-023.

Title of Rule and Other Identifying Information: WAC 388-550-5000 Payment method—Low income disproportionate share hospital (LIDSH), 388-550-5200 Payment method—Small rural disproportionate share hospital (SRDSH), 388-550-5210 Payment method—Small rural indigent assistance disproportionate share hospital (SRI-ADSH), and 388-550-5220 Payment method—Nonrural indigent assistance disproportionate share hospital (NRI-ADSH).

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on July 27, 2010, at 10:00 a.m.

Date of Intended Adoption: Not sooner than July 28, 2010.

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 DSH-SRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 27, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by July 6, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending language in sections in chapter 388-550 WAC that pertain to the disproportionate share hospital (DSH) programs in order to update, clarify, and maintain consistency in rules.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Statute Being Implemented: RCW 74.08.090 and 74.09.500.

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: Kathy Sayre, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1342; Implementation and Enforcement: Sandy Stith, P.O. Box 45500, Olympia, WA 98504-5500, (360) 725-1949.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impact small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Sandy Stith, Medicaid Purchasing Administration, P.O. Box 45500, Olympia, WA 98504-45500 [98504-5500], phone (360) 725-1949, fax (360) 725-9152, e-mail sandy.stith@dshs.wa.gov.

June 21, 2010

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-14-090, filed 6/29/07, effective 8/1/07)

WAC 388-550-5000 Payment method—Low income disproportionate share hospital (LIDSH). (1) ~~(A hospital that is not a peer group E hospital but serves the department's clients is eligible for a low income disproportionate share hospital (LIDSH) payment adjustment if the hospital meets the requirements of WAC 388-550-4900(5))~~ The department makes low income disproportionate share hospital

(LIDSH) payments to qualifying hospitals through the disproportionate share hospital (DSH) program.

~~((Hospitals considered eligible under the criteria in subsection (1) of this section receive LIDSH payments))~~ To qualify for an LIDSH payment, a hospital must:

(a) Not be a hospital eligible for public disproportionate share (PHDSH) payments (see WAC 388-550-5400);

(b) Not be designated as an "institution for mental diseases (IMD)" as defined in WAC 388-550-2600 (2)(d);

(c) Meet the criteria in WAC 388-550-4900 (4) and (5);

(d) Be an in-state hospital. A hospital located out-of-state or in a designated bordering city is not eligible to receive LIDSH payments; and

(e) Meet at least one of the following requirements. The hospital must:

(i) Have a medicaid inpatient utilization rate (MIPUR) as defined in WAC 388-550-4900 (3)(h) at least one standard deviation above the mean medicaid inpatient utilization rate of in-state hospitals that receive medicaid payments; or

(ii) Have a low income utilization rate (LIUR) as defined in WAC 388-550-4900 (3)(g) that exceeds twenty-five percent.

(3) The department pays hospitals qualifying for LIDSH payments from a legislatively appropriated pool. The ~~((total))~~ maximum amount of LIDSH payments ((amounts equal)) in any state fiscal year (SFY) is the funding set by the state's appropriations act for LIDSH. The amount that the state appropriates for LIDSH may vary from year to year.

~~((3))~~ (4) The department determines LIDSH payments to each LIDSH eligible hospital using ((three factors)) the following factors from the specific hospital's base year as defined in WAC 388-550-4900 (3)(a):

(a) The hospital's medicaid inpatient utilization rate (MIPUR)((;)) (see WAC 388-550-4900 for how the department calculates the MIPUR).

(b) The hospital's medicaid case mix index (CMI) ((as determined by the department; and)). The department calculates the CMI by:

(i) Using the DRG weight for each of the hospital's paid inpatient claims assigned in the year the claim was paid;

(ii) Summing the DRG weights; and

(iii) Dividing this total by the number of claims.

The CMI the department uses for LIDSH calculations is not the same as the CMI the department uses in other hospital rate calculations.

(c) The ~~number of the~~ hospital's Title XIX medicaid discharges ((for the applicable hospital fiscal year)). The department includes in this number only the discharges pertaining to Washington state medicaid clients.

~~((4))~~ (5) The department calculates the LIDSH payment to an eligible hospital as follows.

(a) The department:

~~((a))~~ (i) Divides the hospital's MIPUR by the average MIPUR of all LIDSH-eligible hospitals; then

~~((b))~~ (ii) Multiplies the result derived in ((subsection)) (a) of this section by the ((hospital's most recent DRG payment method medicaid case mix index)) CMI (see (4)(b) of this section), and then by the ((hospital's base year Title XIX)) discharges (see (4)(c) of this section); then

~~((e))~~ (iii) Converts the product to a percentage of the sum of all such products for individual hospitals; and

~~((d))~~ (iv) Multiplies this percentage by the legislatively appropriated amount for LIDSH.

~~((5) For DSH program purposes, a hospital's medicaid CMI is the average diagnosis related group (DRG) weight for all of the hospital's medicaid DRG paid claims during the state fiscal year used as the base year for the DSH application. It is possible that the CMI the department uses for DSH calculations will not be the same as the CMI the department uses in other hospital rate calculations.))~~

(b) If a hospital's calculated LIDSH payment is greater than the hospital-specific DSH cap, the payment to the hospital is limited to the hospital-specific DSH cap, and the department:

(i) Subtracts the LIDSH payment calculated for the hospital to determine the remaining LIDSH appropriation to distribute to the other qualifying hospitals; and

(ii) Proportionately distributes the remaining LIDSH appropriation in accordance with the factors in (a) of this subsection.

(6) ((After each)) A hospital receiving LIDSH payments must comply with a department request for uninsured logs (uninsured logs are documentation of payments, charges, and other information for uninsured patients) to verify its hospital-specific DSH cap.

(7) The department will not make changes in the LIDSH payment distribution after the applicable ((state fiscal year)) SFY has ended((, the department will not make changes to the LIDSH payment distribution that has resulted from calculations identified in subsection (4) of this section)). The department ~~((will))~~ recalculates the LIDSH payment distribution only when the applicable ~~((state fiscal year))~~ SFY has not yet ended at the time the alleged need for an LIDSH adjustment is identified, and if the department considers the recalculation necessary and appropriate under its regulations.

~~((7))~~ (8) Consistent with the provisions of subsection ((6)) (7) of this section, the department applies any adjustments to the DSH payment distribution required by legislative, administrative, or other state action, to other DSH programs in accordance with the provisions of WAC 388-550-4900 (13) through (16).

AMENDATORY SECTION (Amending WSR 07-14-090, filed 6/29/07, effective 8/1/07)

WAC 388-550-5200 Payment method—Small rural disproportionate share hospital (SRDSH). (1) The department makes small rural disproportionate share hospital (SRDSH) payments to qualifying small rural hospitals through the disproportionate share hospital (DSH) program.

(2) To qualify for an SRDSH payment, a hospital must:

(a) Not be ((a peer group E hospital)) participating in the "full cost" public hospital certified public expenditure (CPE) payment program as described in WAC 388-550-4650;

(b) Not be designated as an "institution for mental diseases (IMD)" as defined in WAC 388-550-2600 (2)(d);

(c) Meet the criteria in WAC 388-550-4900 (4) and (5);

~~((e))~~ (d) Have fewer than seventy-five acute ((licensed)) beds; ((and))

~~((d))~~ (e) Be an in-state hospital. A hospital located out-of-state or in a designated bordering city is not eligible to receive SRDSH payments; and

(f) Be located in a city or town with a nonstudent population of no more than seventeen thousand eight hundred six in calendar year 2008, as determined by population data reported by the Washington state office of financial management population of cities, towns, and counties used for the allocation of state revenues. This nonstudent population is used for state fiscal year (SFY) 2010, which began July 1, 2009. For each subsequent SFY, the nonstudent population is increased by two percent.

~~((2) In addition, for the SRDSH program to be implemented for state fiscal year (SFY) 2008, which begins on July 1, 2007, the city or town must have a nonstudent population of no more than seventeen thousand one hundred fifteen in calendar year 2006, as determined by the Washington state office of financial management estimate.~~

~~For each subsequent SFY, the nonstudent population ceiling is increased cumulatively by two percent.))~~

(3) The department pays hospitals qualifying for SRDSH payments from a legislatively appropriated pool. The department determines each hospital's individual SRDSH payment from the total dollars in the pool using percentages established as follows:

(a) At the time the SRDSH payment is to be made, the department calculates each hospital's profitability margin based on the hospital's base year data and audited financial statements.

(b) The department determines the average profitability margin for the qualifying hospitals.

(c) Any hospital with a profitability margin of less than one hundred ten percent of the average profitability margin for qualifying hospitals receives a profit factor of 1.1. All other hospitals receive a profit factor of 1.0.

(d) The department:

(i) Identifies the medicaid payment amounts made by the department to the individual hospital during the SFY two years prior to the current SFY for which DSH application is being made. These medicaid payment amounts are based on historical data considered to be complete; then

(ii) Multiplies the total medicaid payment amount determined in subsection (i) by the individual hospital's assigned profit factor (1.1 or 1.0) to identify a revised medicaid payment amount; and

(iii) Divides the revised medicaid payment amount for the individual hospital by the sum of the revised medicaid payment amounts for all qualifying hospitals during the same period.

(4) The department's SRDSH payments to a hospital may not exceed one hundred percent of the projected cost of care for medicaid clients and uninsured patients for that hospital unless an exception is required by federal statute or regulation.

(5) The department reallocates dollars as defined in the state plan.

AMENDATORY SECTION (Amending WSR 07-14-090, filed 6/29/07, effective 8/1/07)

WAC 388-550-5210 Payment method—Small rural indigent assistance disproportionate share hospital (SRI-ADSH) ((program)). (1) The department makes small rural indigent assistance disproportionate share hospital (SRI-ADSH) program payments to qualifying small rural hospitals through the disproportionate share hospital (DSH) program.

(2) To qualify for an SRIADSH payment, a hospital must:

(a) Not be ~~((a peer group E hospital))~~ participating in the "full cost" public hospital certified public expenditure (CPE) payment program as described in WAC 388-550-4650;

(b) Not be designated as an "institution for mental diseases (IMD)" as defined in WAC 388-550-2600 (2)(d);

~~((c))~~ (c) Meet the criteria in WAC 388-550-4900 (4) and (5);

~~((d))~~ (d) Have fewer than seventy-five acute ~~((licensed))~~ beds; ~~((and))~~

~~((e))~~ (e) Be an in-state hospital that provided charity services to clients during the base year. A hospital located out-of-state or in a designated bordering city is not eligible to receive SRIADSH payments; and

~~((f))~~ (f) Be located in a city or town with a nonstudent population of no more than seventeen thousand ~~((one hundred fifteen))~~ eight hundred six in calendar year ~~((2006))~~ 2008, as determined by the Washington State office of financial management ~~((estimate))~~ population of cities, towns, and counties used for the allocation of state revenues. This ~~((estimated))~~ nonstudent population ~~((ceiling))~~ is used for SFY ~~((2008))~~ 2010, which begins July 1, ~~((2007))~~ 2009. For each subsequent SFY, the nonstudent population ceiling is increased ~~((cumulatively))~~ by two percent.

(3) The department pays hospitals qualifying for SRI-ADSH payments from a legislatively appropriated pool. The department determines each hospital's individual SRIADSH payment from the total dollars in the pool using percentages established through the following prospective payment method:

(a) At the time the SRIADSH payment is to be made, the department calculates each hospital's profitability margin based on the hospital's base year data and audited financial statements.

(b) The department determines the average profitability margin for all hospitals qualifying for SRIADSH.

(c) Any qualifying hospital with a profitability margin of less than one hundred ten percent of the average profitability margin for qualifying hospitals receives a profit factor of 1.1. All other qualifying hospitals receive a profit factor of 1.0.

(d) The department:

(i) Identifies from historical data considered to be complete, each individual qualifying hospital's allowed charity charges; then

(ii) Multiplies the total allowed charity charges by the hospital's ratio of costs-to-charges (RCC), limiting the RCC to a value of 1, to determine the hospital's charity costs; then

(iii) Multiplies the hospital's charity costs by the hospital's profit factor assigned in (c) of this subsection to identify a revised cost amount; then

(iv) Determines the hospital's percentage of revised costs by dividing its revised cost amount by the sum of the revised

charity cost amounts for all qualifying hospitals during the same period.

(4) The department's SRIADSH payments to a hospital may not exceed one hundred percent of the projected cost of care for medicaid clients and uninsured indigent patients for that hospital unless an exception is required by federal statute or regulation. The department reallocates dollars as defined in the state plan.

AMENDATORY SECTION (Amending WSR 07-14-090, filed 6/29/07, effective 8/1/07)

WAC 388-550-5220 Payment method—Nonrural indigent assistance disproportionate share hospital (NRI-ADSH). (1) The department makes nonrural indigent assistance disproportionate share hospital (NRIADSH) payments to qualifying nonrural hospitals through the disproportionate share hospital (DSH) program.

(2) To qualify for an NRIADSH payment, a hospital must:

(a) Not be ~~((a peer group E hospital))~~ participating in the "full cost" public hospital certified public expenditure (CPE) payment program as described in WAC 388-550-4650;

(b) Not be designated as an "institution of mental diseases (IMD)" as defined in WAC 388-550-2600 (2)(d);

~~((c))~~ (c) Meet the criteria in WAC 388-550-4900 (4) and (5);

~~((e))~~ (d) Be a hospital that does not qualify as a small rural hospital as defined in WAC 388-550-4900 (3)~~((m))~~(n); and

~~((f))~~ (e) Be an in-state or designated bordering city hospital that provided charity services to clients during the base year. For DSH purposes, the department considers as nonrural any hospital located in a designated bordering city.

(3) The department pays hospitals qualifying for NRI-ADSH payments from a legislatively appropriated pool. The department determines each hospital's individual NRIADSH payment from the total dollars in the pool using percentages established through the following prospective payment method:

(a) At the time the NRIADSH payment is to be made, the department calculates each hospital's profitability margin based on the hospital's base year data and audited financial statements.

(b) The department determines the average profitability margin for the qualifying hospitals.

(c) Any hospital with a profitability margin of less than one hundred ten percent of the average profitability margin for qualifying hospitals receives a profit factor of 1.1. All other hospitals receive a profit factor of 1.0.

(d) The department:

(i) Identifies from historical data considered to be complete, each individual qualifying hospital's allowed charity charges; then

(ii) Multiplies the total allowed charity charges by the hospital's ratio of costs-to-charges (RCC), limiting the RCC to a value of 1, to determine the hospital's charity costs; then

(iii) Multiplies the hospital's charity costs by the hospital's profit factor assigned in (c) of this subsection to identify a revised cost amount; then

(iv) Determines the hospital's percentage of the NRI-ADSH revised costs by dividing the hospital's revised cost amount by the total revised charity costs for all qualifying hospitals during the same period.

(4) The department's NRIADSH payments to a hospital may not exceed one hundred percent of the projected cost of care for medicaid clients and uninsured indigent patients for the hospital unless an exception is required by federal statute or regulation. The department reallocates dollars as defined in the state plan.

WSR 10-13-149
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed June 23, 2010, 8:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-07-152.

Title of Rule and Other Identifying Information: WAC 415-02-320 Early retirement factors, 415-02-380 How will my retirement allowance be affected if I choose a benefit option with a survivor feature?, and 415-103-215 What are the WSPRS Plan 1 retirement benefit options?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on July 29, 2010, at 1:30 p.m.

Date of Intended Adoption: July 29, 2010.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on July 29, 2010.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by May 20, 2010, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the department's administrative rules with new administrative factors provided by the state actuary.

Reasons Supporting Proposal: The office of the state actuary (OSA) has provided the department with new actuarial projections. The department must amend its rules to update administrative factors for the law enforcement officers' and firefighters' retirement system (LEOFF), public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), teachers' retirement system (TRS), Washington state patrol retirement system (WSPRS), and judicial retirement system (JRS).

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: For WAC 415-02-320 is chapter 41.45 RCW; for WAC 415-02-380 is RCW 41.26.164, 41.26.460, 41.40.188, 41.40.660, 41.40.845, 41.37.170, 41.35.220, 41.32.530, 41.32.785, 41.32.851, 43.43.271; and for WAC 415-103-215 is RCW 43.43.260, 43.43.270, 43.43.278, 43.43.280(1).

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no affect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

June 23, 2010

Ken Goolsby

Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-18-009, filed 8/24/06, effective 9/24/06)

WAC 415-02-320 Early retirement factors. (1) ~~What are early retirement factors ((~~ERF~~))?~~ ~~((The department uses an early retirement factor (ERF) to actuarially reduce a member's or beneficiary's monthly allowance if the monthly allowance begins before the member meets the age requirement for an unreduced retirement benefit. This reduction offsets the cost of paying the monthly allowance for a longer period of time.~~

~~((H))~~ Early retirement factors (ERFs) are used by the department to reduce a monthly retirement benefit when that payment begins before the member has qualified for normal retirement based on age and service. This reduction offsets the cost to the plan of paying the monthly benefit for a longer time.

(2) In what situations will the department use an ERF?

(a) The department will use an ERF to reduce a monthly ~~((allowance))~~ benefit in any of the following situations, subject to the law governing your plan, and subject to the exceptions in (b) of this subsection:

(i) You choose to retire early.

(ii) You retire due to a disability before you are eligible ~~((to retire with an unreduced retirement allowance))~~ for normal retirement.

(iii) You die before you are eligible ~~((to retire with an unreduced retirement allowance))~~ for normal retirement, and your beneficiary is eligible for a monthly ((allowance)) benefit.

(b) An ERF is not used in the following circumstances, although another method may be used to reduce benefits as required by the laws governing each plan:

(i) You meet your plan's requirements for "alternate early retirement";

(ii) You meet PSERS requirements for "early retirement";

(iii) You retire for service or due to a disability, from PERS Plan 1 or TRS Plan 1;

(iv) You are a member of LEOFF Plan 1;

(v) You retire due to a duty-related disability from LEOFF Plan 2;

(vi) You retire due to a disability or die before retirement from WSPRS Plan 1; or

(vii) You retire due to a disability from WSPRS Plan 2.
 (c) The following table shows the law governing plans that use an ERF:

	Early Retirement	Disability Retirement	Death Prior to Retirement
LEOFF Plan 1:	N/A	N/A	N/A
LEOFF Plan 2:	RCW 41.26.430	RCW 41.26.470	RCW 41.26.510
PERS Plan 1:	N/A	N/A	RCW 41.40.270
PERS Plan 2:	RCW 41.40.630	RCW 41.40.670	RCW 41.40.700
PERS Plan 3:	RCW 41.40.820	RCW 41.40.825	RCW 41.40.835 ((and 41.34.070))
PSERS:	N/A	RCW 41.37.230	RCW 41.37.250
SERS Plan 2:	RCW 41.35.420	RCW 41.35.440	RCW 41.35.460
SERS Plan 3:	RCW 41.35.680	RCW 41.35.690	RCW 41.35.710
TRS Plan 1:	N/A	N/A	RCW 41.32.520
TRS Plan 2:	RCW 41.32.765	RCW 41.32.790	RCW 41.32.805
TRS Plan 3:	RCW 41.32.875	RCW 41.32.880	RCW 41.32.895 ((and 41.34.070))
WSPRS Plan 1:	RCW 43.43.280	N/A	N/A
WSPRS Plan 2:	RCW 43.43.280	N/A	RCW 43.43.295

~~((2))~~ (3) **How does the department determine the number of years on which to base the ERF?** The calculation varies among plans:

(a) ~~((TRS Plan 1 only: The ERF used to calculate your beneficiary's monthly allowance if you die before retirement is based on the number of years between the age at which you die and the age at which you would have first become eligible to retire under RCW 41.32.480. See RCW 41.32.520.))~~ ERFs are based on the number of years between the age at which you retire, or die, and the age at which you would have qualified for normal retirement based on age and service.

Example - early retirement: Sandy, a PERS Plan 2 member, applies for retirement at age 56 years and one month with a total of 21.11 years of service. Her average final compensation (AFC) is \$3,500.00.

PERS Plan 2 provides for two percent (.02) of AFC per year of service. A PERS Plan 2 member must be age 65 to retire with an unreduced benefit (i.e., normal retirement), but is eligible to retire with an actuarially reduced benefit (i.e., early retirement) at age 55 with 20 years of service credit.

The difference between Sandy's age now (56) and the age at which she would have qualified for normal retirement (age 65) is 8 years and 11 months. The corresponding ERF is 0.3987. Therefore, the department will multiply Sandy's AFC of \$3,500 x .02 x 21.11 (service credit years) x 0.3987 (ERF). Sandy's monthly retirement benefit will be \$589.16.

(b) WSPRS Plan 2 only: The ERF used to calculate your ~~((beneficiary's))~~ survivor's monthly ~~((allowance))~~ benefit if you die before retirement is based on the number of years between the age at which you die and age fifty-five (55) or when you could have attained twenty-five (25) years of service, whichever is less. See RCW 43.43.295.

Example - early retirement: The survivor benefit, in this example, will also have a reduction applied for 100% joint and survivor option, based on the difference between John's age and his survivor's age.

John, a WSPRS Plan 2 member dies prior to retirement. John is age 40 and has 15 years of service at the time of his

death. John's Average Final Salary (AFS) is \$4,000. John's surviving spouse is also age 40.

Since John would have attained 25 years of service before he would have attained age 55, the ERF used to calculate his survivor's benefit will be based on the 10 years it would have taken him to reach 25 years of service. The corresponding ERF for 10 years early retirement is 0.403. The corresponding joint and survivor (J&S) factor that will also be applied to the benefit is 0.889.

Therefore, the department will multiply John's AFS of \$4,000 x .02 x 15 (service credit years) x 0.403 (ERF) x 0.889 (J&S). John's survivor will receive a monthly benefit of \$429.92.

~~(c) ((All other ERFs are based on number of years between the age at which you retire, or die, and the age at which you would have been eligible to retire with an unreduced retirement allowance.~~

(3) Examples:

(a) Early retirement:

Sandy, a PERS Plan 2 member, applies for retirement at age 56 years and one month with a total of 21.11 years of service. Her average final compensation (AFC) is \$3,500.00.

PERS Plan 2 provides for two percent (.02) of AFC per year of service. A PERS Plan 2 member must be age 65 to retire with an unreduced benefit, but is eligible for an actuarially reduced monthly retirement allowance at age 55 with 20 years of service credit.

The difference between Sandy's age now (56) and the age at which she would receive an unreduced monthly allowance (65) is 8 years and 11 months. The corresponding ERF is .4025. Therefore, the department will multiply Sandy's AFC of \$3,500 x .02 x 21.11 (service credit years) x .4025 (ERF). Sandy's monthly retirement allowance will be \$594.77.

(b) Death before retirement (applies to TRS 1 only):

Robert, a 56-year-old TRS Plan 1 member, died April 1, 2006, with 23.17 years of service credit. His AFC is \$3,171.74.

TRS Plan 1 provides an unreduced retirement allowance at age 55 with 25 years of service credit.

Robert's wife, Karen, will receive an actuarially reduced allowance based on the date Robert would have first qualified for an unreduced retirement allowance. If Robert had continued in service, he would have met eligibility requirements in one year and 10 months, when he earned 25 years of service credit. The ERF for one year and 10 months is .8530.

Karen's monthly allowance will be further reduced by the Option 2 survivor factor, which is based on the age difference between her and Robert. Karen is age 58, two years older than Robert. The Option 2 survivor factor for a beneficiary two years older is .913 (see WAC 415-02-380(11)).

The department will multiply 23.17 (Robert's service credit years) x .02 x \$3,171.74 (AFC) x .8530 (ERF) x .913 (the Option 2 factor). Karen's monthly allowance will be \$1,144.65.) TRS Plan 1 only: The ERF used to calculate your survivor's monthly benefit if you die before retirement is based on the number of years between the age at which you die and the age at which you would have first become eligible to retire under RCW 41.32.480. See RCW 41.32.520.

Example - death before retirement: Robert, a 56 year-old TRS Plan 1 member, died April 1, 2006, with 23.17 years of service credit. His AFC is \$3,171.74.

TRS Plan 1 provides an unreduced benefit (i.e., normal retirement) at age 55 with 25 years of service credit.

Robert's wife, Karen, will receive an actuarially reduced benefit based on the date Robert would have first qualified for an unreduced benefit (i.e., normal retirement). If Robert had continued in service, he would have met eligibility requirements in one year and 10 months, when he earned 25 years of service credit. The ERF for one year and 10 months is 0.8410.

Karen's monthly benefit will be further reduced by the Option 2 survivor factor, which is based on the age difference between her and Robert. Karen is age 58, two years older than Robert. The Option 2 survivor factor for a beneficiary two years older is 0.918 (see WAC 415-02-380(12)).

The department will multiply 23.17 (Robert's service credit years) x .02 x \$3,171.74 (AFC) x 0.8410 (ERF) x 0.918 (the Option 2 factor). Karen's monthly benefit will be \$1,134.73.

(4) ~~Table - ((Early retirement factors (ERF) for LEOFF Plan 2, WSP Plan 2, PERS Plan 1, TRS Plan 1, and WSP Plan 1 and 2 vested/terminated members:))~~ This table contains the early retirement factors (ERFs) for members who retire from active service in PERS Plan 1, TRS Plan 1, and WSPRS Plan 2. The ERFs are effective September 1, 2010.

(Yrs- Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
0	1.000	.9933	.9866	.9799	.9732	.9665	.9598	.9531	.9464	.9397	.9330	.9263
1	.9200	.9133	.9066	.8999	.8932	.8865	.8798	.8731	.8664	.8597	.8530	.8463
2	.8400	.8333	.8266	.8199	.8132	.8065	.7998	.7931	.7864	.7797	.7730	.7663
3	.7600	.7538	.7516	.7474	.7432	.7390	.7348	.7306	.7264	.7222	.7180	.7138
4	.7100	.7058	.7016	.6974	.6932	.6890	.6848	.6806	.6764	.6722	.6680	.6638
5	.6600	.6558	.6516	.6474	.6432	.6390	.6348	.6306	.6264	.6222	.6180	.6138
6	.6100	.6058	.6016	.5974	.5932	.5890	.5848	.5806	.5764	.5722	.5680	.5638
7	.5600	.5558	.5516	.5474	.5432	.5390	.5348	.5306	.5264	.5222	.5180	.5138
8	.5100	.5067	.5034	.5001	.4968	.4935	.4902	.4869	.4836	.4803	.4770	.4737
9	.4700	.4667	.4634	.4601	.4568	.4535	.4502	.4469	.4436	.4403	.4370	.4337
10	.4300	.4267	.4234	.4201	.4168	.4135	.4102	.4069	.4036	.4003	.3970	.3937
11	.3900	.3867	.3834	.3801	.3768	.3735	.3702	.3669	.3636	.3603	.3570	.3537
12	.3500	.3467	.3434	.3401	.3368	.3335	.3302	.3269	.3236	.3203	.3170	.3137
13	.3100	.3083	.3066	.3049	.3032	.3015	.2998	.2981	.2964	.2947	.2930	.2913
14	.2900	.2883	.2866	.2849	.2832	.2815	.2798	.2781	.2764	.2747	.2730	.2713
15	.2700	.2683	.2666	.2649	.2632	.2615	.2598	.2581	.2564	.2547	.2530	.2513
16	.2500	.2483	.2466	.2449	.2432	.2415	.2398	.2381	.2364	.2347	.2330	.2313
17	.2300	.2283	.2266	.2249	.2232	.2215	.2198	.2181	.2164	.2147	.2130	.2113
18	.2100	.2092	.2084	.2076	.2068	.2060	.2052	.2044	.2036	.2028	.2020	.2012
19	.2000	.1992	.1984	.1976	.1968	.1960	.1952	.1944	.1936	.1928	.1920	.1912
20	.1900	.1892	.1884	.1876	.1868	.1860	.1852	.1844	.1836	.1828	.1820	.1812
21	.1800	.1792	.1784	.1776	.1768	.1760	.1752	.1744	.1736	.1728	.1720	.1712
22	.1700	.1692	.1684	.1676	.1668	.1660	.1652	.1644	.1636	.1628	.1620	.1612
23	.1600	.1592	.1584	.1576	.1568	.1560	.1552	.1544	.1536	.1528	.1520	.1512
24	.1500	.1492	.1484	.1476	.1468	.1460	.1452	.1444	.1436	.1428	.1420	.1412
25	.1400	.1392	.1384	.1376	.1368	.1360	.1352	.1344	.1336	.1328	.1320	.1312
26	.1300	.1292	.1284	.1276	.1268	.1260	.1252	.1244	.1236	.1228	.1220	.1212
27	.1200	.1192	.1184	.1176	.1168	.1160	.1152	.1144	.1136	.1128	.1120	.1112
28	.1100	.1092	.1084	.1076	.1068	.1060	.1052	.1044	.1036	.1028	.1020	.1012
29	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
30	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

((Yrs- Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
31	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
32	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
33	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
34	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
35	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
36	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
37	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
38	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
39	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
40	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000))

Yrs Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
0	1.0000	.9924	.9848	.9772	.9696	.9620	.9544	.9468	.9392	.9316	.9240	.9164
1	.9090	.9022	.8954	.8886	.8818	.8750	.8682	.8614	.8546	.8478	.8410	.8342
2	.8270	.8209	.8148	.8087	.8026	.7965	.7904	.7843	.7782	.7721	.7660	.7599
3	.7540	.7485	.7430	.7375	.7320	.7265	.7210	.7155	.7100	.7045	.6990	.6935
4	.6880	.6830	.6780	.6730	.6680	.6630	.6580	.6530	.6480	.6430	.6380	.6330
5	.6280	.6235	.6190	.6145	.6100	.6055	.6010	.5965	.5920	.5875	.5830	.5785
6	.5740	.5698	.5656	.5614	.5572	.5530	.5488	.5446	.5404	.5362	.5320	.5278
7	.5240	.5203	.5166	.5129	.5092	.5055	.5018	.4981	.4944	.4907	.4870	.4833
8	.4800	.4767	.4734	.4701	.4668	.4635	.4602	.4569	.4536	.4503	.4470	.4437
9	.4400	.4369	.4338	.4307	.4276	.4245	.4214	.4183	.4152	.4121	.4090	.4059
10	.4030	.4002	.3974	.3946	.3918	.3890	.3862	.3834	.3806	.3778	.3750	.3722
11	.3690	.3665	.3640	.3615	.3590	.3565	.3540	.3515	.3490	.3465	.3440	.3415
12	.3390	.3367	.3344	.3321	.3298	.3275	.3252	.3229	.3206	.3183	.3160	.3137
13	.3110	.3088	.3066	.3044	.3022	.3000	.2978	.2956	.2934	.2912	.2890	.2868
14	.2850	.2831	.2812	.2793	.2774	.2755	.2736	.2717	.2698	.2679	.2660	.2641
15	.2620	.2603	.2586	.2569	.2552	.2535	.2518	.2501	.2484	.2467	.2450	.2433
16	.2410	.2393	.2376	.2359	.2342	.2325	.2308	.2291	.2274	.2257	.2240	.2223
17	.2210	.2195	.2180	.2165	.2150	.2135	.2120	.2105	.2090	.2075	.2060	.2045
18	.2030	.2017	.2004	.1991	.1978	.1965	.1952	.1939	.1926	.1913	.1900	.1887
19	.1870	.1857	.1844	.1831	.1818	.1805	.1792	.1779	.1766	.1753	.1740	.1727
20	.1710	.1699	.1688	.1677	.1666	.1655	.1644	.1633	.1622	.1611	.1600	.1589
21	.1580	.1569	.1558	.1547	.1536	.1525	.1514	.1503	.1492	.1481	.1470	.1459
22	.1450	.1440	.1430	.1420	.1410	.1400	.1390	.1380	.1370	.1360	.1350	.1340
23	.1330	.1322	.1314	.1306	.1298	.1290	.1282	.1274	.1266	.1258	.1250	.1242
24	.1230	.1222	.1214	.1206	.1198	.1190	.1182	.1174	.1166	.1158	.1150	.1142
25	.1130	.1123	.1116	.1109	.1102	.1095	.1088	.1081	.1074	.1067	.1060	.1053
26	.1040	.1037	.1034	.1031	.1028	.1025	.1022	.1019	.1016	.1013	.1010	.1007
27	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
28	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
29	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
30+	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

(5) **Table - ((Early retirement factors (ERF))** The following early retirement factors (ERFs) for PERS Plans 2 and 3, ((PSERS,)) SERS Plans 2 and 3, and TRS Plans 2 and 3(, and PERS Plan 1 vested/terminated members:)) are effective September 1, 2010.

((Yrs- Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
0	1.000	.9925	.9850	.9775	.9700	.9625	.9550	.9475	.9400	.9325	.9250	.9175
1	.9100	.9025	.8950	.8875	.8800	.8725	.8650	.8575	.8500	.8425	.8350	.8275
2	.8200	.8125	.8050	.7975	.7900	.7825	.7750	.7675	.7600	.7525	.7450	.7375
3	.7300	.7250	.7200	.7150	.7100	.7050	.7000	.6950	.6900	.6850	.6800	.6750
4	.6700	.6650	.6600	.6550	.6500	.6450	.6400	.6350	.6300	.6250	.6200	.6150
5	.6100	.6050	.6000	.5950	.5900	.5850	.5800	.5750	.5700	.5650	.5600	.5550

((Yrs- Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
6	.5500	.5450	.5400	.5350	.5300	.5250	.5200	.5150	.5100	.5050	.5000	.4950
7	.4900	.4850	.4800	.4750	.4700	.4650	.4600	.4550	.4500	.4450	.4400	.4350
8	.4300	.4275	.4250	.4225	.4200	.4175	.4150	.4125	.4100	.4075	.4050	.4025
9	.4000	.3975	.3950	.3925	.3900	.3875	.3850	.3825	.3800	.3775	.3750	.3725
10	.3700	.3675	.3650	.3625	.3600	.3575	.3550	.3525	.3500	.3475	.3450	.3425
11	.3400	.3375	.3350	.3325	.3300	.3275	.3250	.3225	.3200	.3175	.3150	.3125
12	.3100	.3075	.3050	.3025	.3000	.2975	.2950	.2925	.2900	.2875	.2850	.2825
13	.2800	.2783	.2766	.2749	.2732	.2715	.2698	.2681	.2664	.2647	.2630	.2613
14	.2600	.2583	.2566	.2549	.2532	.2515	.2498	.2481	.2464	.2447	.2430	.2413
15	.2400	.2383	.2366	.2349	.2332	.2315	.2298	.2281	.2264	.2247	.2230	.2213
16	.2200	.2183	.2166	.2149	.2132	.2115	.2098	.2081	.2064	.2047	.2030	.2013
17	.2000	.1983	.1966	.1949	.1932	.1915	.1898	.1881	.1864	.1847	.1830	.1813
18	.1800	.1792	.1784	.1776	.1768	.1760	.1752	.1744	.1736	.1728	.1720	.1712
19	.1700	.1692	.1684	.1676	.1668	.1660	.1652	.1644	.1636	.1628	.1620	.1612
20	.1600	.1592	.1584	.1576	.1568	.1560	.1552	.1544	.1536	.1528	.1520	.1512
21	.1500	.1492	.1484	.1476	.1468	.1460	.1452	.1444	.1436	.1428	.1420	.1412
22	.1400	.1392	.1384	.1376	.1368	.1360	.1352	.1344	.1336	.1328	.1320	.1312
23	.1300	.1292	.1284	.1276	.1268	.1260	.1252	.1244	.1236	.1228	.1220	.1212
24	.1200	.1192	.1184	.1176	.1168	.1160	.1152	.1144	.1136	.1128	.1120	.1112
25	.1100	.1092	.1084	.1076	.1068	.1060	.1052	.1044	.1036	.1028	.1020	.1012
26	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
27	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
28	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
29	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
30	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
31	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
32	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
33	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
34	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
35	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
36	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
37	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
38	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
39	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
40	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
41	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
42	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
43	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
44	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
45	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000))

Yrs Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
0	1.0000	.9913	.9826	.9739	.9652	.9565	.9478	.9391	.9304	.9217	.9130	.9043
1	.8960	.8884	.8808	.8732	.8656	.8580	.8504	.8428	.8352	.8276	.8200	.8124
2	.8050	.7983	.7916	.7849	.7782	.7715	.7648	.7581	.7514	.7447	.7380	.7313
3	.7240	.7180	.7120	.7060	.7000	.6940	.6880	.6820	.6760	.6700	.6640	.6580
4	.6520	.6467	.6414	.6361	.6308	.6255	.6202	.6149	.6096	.6043	.5990	.5937
5	.5880	.5833	.5786	.5739	.5692	.5645	.5598	.5551	.5504	.5457	.5410	.5363
6	.5310	.5268	.5226	.5184	.5142	.5100	.5058	.5016	.4974	.4932	.4890	.4848
7	.4810	.4772	.4734	.4696	.4658	.4620	.4582	.4544	.4506	.4468	.4430	.4392
8	.4350	.4317	.4284	.4251	.4218	.4185	.4152	.4119	.4086	.4053	.4020	.3987
9	.3950	.3919	.3888	.3857	.3826	.3795	.3764	.3733	.3702	.3671	.3640	.3609
10	.3580	.3553	.3526	.3499	.3472	.3445	.3418	.3391	.3364	.3337	.3310	.3283
11	.3260	.3235	.3210	.3185	.3160	.3135	.3110	.3085	.3060	.3035	.3010	.2985
12	.2960	.2938	.2916	.2894	.2872	.2850	.2828	.2806	.2784	.2762	.2740	.2718

<u>Yrs Early</u>	<u>Month 0</u>	<u>Month 1</u>	<u>Month 2</u>	<u>Month 3</u>	<u>Month 4</u>	<u>Month 5</u>	<u>Month 6</u>	<u>Month 7</u>	<u>Month 8</u>	<u>Month 9</u>	<u>Month 10</u>	<u>Month 11</u>
<u>13</u>	.2690	.2670	.2650	.2630	.2610	.2590	.2570	.2550	.2530	.2510	.2490	.2470
<u>14</u>	.2450	.2432	.2414	.2396	.2378	.2360	.2342	.2324	.2306	.2288	.2270	.2252
<u>15</u>	.2230	.2214	.2198	.2182	.2166	.2150	.2134	.2118	.2102	.2086	.2070	.2054
<u>16</u>	.2040	.2025	.2010	.1995	.1980	.1965	.1950	.1935	.1920	.1905	.1890	.1875
<u>17</u>	.1860	.1846	.1832	.1818	.1804	.1790	.1776	.1762	.1748	.1734	.1720	.1706
<u>18</u>	.1690	.1678	.1666	.1654	.1642	.1630	.1618	.1606	.1594	.1582	.1570	.1558
<u>19</u>	.1550	.1538	.1526	.1514	.1502	.1490	.1478	.1466	.1454	.1442	.1430	.1418
<u>20</u>	.1410	.1400	.1390	.1380	.1370	.1360	.1350	.1340	.1330	.1320	.1310	.1300
<u>21</u>	.1290	.1281	.1272	.1263	.1254	.1245	.1236	.1227	.1218	.1209	.1200	.1191
<u>22</u>	.1180	.1172	.1164	.1156	.1148	.1140	.1132	.1124	.1116	.1108	.1100	.1092
<u>23</u>	.1080	.1074	.1068	.1062	.1056	.1050	.1044	.1038	.1032	.1026	.1020	.1014
<u>24</u>	.1010	.1009	.1008	.1007	.1006	.1005	.1004	.1003	.1002	.1001	.1000	.1000
<u>25</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>26</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>27</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>28</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>29</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>30+</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

(6) **Table** - The following table contains early retirement factors (ERFs) for members who do not retire from active service in PERS Plan 1, PSERS Plan 2, and WSPRS Plans 1 and 2. The ERFs are effective September 1, 2010.

<u>Yrs Early</u>	<u>Month 0</u>	<u>Month 1</u>	<u>Month 2</u>	<u>Month 3</u>	<u>Month 4</u>	<u>Month 5</u>	<u>Month 6</u>	<u>Month 7</u>	<u>Month 8</u>	<u>Month 9</u>	<u>Month 10</u>	<u>Month 11</u>
<u>0</u>	1.0000	.9918	.9836	.9754	.9672	.9590	.9508	.9426	.9344	.9262	.9180	.9098
<u>1</u>	.9010	.8938	.8866	.8794	.8722	.8650	.8578	.8506	.8434	.8362	.8290	.8218
<u>2</u>	.8140	.8075	.8010	.7945	.7880	.7815	.7750	.7685	.7620	.7555	.7490	.7425
<u>3</u>	.7360	.7302	.7244	.7186	.7128	.7070	.7012	.6954	.6896	.6838	.6780	.6722
<u>4</u>	.6660	.6608	.6556	.6504	.6452	.6400	.6348	.6296	.6244	.6192	.6140	.6088
<u>5</u>	.6040	.5994	.5948	.5902	.5856	.5810	.5764	.5718	.5672	.5626	.5580	.5534
<u>6</u>	.5490	.5448	.5406	.5364	.5322	.5280	.5238	.5196	.5154	.5112	.5070	.5028
<u>7</u>	.4990	.4953	.4916	.4879	.4842	.4805	.4768	.4731	.4694	.4657	.4620	.4583
<u>8</u>	.4540	.4506	.4472	.4438	.4404	.4370	.4336	.4302	.4268	.4234	.4200	.4166
<u>9</u>	.4130	.4100	.4070	.4040	.4010	.3980	.3950	.3920	.3890	.3860	.3830	.3800
<u>10</u>	.3770	.3743	.3716	.3689	.3662	.3635	.3608	.3581	.3554	.3527	.3500	.3473
<u>11</u>	.3440	.3415	.3390	.3365	.3340	.3315	.3290	.3265	.3240	.3215	.3190	.3165
<u>12</u>	.3140	.3118	.3096	.3074	.3052	.3030	.3008	.2986	.2964	.2942	.2920	.2898
<u>13</u>	.2870	.2849	.2828	.2807	.2786	.2765	.2744	.2723	.2702	.2681	.2660	.2639
<u>14</u>	.2620	.2602	.2584	.2566	.2548	.2530	.2512	.2494	.2476	.2458	.2440	.2422
<u>15</u>	.2400	.2383	.2366	.2349	.2332	.2315	.2298	.2281	.2264	.2247	.2230	.2213
<u>16</u>	.2190	.2175	.2160	.2145	.2130	.2115	.2100	.2085	.2070	.2055	.2040	.2025
<u>17</u>	.2010	.1996	.1982	.1968	.1954	.1940	.1926	.1912	.1898	.1884	.1870	.1856
<u>18</u>	.1840	.1828	.1816	.1804	.1792	.1780	.1768	.1756	.1744	.1732	.1720	.1708
<u>19</u>	.1690	.1678	.1666	.1654	.1642	.1630	.1618	.1606	.1594	.1582	.1570	.1558
<u>20</u>	.1550	.1539	.1528	.1517	.1506	.1495	.1484	.1473	.1462	.1451	.1440	.1429
<u>21</u>	.1420	.1410	.1400	.1390	.1380	.1370	.1360	.1350	.1340	.1330	.1320	.1310
<u>22</u>	.1300	.1291	.1282	.1273	.1264	.1255	.1246	.1237	.1228	.1219	.1210	.1201
<u>23</u>	.1190	.1183	.1176	.1169	.1162	.1155	.1148	.1141	.1134	.1127	.1120	.1113
<u>24</u>	.1100	.1093	.1086	.1079	.1072	.1065	.1058	.1051	.1044	.1037	.1030	.1023
<u>25</u>	.1020	.1018	.1016	.1014	.1012	.1010	.1008	.1006	.1004	.1002	.1000	.1000
<u>26</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>27</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>28</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>29</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
<u>30+</u>	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

(7) **Table** - This table contains the early retirement factors (ERFs) for members who retire from active service in LEOFF Plan 2. The ERFs are effective January 1, 2010.

<u>Yrs Early</u>	<u>Month 0</u>	<u>Month 1</u>	<u>Month 2</u>	<u>Month 3</u>	<u>Month 4</u>	<u>Month 5</u>	<u>Month 6</u>	<u>Month 7</u>	<u>Month 8</u>	<u>Month 9</u>	<u>Month 10</u>	<u>Month 11</u>
<u>0</u>	<u>1.0000</u>	<u>.9925</u>	<u>.9850</u>	<u>.9775</u>	<u>.9700</u>	<u>.9625</u>	<u>.9550</u>	<u>.9475</u>	<u>.9400</u>	<u>.9325</u>	<u>.9250</u>	<u>.9175</u>
<u>1</u>	<u>.9100</u>	<u>.9033</u>	<u>.8966</u>	<u>.8899</u>	<u>.8832</u>	<u>.8765</u>	<u>.8698</u>	<u>.8631</u>	<u>.8564</u>	<u>.8497</u>	<u>.8430</u>	<u>.8363</u>
<u>2</u>	<u>.8300</u>	<u>.8239</u>	<u>.8178</u>	<u>.8117</u>	<u>.8056</u>	<u>.7995</u>	<u>.7934</u>	<u>.7873</u>	<u>.7812</u>	<u>.7751</u>	<u>.7690</u>	<u>.7629</u>
<u>3</u>	<u>.7570</u>	<u>.7515</u>	<u>.7460</u>	<u>.7405</u>	<u>.7350</u>	<u>.7295</u>	<u>.7240</u>	<u>.7185</u>	<u>.7130</u>	<u>.7075</u>	<u>.7020</u>	<u>.6965</u>
<u>4</u>	<u>.6910</u>	<u>.6860</u>	<u>.6810</u>	<u>.6760</u>	<u>.6710</u>	<u>.6660</u>	<u>.6610</u>	<u>.6560</u>	<u>.6510</u>	<u>.6460</u>	<u>.6410</u>	<u>.6360</u>
<u>5</u>	<u>.6310</u>	<u>.6265</u>	<u>.6220</u>	<u>.6175</u>	<u>.6130</u>	<u>.6085</u>	<u>.6040</u>	<u>.5995</u>	<u>.5950</u>	<u>.5905</u>	<u>.5860</u>	<u>.5815</u>
<u>6</u>	<u>.5770</u>	<u>.5728</u>	<u>.5686</u>	<u>.5644</u>	<u>.5602</u>	<u>.5560</u>	<u>.5518</u>	<u>.5476</u>	<u>.5434</u>	<u>.5392</u>	<u>.5350</u>	<u>.5308</u>
<u>7</u>	<u>.5270</u>	<u>.5233</u>	<u>.5196</u>	<u>.5159</u>	<u>.5122</u>	<u>.5085</u>	<u>.5048</u>	<u>.5011</u>	<u>.4974</u>	<u>.4937</u>	<u>.4900</u>	<u>.4863</u>
<u>8</u>	<u>.4830</u>	<u>.4796</u>	<u>.4762</u>	<u>.4728</u>	<u>.4694</u>	<u>.4660</u>	<u>.4626</u>	<u>.4592</u>	<u>.4558</u>	<u>.4524</u>	<u>.4490</u>	<u>.4456</u>
<u>9</u>	<u>.4420</u>	<u>.4389</u>	<u>.4358</u>	<u>.4327</u>	<u>.4296</u>	<u>.4265</u>	<u>.4234</u>	<u>.4203</u>	<u>.4172</u>	<u>.4141</u>	<u>.4110</u>	<u>.4079</u>
<u>10</u>	<u>.4050</u>	<u>.4022</u>	<u>.3994</u>	<u>.3966</u>	<u>.3938</u>	<u>.3910</u>	<u>.3882</u>	<u>.3854</u>	<u>.3826</u>	<u>.3798</u>	<u>.3770</u>	<u>.3742</u>
<u>11</u>	<u>.3710</u>	<u>.3685</u>	<u>.3660</u>	<u>.3635</u>	<u>.3610</u>	<u>.3585</u>	<u>.3560</u>	<u>.3535</u>	<u>.3510</u>	<u>.3485</u>	<u>.3460</u>	<u>.3435</u>
<u>12</u>	<u>.3410</u>	<u>.3387</u>	<u>.3364</u>	<u>.3341</u>	<u>.3318</u>	<u>.3295</u>	<u>.3272</u>	<u>.3249</u>	<u>.3226</u>	<u>.3203</u>	<u>.3180</u>	<u>.3157</u>
<u>13</u>	<u>.3130</u>	<u>.3108</u>	<u>.3086</u>	<u>.3064</u>	<u>.3042</u>	<u>.3020</u>	<u>.2998</u>	<u>.2976</u>	<u>.2954</u>	<u>.2932</u>	<u>.2910</u>	<u>.2888</u>
<u>14</u>	<u>.2870</u>	<u>.2851</u>	<u>.2832</u>	<u>.2813</u>	<u>.2794</u>	<u>.2775</u>	<u>.2756</u>	<u>.2737</u>	<u>.2718</u>	<u>.2699</u>	<u>.2680</u>	<u>.2661</u>
<u>15</u>	<u>.2640</u>	<u>.2622</u>	<u>.2604</u>	<u>.2586</u>	<u>.2568</u>	<u>.2550</u>	<u>.2532</u>	<u>.2514</u>	<u>.2496</u>	<u>.2478</u>	<u>.2460</u>	<u>.2442</u>
<u>16</u>	<u>.2420</u>	<u>.2404</u>	<u>.2388</u>	<u>.2372</u>	<u>.2356</u>	<u>.2340</u>	<u>.2324</u>	<u>.2308</u>	<u>.2292</u>	<u>.2276</u>	<u>.2260</u>	<u>.2244</u>
<u>17</u>	<u>.2230</u>	<u>.2215</u>	<u>.2200</u>	<u>.2185</u>	<u>.2170</u>	<u>.2155</u>	<u>.2140</u>	<u>.2125</u>	<u>.2110</u>	<u>.2095</u>	<u>.2080</u>	<u>.2065</u>
<u>18</u>	<u>.2050</u>	<u>.2036</u>	<u>.2022</u>	<u>.2008</u>	<u>.1994</u>	<u>.1980</u>	<u>.1966</u>	<u>.1952</u>	<u>.1938</u>	<u>.1924</u>	<u>.1910</u>	<u>.1896</u>
<u>19</u>	<u>.1880</u>	<u>.1868</u>	<u>.1856</u>	<u>.1844</u>	<u>.1832</u>	<u>.1820</u>	<u>.1808</u>	<u>.1796</u>	<u>.1784</u>	<u>.1772</u>	<u>.1760</u>	<u>.1748</u>
<u>20</u>	<u>.1730</u>	<u>.1718</u>	<u>.1706</u>	<u>.1694</u>	<u>.1682</u>	<u>.1670</u>	<u>.1658</u>	<u>.1646</u>	<u>.1634</u>	<u>.1622</u>	<u>.1610</u>	<u>.1598</u>
<u>21</u>	<u>.1590</u>	<u>.1580</u>	<u>.1570</u>	<u>.1560</u>	<u>.1550</u>	<u>.1540</u>	<u>.1530</u>	<u>.1520</u>	<u>.1510</u>	<u>.1500</u>	<u>.1490</u>	<u>.1480</u>
<u>22</u>	<u>.1470</u>	<u>.1460</u>	<u>.1450</u>	<u>.1440</u>	<u>.1430</u>	<u>.1420</u>	<u>.1410</u>	<u>.1400</u>	<u>.1390</u>	<u>.1380</u>	<u>.1370</u>	<u>.1360</u>
<u>23</u>	<u>.1350</u>	<u>.1342</u>	<u>.1334</u>	<u>.1326</u>	<u>.1318</u>	<u>.1310</u>	<u>.1302</u>	<u>.1294</u>	<u>.1286</u>	<u>.1278</u>	<u>.1270</u>	<u>.1262</u>
<u>24</u>	<u>.1250</u>	<u>.1242</u>	<u>.1234</u>	<u>.1226</u>	<u>.1218</u>	<u>.1210</u>	<u>.1202</u>	<u>.1194</u>	<u>.1186</u>	<u>.1178</u>	<u>.1170</u>	<u>.1162</u>
<u>25</u>	<u>.1150</u>	<u>.1143</u>	<u>.1136</u>	<u>.1129</u>	<u>.1122</u>	<u>.1115</u>	<u>.1108</u>	<u>.1101</u>	<u>.1094</u>	<u>.1087</u>	<u>.1080</u>	<u>.1073</u>
<u>26</u>	<u>.1060</u>	<u>.1055</u>	<u>.1050</u>	<u>.1045</u>	<u>.1040</u>	<u>.1035</u>	<u>.1030</u>	<u>.1025</u>	<u>.1020</u>	<u>.1015</u>	<u>.1010</u>	<u>.1005</u>
<u>27</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>
<u>28</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>
<u>29</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>
<u>30+</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>	<u>.1000</u>

AMENDATORY SECTION (Amending WSR 06-18-009, filed 8/24/06, effective 9/24/06)

WAC 415-02-380 How will my retirement ((allowance)) benefit be affected if I choose a benefit option with a survivor feature? This section applies to LEOFF Plans 1 and 2; PERS Plans 1, 2, and 3; PSERS; SERS Plans 2 and 3; TRS Plans 1, 2, and 3; and WSPRS Plans 1 and 2. ((For information about WSPRS Plan 1, see RCW 43.43.278 and WAC 415-103-215.))

(1) **What is a survivor feature?** Some benefit options include a survivor feature, which provides a lifetime monthly ((allowance)) benefit for your survivor beneficiary after your death.

(2) **What is a "survivor beneficiary"?** The person you name at the time of retirement to receive a lifetime monthly ((allowance)) benefit after your death is referred to as your "survivor beneficiary."

(3) **What benefit options include a survivor feature?** Benefit options are described in detail for each system and plan in the following state law and regulations:

LEOFF Plan 1:	RCW 41.26.164	WAC 415-104-202
LEOFF Plan 2:	RCW 41.26.460	WAC 415-104-215
PERS Plan 1:	RCW 41.40.188	WAC 415-108-326
PERS Plan 2:	RCW 41.40.660	WAC 415-108-326
PERS Plan 3:	RCW 41.40.845	WAC 415-108-326
PSERS:	RCW 41.37.170	WAC 415-106-600
SERS Plans 2 and 3:	RCW 41.35.220	WAC 415-110-610
TRS Plan 1:	RCW 41.32.530	WAC 415-112-504
TRS Plan 2:	RCW 41.32.785	WAC 415-112-505
TRS Plan 3:	RCW 41.32.851	WAC 415-112-505
WSPRS Plan 1:	RCW 43.43.278	WAC 415-103-215
WSPRS Plan 2:	RCW 43.43.271	WAC 415-103-225

(4) **Will selecting a benefit option with a survivor feature affect my monthly retirement ((allowance)) benefit?** Yes. Your monthly retirement ((allowance)) benefit will be actuarially reduced to offset the cost of the survivor feature.

(5) **Does my survivor beneficiary's age affect how much my monthly retirement ((allowance)) benefit will be reduced?** Yes. Your survivor beneficiary's age is used in determining the amount of your monthly retirement ((allowance)) benefit and the ((allowance)) benefit of your survivor

beneficiary. The younger the survivor beneficiary, the longer he or she is expected to receive ~~((an allowance))~~ a benefit. Your monthly ~~((allowance))~~ benefit will be reduced accordingly.

(a) Example:

Kendra, a PERS Plan 2 member, chooses Option 3 (joint and 50 percent survivorship) at retirement. She names her nephew, Steve, as her survivor beneficiary. This means, if Kendra dies before Steve, Steve will receive a monthly ~~((allowance))~~ benefit equal to half the amount Kendra was receiving. Steve is 30 years younger than Kendra. The department will calculate the adjustment to Kendra's monthly retirement ~~((allowance))~~ benefit by using the survivor option factor table ("member older") in subsection (6) of this section. With a 30-year age difference (member's age minus beneficiary's age), the value corresponding to PERS Plan 2 and Option 3 is ~~((0.753))~~ 0.776. This value, ~~((0.753))~~ 0.776, is multiplied against the amount Kendra would have received under Option 1 (no survivor feature). Kendra's monthly retirement ~~((allowance))~~ benefit will be reduced to about ~~((75%))~~ 77% of her Option 1 level.

(b) Example:

Mark, a LEOFF Plan 2 member, chooses Option 2 (joint and 100 percent survivorship) at retirement. He names his wife, Susan, as his survivor beneficiary. This means, if Mark dies before Susan, Susan will receive a monthly ~~((allowance))~~ benefit equal to the amount Mark was receiving. Mark is five years younger than Susan. The department will calculate the adjustment to Mark's monthly retirement ~~((allowance))~~ benefit by using the survivor option factor table ("member younger") in subsection ~~((9))~~ (11) of this section. With a 5-year age difference (member's age minus beneficiary's age), the value corresponding to LEOFF Plan 2 and Option 2 is ~~((0.894))~~ 0.898. This value, ~~((0.894))~~ 0.898, will be multiplied against the amount Mark would have received under Option 1 (no survivor feature). Mark's monthly retirement ~~((allowance))~~ benefit will be reduced to about ~~((89 percent))~~ 90% of his Option 1 level.

(6) Table - Member older (PERS and SERS). The following factors are effective September 1, 2010.

~~((Survivor option factor table: Member older than beneficiary~~

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
0	.870	.930	.909	.791	.883	.850	.799	.888	.857
1	.862	.926	.904	.778	.875	.840	.773	.872	.836
2	.857	.923	.900	.767	.868	.832	.760	.864	.826
3	.844	.915	.890	.758	.863	.825	.748	.856	.816
4	.840	.913	.887	.751	.858	.819	.741	.851	.811
5	.836	.910	.884	.743	.853	.813	.734	.846	.805
6	.831	.908	.881	.736	.848	.807	.726	.841	.799
7	.818	.900	.871	.728	.843	.801	.719	.836	.793
8	.814	.897	.867	.721	.838	.795	.712	.832	.787
9	.809	.895	.864	.713	.833	.789	.705	.827	.782
10	.805	.892	.861	.706	.828	.783	.698	.822	.776
11	.802	.890	.858	.699	.823	.777	.692	.818	.771
12	.787	.881	.847	.693	.818	.772	.685	.813	.766
13	.784	.879	.845	.686	.814	.766	.679	.809	.760
14	.780	.876	.842	.680	.809	.761	.673	.805	.755
15	.777	.874	.839	.673	.805	.756	.667	.800	.750
16	.773	.872	.836	.667	.801	.751	.662	.796	.746
17	.770	.870	.834	.662	.796	.746	.656	.792	.741
18	.767	.868	.832	.656	.792	.741	.651	.789	.737
19	.764	.866	.829	.651	.788	.736	.646	.785	.732
20	.762	.865	.827	.645	.785	.732	.641	.781	.728
21	.759	.863	.825	.640	.781	.728	.637	.778	.724
22	.756	.861	.823	.636	.777	.724	.632	.775	.720
23	.754	.860	.821	.631	.774	.720	.628	.771	.717
24	.752	.858	.820	.627	.771	.716	.624	.768	.713
25	.750	.857	.818	.622	.767	.712	.620	.765	.710
26	.748	.856	.817	.618	.764	.709	.616	.762	.707
27	.746	.855	.815	.615	.761	.705	.613	.760	.703
28	.744	.853	.814	.611	.758	.702	.609	.757	.700
29	.743	.852	.812	.607	.756	.699	.606	.755	.697
30	.741	.851	.811	.604	.753	.696	.603	.752	.695
31	.740	.850	.810	.601	.751	.693	.600	.750	.692
32	.738	.849	.809	.598	.748	.690	.597	.748	.690

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
33	.737	.849	.808	.595	.746	.688	.594	.745	.687
34	.736	.848	.807	.592	.744	.685	.592	.743	.685
35	.735	.847	.806	.589	.742	.683	.589	.741	.683
36	.734	.846	.805	.587	.740	.680	.587	.740	.680
37	.733	.846	.804	.584	.738	.678	.585	.738	.678
38	.732	.845	.804	.582	.736	.676	.582	.736	.677
39	.731	.844	.803	.580	.734	.674	.580	.734	.675
40	.730	.844	.802	.578	.732	.672	.578	.733	.673

(7) Table - Member younger (PERS and SERS)

Survivor option factor table: Member younger than beneficiary
Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
-20	.958	.978	.971	.939	.969	.959	.949	.974	.965
-19	.955	.977	.970	.935	.967	.956	.946	.972	.963
-18	.952	.976	.968	.931	.964	.953	.942	.970	.961
-17	.949	.974	.966	.927	.962	.950	.938	.968	.958
-16	.947	.973	.964	.922	.959	.947	.934	.966	.955
-15	.944	.971	.962	.917	.957	.943	.930	.964	.952
-14	.940	.969	.959	.912	.954	.940	.926	.961	.949
-13	.937	.968	.957	.907	.951	.936	.921	.959	.946
-12	.934	.966	.955	.902	.948	.932	.917	.956	.943
-11	.930	.964	.953	.896	.945	.928	.912	.954	.939
-10	.927	.962	.950	.890	.942	.924	.907	.951	.936
-9	.923	.960	.948	.884	.938	.919	.901	.948	.932
-8	.920	.958	.945	.878	.935	.915	.896	.945	.928
-7	.916	.956	.942	.871	.931	.910	.890	.942	.924
-6	.912	.954	.940	.865	.927	.905	.885	.939	.920
-5	.908	.952	.937	.858	.924	.901	.879	.935	.916
-4	.901	.948	.931	.848	.918	.893	.873	.932	.911
-3	.896	.945	.928	.840	.913	.887	.863	.927	.905
-2	.889	.941	.923	.826	.905	.877	.853	.920	.897
-1	.879	.935	.916	.805	.892	.861	.834	.909	.883
0	.870	.930	.909	.791	.883	.850	.799	.888	.857

(8) Table - Member older (PSERS)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
0	0.832	0.908	0.881
1	0.825	0.904	0.876
2	0.819	0.9	0.872
3	0.812	0.897	0.867
4	0.806	0.893	0.862
5	0.8	0.889	0.857
6	0.793	0.885	0.852
7	0.787	0.881	0.847
8	0.787	0.877	0.842

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
9	0.775	0.873	0.838
10	0.769	0.869	0.833
11	0.763	0.865	0.828
12	0.757	0.862	0.824
13	0.751	0.858	0.819
14	0.746	0.855	0.815
15	0.741	0.851	0.811
16	0.736	0.848	0.807
17	0.731	0.844	0.803
18	0.726	0.841	0.799
19	0.721	0.838	0.795
20	0.717	0.835	0.791
21	0.712	0.832	0.788
22	0.708	0.829	0.784

Age Difference	Option 2-100%	Option 3-50%	Option 4 66 2/3%
23	0.704	0.826	0.781
24	0.7	0.824	0.778
25	0.696	0.821	0.775
26	0.693	0.819	0.772
27	0.689	0.816	0.769
28	0.686	0.814	0.766
29	0.683	0.812	0.764
30	0.68	0.81	0.761
31	0.677	0.807	0.759
32	0.674	0.806	0.756
33	0.672	0.804	0.754
34	0.669	0.802	0.752
35	0.667	0.8	0.75
36	0.664	0.798	0.748
37	0.662	0.797	0.746
38	0.66	0.795	0.745
39	0.658	0.794	0.743
40	0.656	0.792	0.741

(9) Table—Member younger (PSERS)

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2-100%	Option 3-50%	Option 4 66 2/3%
-20	0.94	0.969	0.959
-19	0.936	0.967	0.956
-18	0.932	0.965	0.954
-17	0.928	0.962	0.951
-16	0.923	0.96	0.947
-15	0.919	0.958	0.944
-14	0.914	0.955	0.941
-13	0.909	0.952	0.937
-12	0.904	0.949	0.934
-11	0.899	0.947	0.93
-10	0.893	0.944	0.926
-9	0.887	0.94	0.922
-8	0.882	0.937	0.918
-7	0.876	0.934	0.914
-6	0.87	0.93	0.909
-5	0.864	0.927	0.905
-4	0.858	0.923	0.9
-3	0.851	0.92	0.896
-2	0.845	0.916	0.891
-1	0.838	0.912	0.886

(10) Table—Member older (LEOFF Plan 2 and WSPRS Plan 2)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
0	0.870	0.930	0.909	0.870	0.930	0.909
1	0.865	0.927	0.905	0.865	0.927	0.905
2	0.860	0.924	0.902	0.860	0.924	0.902
3	0.855	0.922	0.898	0.855	0.922	0.898
4	0.850	0.919	0.894	0.850	0.919	0.894
5	0.845	0.916	0.891	0.845	0.916	0.891
6	0.840	0.913	0.887	0.840	0.913	0.887
7	0.835	0.910	0.883	0.835	0.910	0.883
8	0.830	0.907	0.880	0.830	0.907	0.880
9	0.825	0.904	0.876	0.825	0.904	0.876
10	0.821	0.902	0.873	0.821	0.902	0.873
11	0.816	0.899	0.870	0.816	0.899	0.870
12	0.812	0.896	0.866	0.812	0.896	0.866
13	0.808	0.894	0.863	0.808	0.894	0.863
14	0.803	0.891	0.860	0.803	0.891	0.860
15	0.799	0.888	0.857	0.799	0.888	0.857
16	0.795	0.886	0.854	0.795	0.886	0.854
17	0.792	0.884	0.851	0.792	0.884	0.851
18	0.788	0.881	0.848	0.788	0.881	0.848
19	0.784	0.879	0.845	0.784	0.879	0.845

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
20	0.781	0.877	0.842	0.781	0.877	0.842
21	0.777	0.875	0.840	0.777	0.875	0.840
22	0.774	0.873	0.837	0.774	0.873	0.837
23	0.771	0.871	0.835	0.771	0.871	0.835
24	0.768	0.869	0.832	0.768	0.869	0.832
25	0.765	0.867	0.830	0.765	0.867	0.830
26	0.763	0.865	0.828	0.763	0.865	0.828
27	0.760	0.864	0.826	0.760	0.864	0.826
28	0.757	0.862	0.824	0.757	0.862	0.824
29	0.755	0.860	0.822	0.755	0.860	0.822
30	0.753	0.859	0.820	0.753	0.859	0.820
31	0.750	0.857	0.818	0.750	0.857	0.818
32	0.748	0.856	0.817	0.748	0.856	0.817
33	0.746	0.855	0.815	0.746	0.855	0.815
34	0.744	0.853	0.814	0.744	0.853	0.814
35	0.742	0.852	0.812	0.742	0.852	0.812
36	0.741	0.851	0.811	0.741	0.851	0.811
37	0.739	0.850	0.809	0.739	0.850	0.809
38	0.737	0.849	0.808	0.737	0.849	0.808
39	0.736	0.848	0.807	0.736	0.848	0.807
40	0.734	0.847	0.806	0.734	0.847	0.806

(11) ~~Table – Member younger (LEOFF Plan 2 and WSPRS Plan 2)~~

Survivor option factor table: Member younger than beneficiary
 Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
-20	0.953	0.976	0.968	0.953	0.976	0.968
-19	0.950	0.974	0.966	0.950	0.974	0.966
-18	0.947	0.973	0.964	0.947	0.973	0.964
-17	0.944	0.971	0.962	0.944	0.971	0.962
-16	0.940	0.969	0.959	0.940	0.969	0.959
-15	0.937	0.967	0.957	0.937	0.967	0.957
-14	0.933	0.965	0.954	0.933	0.965	0.954
-13	0.929	0.963	0.952	0.929	0.963	0.952
-12	0.925	0.961	0.949	0.925	0.961	0.949
-11	0.921	0.959	0.946	0.921	0.959	0.946
-10	0.917	0.957	0.943	0.917	0.957	0.943
-9	0.913	0.954	0.940	0.913	0.954	0.940
-8	0.908	0.952	0.937	0.908	0.952	0.937
-7	0.904	0.949	0.934	0.904	0.949	0.934
-6	0.899	0.947	0.930	0.899	0.947	0.930
-5	0.894	0.944	0.927	0.894	0.944	0.927
-4	0.890	0.942	0.924	0.890	0.942	0.924
-3	0.885	0.939	0.920	0.885	0.939	0.920
-2	0.880	0.936	0.916	0.880	0.936	0.916
-1	0.875	0.933	0.913	0.875	0.933	0.913
0	0.870	0.930	0.909	0.870	0.930	0.909

(12) ~~Table – Member younger (TRS)~~

Survivor option factor table: Member younger than beneficiary
 Age difference: Member's age minus beneficiary's age

Age Difference	FRS 1 Option 2 100%	FRS 1 Option 3 50%	FRS 1 Option 4 66 2/3%	FRS 2/3 Option 2 100%	FRS 2/3 Option 3 50%	FRS 2/3 Option 4 66 2/3%
-20	0.968	0.984	0.979	0.952	0.975	0.967
-19	0.966	0.983	0.977	0.949	0.974	0.965
-18	0.964	0.982	0.976	0.945	0.972	0.963
-17	0.962	0.981	0.974	0.942	0.970	0.960
-16	0.960	0.979	0.973	0.938	0.968	0.958
-15	0.957	0.978	0.971	0.934	0.966	0.955
-14	0.955	0.977	0.969	0.929	0.963	0.952
-13	0.952	0.976	0.968	0.925	0.961	0.949
-12	0.950	0.974	0.966	0.921	0.959	0.946
-11	0.947	0.973	0.964	0.916	0.956	0.942
-10	0.944	0.971	0.962	0.911	0.953	0.939
-9	0.942	0.970	0.960	0.906	0.951	0.935
-8	0.939	0.968	0.958	0.900	0.948	0.931
-7	0.936	0.967	0.956	0.895	0.945	0.927
-6	0.933	0.965	0.954	0.889	0.941	0.923
-5	0.927	0.962	0.950	0.884	0.938	0.919
-4	0.923	0.960	0.947	0.877	0.934	0.914
-3	0.918	0.957	0.944	0.865	0.928	0.906
-2	0.913	0.955	0.941	0.855	0.922	0.899
-1	0.907	0.951	0.936	0.839	0.912	0.887
0	0.898	0.946	0.930	0.815	0.898	0.869

(13) Table - Member older (FRS)

Survivor option factor table: Member older than beneficiary
 Age difference: Member's age minus beneficiary's age

Age Difference	FRS 1 Option 2 100%	FRS 1 Option 3 50%	FRS 1 Option 4 66 2/3%	FRS 2/3 Option 2 100%	FRS 2/3 Option 3 50%	FRS 2/3 Option 4 66 2/3%
0	0.898	0.946	0.930	0.815	0.898	0.869
1	0.892	0.943	0.925	0.801	0.889	0.858
2	0.888	0.941	0.922	0.790	0.883	0.849
3	0.877	0.935	0.915	0.781	0.877	0.842
4	0.873	0.932	0.912	0.772	0.871	0.835
5	0.869	0.930	0.909	0.765	0.867	0.830
6	0.858	0.924	0.901	0.758	0.862	0.824
7	0.855	0.922	0.898	0.751	0.858	0.819
8	0.851	0.920	0.896	0.744	0.853	0.813
9	0.848	0.918	0.893	0.737	0.849	0.808
10	0.845	0.916	0.891	0.730	0.844	0.802
11	0.842	0.914	0.889	0.724	0.840	0.797
12	0.839	0.912	0.887	0.717	0.835	0.792
13	0.836	0.911	0.884	0.711	0.831	0.787
14	0.824	0.904	0.875	0.705	0.827	0.782
15	0.821	0.902	0.873	0.699	0.823	0.777
16	0.819	0.900	0.871	0.694	0.819	0.773
17	0.816	0.899	0.869	0.688	0.815	0.768
18	0.814	0.897	0.868	0.683	0.812	0.764
19	0.812	0.896	0.866	0.678	0.808	0.760
20	0.809	0.895	0.864	0.673	0.805	0.755
21	0.807	0.893	0.863	0.668	0.801	0.751
22	0.805	0.892	0.861	0.664	0.798	0.748
23	0.803	0.891	0.860	0.660	0.795	0.744
24	0.802	0.890	0.858	0.655	0.792	0.740
25	0.800	0.889	0.857	0.651	0.789	0.737
26	0.798	0.888	0.856	0.648	0.786	0.734

Age Difference	TRS-1 Option 2 100%	TRS-1 Option 3 50%	TRS-1 Option 4 66 2/3%	TRS-2/3 Option 2 100%	TRS-2/3 Option 3 50%	TRS-2/3 Option 4 66 2/3%
27	0.797	0.887	0.855	0.644	0.783	0.731
28	0.796	0.886	0.854	0.640	0.781	0.728
29	0.794	0.885	0.853	0.637	0.778	0.725
30	0.793	0.885	0.852	0.634	0.776	0.722
31	0.792	0.884	0.851	0.631	0.774	0.719
32	0.791	0.883	0.850	0.628	0.771	0.717
33	0.790	0.882	0.849	0.625	0.769	0.714
34	0.789	0.882	0.848	0.622	0.767	0.712
35	0.788	0.881	0.848	0.620	0.765	0.710
36	0.787	0.881	0.847	0.617	0.763	0.708
37	0.786	0.880	0.846	0.615	0.762	0.706
38	0.785	0.880	0.846	0.613	0.760	0.704
39	0.785	0.879	0.845	0.611	0.758	0.702
40	0.784	0.879	0.845	0.609	0.757	0.700

(14) Table - Member younger (LEOFF Plan 1)

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
-20	0.958	0.978	0.971
-19	0.955	0.977	0.969
-18	0.952	0.975	0.967
-17	0.949	0.974	0.965
-16	0.946	0.972	0.963
-15	0.942	0.970	0.961
-14	0.939	0.969	0.959
-13	0.935	0.967	0.956
-12	0.932	0.965	0.953
-11	0.928	0.963	0.951
-10	0.924	0.960	0.948
-9	0.920	0.958	0.945
-8	0.916	0.956	0.942
-7	0.911	0.954	0.939
-6	0.907	0.951	0.936
-5	0.902	0.949	0.933
-4	0.898	0.946	0.929
-3	0.893	0.943	0.926
-2	0.888	0.941	0.922
-1	0.883	0.938	0.919

(15) Table - Member older (LEOFF Plan 1)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
0	0.878	0.935	0.915
1	0.873	0.932	0.912

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
2	0.868	0.930	0.908
3	0.864	0.927	0.905
4	0.859	0.924	0.901
5	0.854	0.921	0.898
6	0.849	0.918	0.894
7	0.844	0.915	0.890
8	0.839	0.913	0.887
9	0.835	0.910	0.883
10	0.830	0.907	0.880
11	0.826	0.905	0.877
12	0.821	0.902	0.873
13	0.817	0.899	0.870
14	0.813	0.897	0.867
15	0.809	0.894	0.864
16	0.805	0.892	0.861
17	0.801	0.889	0.858
18	0.797	0.887	0.855
19	0.793	0.885	0.852
20	0.790	0.882	0.849
21	0.786	0.880	0.847
22	0.783	0.878	0.844
23	0.780	0.876	0.841
24	0.777	0.874	0.839
25	0.774	0.872	0.837
26	0.771	0.871	0.834
27	0.768	0.869	0.832
28	0.765	0.867	0.830
29	0.763	0.865	0.828
30	0.760	0.864	0.826
31	0.758	0.862	0.824
32	0.756	0.861	0.823
33	0.753	0.859	0.821

Age Difference	Option 2-100%	Option 3-50%	Option 4 66 2/3%
34	0.751	0.858	0.819
35	0.749	0.857	0.818
36	0.747	0.855	0.816
37	0.745	0.854	0.815
38	0.744	0.853	0.813

Age Difference	Option 2-100%	Option 3-50%	Option 4 66 2/3%
39	0.742	0.852	0.812
40	0.740	0.851	0.810))

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
0	0.882	0.937	0.918	0.807	0.893	0.862	0.802	0.890	0.859
1	0.875	0.933	0.913	0.793	0.885	0.852	0.780	0.877	0.842
2	0.870	0.930	0.909	0.783	0.878	0.844	0.761	0.864	0.827
3	0.866	0.928	0.906	0.775	0.873	0.838	0.753	0.859	0.821
4	0.862	0.926	0.903	0.767	0.868	0.832	0.746	0.854	0.815
5	0.858	0.924	0.901	0.760	0.863	0.826	0.738	0.849	0.809
6	0.854	0.922	0.898	0.752	0.859	0.820	0.731	0.845	0.803
7	0.851	0.919	0.895	0.745	0.854	0.814	0.724	0.840	0.797
8	0.848	0.917	0.893	0.738	0.849	0.809	0.717	0.835	0.792
9	0.844	0.916	0.890	0.732	0.845	0.803	0.710	0.831	0.786
10	0.841	0.914	0.888	0.725	0.840	0.798	0.704	0.826	0.781
11	0.838	0.912	0.886	0.718	0.836	0.793	0.697	0.822	0.776
12	0.835	0.910	0.883	0.712	0.832	0.788	0.691	0.817	0.771
13	0.832	0.908	0.881	0.706	0.828	0.783	0.686	0.813	0.766
14	0.829	0.907	0.879	0.700	0.824	0.778	0.680	0.809	0.761
15	0.826	0.905	0.877	0.695	0.820	0.774	0.675	0.806	0.757
16	0.824	0.904	0.875	0.690	0.816	0.769	0.670	0.802	0.752
17	0.822	0.902	0.874	0.684	0.813	0.765	0.665	0.799	0.748
18	0.820	0.901	0.872	0.680	0.809	0.761	0.660	0.795	0.744
19	0.818	0.900	0.871	0.675	0.806	0.757	0.655	0.792	0.740
20	0.816	0.898	0.869	0.670	0.803	0.753	0.651	0.789	0.737
21	0.814	0.897	0.868	0.666	0.799	0.749	0.647	0.786	0.733
22	0.812	0.896	0.867	0.662	0.796	0.746	0.643	0.783	0.730
23	0.811	0.895	0.865	0.658	0.793	0.742	0.639	0.780	0.726
24	0.809	0.895	0.864	0.654	0.791	0.739	0.635	0.777	0.723
25	0.808	0.894	0.863	0.650	0.788	0.736	0.632	0.774	0.720
26	0.807	0.893	0.862	0.646	0.785	0.733	0.628	0.772	0.717
27	0.806	0.892	0.861	0.643	0.783	0.730	0.625	0.769	0.714
28	0.804	0.892	0.860	0.640	0.780	0.727	0.622	0.767	0.711
29	0.803	0.891	0.860	0.637	0.778	0.724	0.619	0.764	0.709
30	0.802	0.890	0.859	0.634	0.776	0.722	0.616	0.762	0.706
31	0.801	0.890	0.858	0.631	0.773	0.719	0.613	0.760	0.704
32	0.800	0.889	0.857	0.628	0.771	0.717	0.611	0.758	0.702
33	0.799	0.888	0.856	0.625	0.769	0.714	0.608	0.756	0.699
34	0.798	0.888	0.856	0.623	0.767	0.712	0.606	0.754	0.697
35	0.797	0.887	0.855	0.620	0.766	0.710	0.603	0.752	0.695
36	0.796	0.887	0.854	0.618	0.764	0.708	0.601	0.751	0.693
37	0.796	0.886	0.854	0.616	0.762	0.706	0.599	0.749	0.691
38	0.795	0.886	0.853	0.613	0.760	0.704	0.597	0.747	0.689
39	0.794	0.885	0.853	0.611	0.759	0.702	0.595	0.746	0.687
40	0.793	0.885	0.852	0.609	0.757	0.700	0.593	0.744	0.686

(7) Table - Member younger (PERS and SERS). The following factors are effective September 1, 2010.

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
-20	0.961	0.980	0.974	0.945	0.972	0.963	0.953	0.976	0.968
-19	0.959	0.979	0.972	0.942	0.970	0.960	0.950	0.974	0.966
-18	0.956	0.978	0.971	0.938	0.968	0.958	0.947	0.973	0.964
-17	0.954	0.976	0.969	0.934	0.966	0.955	0.943	0.971	0.962
-16	0.951	0.975	0.967	0.929	0.963	0.952	0.940	0.969	0.959
-15	0.948	0.973	0.965	0.925	0.961	0.949	0.936	0.967	0.956
-14	0.945	0.972	0.963	0.920	0.959	0.945	0.932	0.965	0.953
-13	0.942	0.970	0.961	0.916	0.956	0.942	0.927	0.962	0.950
-12	0.939	0.969	0.959	0.910	0.953	0.938	0.923	0.960	0.947
-11	0.936	0.967	0.957	0.905	0.950	0.935	0.918	0.957	0.944
-10	0.933	0.965	0.954	0.900	0.947	0.931	0.914	0.955	0.941
-9	0.930	0.964	0.952	0.894	0.944	0.927	0.909	0.952	0.937
-8	0.926	0.962	0.950	0.888	0.941	0.923	0.903	0.949	0.933
-7	0.923	0.960	0.947	0.882	0.937	0.918	0.898	0.946	0.930
-6	0.919	0.958	0.945	0.876	0.934	0.914	0.893	0.943	0.926
-5	0.916	0.956	0.942	0.870	0.930	0.909	0.887	0.940	0.922
-4	0.912	0.954	0.940	0.864	0.927	0.905	0.880	0.936	0.917
-3	0.907	0.951	0.936	0.853	0.921	0.897	0.868	0.929	0.908
-2	0.901	0.948	0.932	0.843	0.915	0.890	0.862	0.926	0.903
-1	0.892	0.943	0.925	0.826	0.905	0.877	0.841	0.913	0.888
0	0.882	0.937	0.918	0.807	0.893	0.862	0.802	0.890	0.859

(8) **Table - Member older (PSERS).** The following factors are effective September 1, 2010.

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
0	0.813	0.897	0.867
1	0.806	0.892	0.861
2	0.798	0.888	0.856
3	0.791	0.883	0.850
4	0.784	0.879	0.845
5	0.776	0.874	0.839
6	0.769	0.870	0.833
7	0.762	0.865	0.828
8	0.755	0.861	0.822
9	0.748	0.856	0.817
10	0.742	0.852	0.812
11	0.735	0.847	0.806
12	0.729	0.843	0.801
13	0.723	0.839	0.796
14	0.717	0.835	0.791
15	0.711	0.831	0.787
16	0.706	0.827	0.782
17	0.700	0.824	0.778
18	0.695	0.820	0.774

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
19	0.690	0.817	0.770
20	0.686	0.814	0.766
21	0.681	0.810	0.762
22	0.677	0.807	0.759
23	0.673	0.804	0.755
24	0.669	0.802	0.752
25	0.665	0.799	0.749
26	0.662	0.796	0.746
27	0.658	0.794	0.743
28	0.655	0.791	0.740
29	0.652	0.789	0.737
30	0.649	0.787	0.735
31	0.646	0.785	0.732
32	0.643	0.783	0.730
33	0.641	0.781	0.728
34	0.638	0.779	0.726
35	0.636	0.777	0.724
36	0.633	0.776	0.722
37	0.631	0.774	0.720
38	0.629	0.772	0.718
39	0.627	0.771	0.716
40	0.625	0.769	0.714

(9) **Table - Member younger (PSERS).** The following factors are effective September 1, 2010.

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

<u>Age Difference</u>	<u>Option 2 100%</u>	<u>Option 3 50%</u>	<u>Option 4 66 2/3 %</u>
-20	0.934	0.966	0.955
-19	0.930	0.963	0.952
-18	0.925	0.961	0.949
-17	0.921	0.959	0.946
-16	0.916	0.956	0.942
-15	0.911	0.953	0.939
-14	0.905	0.950	0.935
-13	0.900	0.947	0.931
-12	0.894	0.944	0.927
-11	0.888	0.941	0.922
-10	0.882	0.937	0.918
-9	0.876	0.934	0.913
-8	0.869	0.930	0.909

<u>Age Difference</u>	<u>Option 2 100%</u>	<u>Option 3 50%</u>	<u>Option 4 66 2/3 %</u>
-7	0.862	0.926	0.904
-6	0.856	0.922	0.899
-5	0.849	0.918	0.894
-4	0.842	0.914	0.889
-3	0.835	0.910	0.883
-2	0.827	0.906	0.878
-1	0.820	0.901	0.872
0	0.813	0.897	0.867

(10) Table - Member older (LEOFF Plan 2 and WSPRS Plans 1 and 2). The following factors for LEOFF Plan 2 are effective January 1, 2010; WSPRS Plans 1 and 2 are effective September 1, 2010.

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

<u>Age Difference</u>	<u>WSP 1 Option B 100%</u>	<u>WSP 2 Option 2 100%</u>	<u>WSP 2 Option 3 50%</u>	<u>WSP 2 Option 4 66 2/3%</u>	<u>LEOFF 2 Option 2 100%</u>	<u>LEOFF 2 Option 3 50%</u>	<u>LEOFF 2 Option 4 66 2/3%</u>
0	0.953	0.889	0.941	0.923	0.881	0.937	0.918
1	0.950	0.884	0.938	0.920	0.876	0.934	0.914
2	0.947	0.879	0.936	0.916	0.871	0.931	0.910
3	0.944	0.874	0.933	0.913	0.866	0.928	0.906
4	0.941	0.870	0.930	0.909	0.861	0.925	0.903
5	0.938	0.865	0.928	0.906	0.855	0.922	0.899
6	0.934	0.860	0.925	0.902	0.850	0.919	0.895
7	0.931	0.855	0.922	0.899	0.845	0.916	0.891
8	0.928	0.851	0.919	0.895	0.840	0.913	0.887
9	0.925	0.846	0.917	0.892	0.835	0.910	0.883
10	0.921	0.842	0.914	0.889	0.830	0.907	0.880
11	0.918	0.837	0.911	0.885	0.825	0.904	0.876
12	0.915	0.833	0.909	0.882	0.820	0.901	0.872
13	0.912	0.829	0.906	0.879	0.815	0.898	0.869
14	0.909	0.824	0.904	0.876	0.811	0.895	0.865
15	0.906	0.820	0.901	0.873	0.806	0.893	0.862
16	0.903	0.816	0.899	0.870	0.802	0.890	0.858
17	0.900	0.812	0.896	0.867	0.797	0.887	0.855
18	0.898	0.809	0.894	0.864	0.793	0.885	0.852
19	0.895	0.805	0.892	0.861	0.789	0.882	0.849
20	0.892	0.801	0.890	0.858	0.785	0.880	0.846
21	0.890	0.798	0.888	0.856	0.782	0.877	0.843
22	0.887	0.795	0.886	0.853	0.778	0.875	0.840
23	0.885	0.791	0.884	0.851	0.774	0.873	0.837
24	0.882	0.788	0.882	0.848	0.771	0.871	0.835
25	0.880	0.785	0.880	0.846	0.768	0.869	0.832
26	0.878	0.782	0.878	0.844	0.765	0.867	0.830
27	0.876	0.780	0.876	0.842	0.762	0.865	0.827
28	0.874	0.777	0.875	0.839	0.759	0.863	0.825
29	0.872	0.775	0.873	0.837	0.756	0.861	0.823
30	0.871	0.772	0.871	0.836	0.753	0.859	0.821
31	0.869	0.770	0.870	0.834	0.751	0.858	0.819

<u>Age Difference</u>	<u>WSP 1 Option B 100%</u>	<u>WSP 2 Option 2 100%</u>	<u>WSP 2 Option 3 50%</u>	<u>WSP 2 Option 4 66 2/3%</u>	<u>LEOFF 2 Option 2 100%</u>	<u>LEOFF 2 Option 3 50%</u>	<u>LEOFF 2 Option 4 66 2/3%</u>
32	0.868	0.767	0.868	0.832	0.748	0.856	0.817
33	0.866	0.765	0.867	0.830	0.746	0.854	0.815
34	0.865	0.763	0.866	0.829	0.743	0.853	0.813
35	0.864	0.761	0.864	0.827	0.741	0.851	0.811
36	0.863	0.759	0.863	0.826	0.739	0.850	0.810
37	0.862	0.758	0.862	0.824	0.737	0.849	0.808
38	0.861	0.756	0.861	0.823	0.735	0.848	0.807
39	0.860	0.754	0.860	0.822	0.734	0.846	0.805
40	0.859	0.753	0.859	0.820	0.732	0.845	0.804

(11) **Table - Member younger (LEOFF Plan 2 and WSPRS Plans 1 and 2).** The following factors for LEOFF Plan 2 are effective January 1, 2010; WSPRS Plans 1 and 2 are effective September 1, 2010.

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

<u>Age Difference</u>	<u>WSP 1 Option B 100%</u>	<u>WSP 2 Option 2 100%</u>	<u>WSP 2 Option 3 50%</u>	<u>WSP 2 Option 4 66 2/3%</u>	<u>LEOFF 2 Option 2 100%</u>	<u>LEOFF 2 Option 3 50%</u>	<u>LEOFF 2 Option 4 66 2/3%</u>
-20	0.993	0.962	0.981	0.975	0.961	0.980	0.974
-19	0.992	0.960	0.979	0.973	0.958	0.979	0.972
-18	0.991	0.957	0.978	0.971	0.955	0.977	0.970
-17	0.990	0.954	0.977	0.969	0.952	0.976	0.968
-16	0.989	0.952	0.975	0.967	0.949	0.974	0.966
-15	0.987	0.949	0.974	0.965	0.946	0.972	0.963
-14	0.986	0.945	0.972	0.963	0.943	0.971	0.961
-13	0.984	0.942	0.970	0.961	0.939	0.969	0.959
-12	0.983	0.939	0.968	0.958	0.936	0.967	0.956
-11	0.981	0.935	0.967	0.956	0.932	0.965	0.953
-10	0.979	0.931	0.965	0.953	0.928	0.963	0.951
-9	0.977	0.928	0.962	0.951	0.924	0.960	0.948
-8	0.975	0.924	0.960	0.948	0.919	0.958	0.945
-7	0.972	0.920	0.958	0.945	0.915	0.956	0.942
-6	0.970	0.916	0.956	0.942	0.911	0.953	0.939
-5	0.967	0.911	0.954	0.939	0.906	0.951	0.935
-4	0.965	0.907	0.951	0.936	0.901	0.948	0.932
-3	0.962	0.902	0.949	0.933	0.896	0.945	0.928
-2	0.959	0.898	0.946	0.930	0.891	0.943	0.925
-1	0.956	0.893	0.944	0.926	0.886	0.940	0.921
0	0.953	0.889	0.941	0.923	0.881	0.937	0.918

(12) **Table - Member younger (TRS).** The following factors are effective September 1, 2010.

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

<u>Age Difference</u>	<u>TRS 1 Option 2 100%</u>	<u>TRS 1 Option 3 50%</u>	<u>TRS 1 Option 4 66 2/3%</u>	<u>TRS 2/3 Option 2 100%</u>	<u>TRS 2/3 Option 3 50%</u>	<u>TRS 2/3 Option 4 66 2/3%</u>
-20	0.969	0.984	0.979	0.956	0.977	0.970
-19	0.967	0.983	0.978	0.953	0.976	0.968
-18	0.965	0.982	0.976	0.949	0.974	0.966
-17	0.963	0.981	0.975	0.946	0.972	0.963
-16	0.961	0.980	0.973	0.942	0.970	0.961
-15	0.958	0.979	0.972	0.939	0.968	0.958
-14	0.956	0.977	0.970	0.935	0.966	0.955
-13	0.953	0.976	0.968	0.930	0.964	0.953
-12	0.951	0.975	0.967	0.926	0.962	0.950

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
-11	0.948	0.973	0.965	0.922	0.959	0.946
-10	0.946	0.972	0.963	0.917	0.957	0.943
-9	0.943	0.971	0.961	0.912	0.954	0.940
-8	0.940	0.969	0.959	0.907	0.951	0.936
-7	0.937	0.968	0.957	0.902	0.949	0.933
-6	0.934	0.966	0.955	0.897	0.946	0.929
-5	0.931	0.964	0.953	0.891	0.943	0.925
-4	0.928	0.963	0.951	0.886	0.939	0.921
-3	0.925	0.961	0.949	0.880	0.936	0.917
-2	0.918	0.957	0.944	0.865	0.928	0.906
-1	0.912	0.954	0.940	0.851	0.920	0.896
0	0.903	0.949	0.933	0.831	0.908	0.880

(13) **Table - Member older (TRS).** The following factors are effective September 1, 2010.

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
0	0.903	0.949	0.933	0.831	0.908	0.880
1	0.896	0.945	0.928	0.815	0.898	0.869
2	0.891	0.942	0.924	0.803	0.891	0.859
3	0.887	0.940	0.922	0.795	0.886	0.853
4	0.884	0.939	0.920	0.789	0.882	0.848
5	0.881	0.937	0.918	0.782	0.877	0.843
6	0.878	0.935	0.915	0.775	0.873	0.838
7	0.875	0.933	0.913	0.768	0.869	0.833
8	0.872	0.932	0.911	0.762	0.865	0.827
9	0.870	0.930	0.909	0.755	0.861	0.822
10	0.867	0.929	0.907	0.749	0.856	0.817
11	0.865	0.928	0.906	0.743	0.852	0.812
12	0.863	0.926	0.904	0.737	0.849	0.808
13	0.860	0.925	0.902	0.731	0.845	0.803
14	0.858	0.924	0.901	0.726	0.841	0.799
15	0.856	0.923	0.899	0.720	0.837	0.794
16	0.854	0.921	0.898	0.715	0.834	0.790
17	0.853	0.920	0.897	0.710	0.830	0.786
18	0.851	0.919	0.895	0.705	0.827	0.782
19	0.849	0.919	0.894	0.701	0.824	0.778
20	0.848	0.918	0.893	0.696	0.821	0.775
21	0.847	0.917	0.892	0.692	0.818	0.771
22	0.845	0.916	0.891	0.688	0.815	0.768
23	0.844	0.915	0.890	0.684	0.812	0.764
24	0.843	0.915	0.889	0.680	0.809	0.761
25	0.842	0.914	0.889	0.676	0.807	0.758
26	0.841	0.913	0.888	0.673	0.804	0.755
27	0.840	0.913	0.887	0.669	0.802	0.752
28	0.839	0.912	0.887	0.666	0.800	0.750
29	0.838	0.912	0.886	0.663	0.797	0.747
30	0.837	0.911	0.885	0.660	0.795	0.744
31	0.837	0.911	0.885	0.657	0.793	0.742
32	0.836	0.911	0.884	0.655	0.791	0.740
33	0.835	0.910	0.884	0.652	0.789	0.737
34	0.835	0.910	0.883	0.649	0.787	0.735

<u>Age Difference</u>	<u>TRS 1 Option 2 100%</u>	<u>TRS 1 Option 3 50%</u>	<u>TRS 1 Option 4 66 2/3%</u>	<u>TRS 2/3 Option 2 100%</u>	<u>TRS 2/3 Option 3 50%</u>	<u>TRS 2/3 Option 4 66 2/3%</u>
35	0.834	0.910	0.883	0.647	0.786	0.733
36	0.834	0.909	0.882	0.645	0.784	0.731
37	0.833	0.909	0.882	0.643	0.782	0.730
38	0.832	0.909	0.882	0.641	0.781	0.728
39	0.832	0.908	0.881	0.639	0.779	0.726
40	0.831	0.908	0.881	0.637	0.778	0.724

(14) **Table - Member younger (LEOFF Plan 1).** The following factors are effective September 1, 2010.

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

<u>Age Difference</u>	<u>Option 2 100%</u>	<u>Option 3 50%</u>	<u>Option 4 66 2/3 %</u>
-20	0.959	0.979	0.972
-19	0.957	0.978	0.971
-18	0.954	0.976	0.969
-17	0.951	0.975	0.967
-16	0.948	0.973	0.965
-15	0.945	0.972	0.962
-14	0.941	0.970	0.960
-13	0.938	0.968	0.958
-12	0.934	0.966	0.955
-11	0.931	0.964	0.953
-10	0.927	0.962	0.950
-9	0.923	0.960	0.947
-8	0.919	0.958	0.944
-7	0.915	0.955	0.941
-6	0.910	0.953	0.938
-5	0.906	0.951	0.935
-4	0.901	0.948	0.932
-3	0.897	0.945	0.929
-2	0.892	0.943	0.925
-1	0.887	0.940	0.922
0	0.882	0.937	0.918

(15) **Table - Member older (LEOFF Plan 1).** The following factors are effective September 1, 2010.

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

<u>Age Difference</u>	<u>Option 2 100%</u>	<u>Option 3 50%</u>	<u>Option 4 66 2/3%</u>
0	0.882	0.937	0.918
1	0.877	0.935	0.915
2	0.872	0.932	0.911
3	0.867	0.929	0.907

<u>Age Difference</u>	<u>Option 2 100%</u>	<u>Option 3 50%</u>	<u>Option 4 66 2/3%</u>
4	0.862	0.926	0.904
5	0.857	0.923	0.900
6	0.852	0.920	0.896
7	0.847	0.917	0.892
8	0.842	0.914	0.889
9	0.837	0.911	0.885
10	0.832	0.908	0.882
11	0.827	0.906	0.878
12	0.823	0.903	0.874
13	0.818	0.900	0.871
14	0.814	0.897	0.868
15	0.809	0.895	0.864
16	0.805	0.892	0.861
17	0.801	0.889	0.858
18	0.797	0.887	0.855
19	0.793	0.884	0.851
20	0.789	0.882	0.849
21	0.785	0.880	0.846
22	0.781	0.877	0.843
23	0.778	0.875	0.840
24	0.774	0.873	0.837
25	0.771	0.871	0.835
26	0.768	0.869	0.832
27	0.765	0.867	0.830
28	0.762	0.865	0.828
29	0.759	0.863	0.825
30	0.756	0.861	0.823
31	0.754	0.860	0.821
32	0.751	0.858	0.819
33	0.749	0.856	0.817
34	0.746	0.855	0.815
35	0.744	0.853	0.814
36	0.742	0.852	0.812
37	0.740	0.851	0.810
38	0.738	0.849	0.809
39	0.736	0.848	0.807
40	0.734	0.847	0.806

AMENDATORY SECTION (Amending WSR 02-23-037, filed 11/13/02, effective 1/1/03)

WAC 415-103-215 What are the WSPRS Plan 1 retirement benefit options? This section only applies to members commissioned before January 1, 2003 (~~(WSPRS Plan 1)~~)).

(1) When retiring for service, a married member can choose either Option A (historic retirement option) under RCW 43.43.260 and 43.43.270 or Option B under RCW 43.43.278. Both options include a survivor feature that entitles the eligible surviving spouse and any eligible children to receive a monthly (~~(allowance)~~) benefit after the retiree dies.

(2) **Option A (historic retirement option and survivor benefit).** The department pays the retiree a monthly retirement (~~(allowance)~~) benefit in accordance with RCW 43.43.260 (Benefits). The department pays survivor benefits in accordance with RCW 43.43.270 (Retirement allowances).

(a) **Surviving spouse.** When the retiree dies, the department pays the retiree's surviving spouse a monthly retirement (~~(allowance)~~) benefit equal to the gross monthly (~~(allowance)~~) benefit then payable to the retiree, or (~~(an allowance)~~) a benefit equal to fifty percent of the average final salary (AFS) used to determine the retiree's benefit, whichever is less.

(b) **Surviving children when there is a surviving spouse.** If the retiree has a surviving spouse and surviving unmarried children under the age of eighteen years, each child shall be entitled to a benefit equal to five percent of the retiree's average final salary (AFS) at retirement. The combined benefits to the surviving spouse and all children cannot exceed sixty percent of the retiree's AFS.

(3) **Option B (actuarially equivalent retirement option and survivor benefit).** The department pays the retiree a monthly retirement (~~(allowance)~~) benefit that is actuarially reduced (~~(by three percent)~~) from the benefit calculated under Option A. The department pays survivor benefits in accordance with RCW 43.43.278 using actuarial factors in WAC 415-02-380 (10) and (11).

(a) **Surviving spouse.** When the retiree dies, the department pays the retiree's surviving spouse a monthly retirement (~~(allowance)~~) benefit equal to the gross monthly (~~(allowance)~~) benefit then payable to the retiree.

(b) **Surviving children when there is a surviving spouse.** If the retiree has a surviving spouse and surviving unmarried children under the age of eighteen years, each surviving unmarried child under the age of eighteen years shall be entitled to a benefit equal to five percent of the retiree's average final salary (AFS) at retirement.

(4) **Benefits included in Option A and Option B.**

(a) **Cost-of-living adjustment.** The retiree's annual adjustment every July is based upon the provisions in RCW 43.43.260(5). The annual adjustment applies to the eligible surviving spouse and any eligible children, who receive a monthly (~~(allowance)~~) benefit after the retiree dies.

(b) **Surviving spouse eligibility.** To be eligible for (~~(an allowance)~~) a benefit, the surviving spouse of a retiree must either:

(i) Have been married to the retiree prior to his or her retirement and continuously thereafter until the retiree's death; or

(ii) Have been married to the retiree for at least two years prior to the retiree's death.

(c) **Remarriage of surviving spouse.** If a surviving spouse who is receiving benefits under this subsection marries another member of WSPRS and that retiree dies before the spouse, the spouse will receive only the higher of the two survivors' (~~(allowances)~~) benefits for which he or she qualifies. The surviving spouse cannot receive more than one survivor (~~(allowance)~~) benefit at a time under this subsection.

(d) **Surviving children when there is no surviving spouse.** If there is no surviving spouse or the surviving spouse dies, the unmarried child or children under the age of eighteen years shall be entitled to a benefit equal to thirty percent of the retiree's AFS for one child and an additional ten percent of AFS for each additional child. The combined benefits to the surviving children cannot exceed sixty percent of the retiree's AFS. Benefit payments under this subsection will be divided equally among the children.

(e) **End of benefits.** All benefits end when the surviving spouse dies or the youngest unmarried child reaches age eighteen, whichever occurs last.

(f) **Distribution of remaining contributions.** Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (f)(i) of this subsection is living or in existence at the time of the retiree's death.

(5) **Pop-up provision.**

(a) This subsection only applies to members retiring on or after July 1, 2000, who select Option B.

(b) If the retiree and spouse divorce, or if the spouse dies before the retiree, the retiree's monthly retirement (~~(allowance)~~) benefit increases, effective the first day of the following month, to:

(i) The amount that the retiree would have received had the retiree chosen Option A at retirement; plus

(ii) Any cost of living adjustments (COLA) the retiree received prior to the divorce or the spouse's death.

(c) Pop-up recalculation example:

Option B: Bob (~~(retired)~~) retires on ((August 1, 2000) September 1, 2010. His Option A monthly benefit ((would have been)) is \$3,000. He (~~(selected)~~) selects Option B so that his spouse, Linda, will receive his monthly (~~(allowance)~~) benefit and COLA after he dies. Bob is 5 years younger than Linda. As a result, (~~(his monthly allowance was reduced by three percent from \$3,000, the Option A, historic retirement and survivor benefit, to \$2,910. Bob's COLA for 2001 was \$87.30 (three percent of \$2,910) and for 2002 was \$89.92 (three percent of \$2,997.30))~~) the department will calculate the adjustment to Bob's monthly retirement benefit by using the survivor option factor found in WAC 415-02-380(11). With a -5 year age difference, the value corresponding to WSP Plan 1 Option B is 0.967. This value, 0.967, will be multiplied against the \$3,000 Option A benefit amount. Bob's Option B monthly benefit amount will be \$2,901. Bob receives his first COLA on July 1, 2012, in the amount of

\$87.03. Bob's monthly benefit amount with the COLA is \$2,988.03.

Linda (~~(died)~~) dies in September (~~(2002)~~) 2012. Under the "pop-up" provision, Bob's monthly benefit increased in October (~~(2002)~~) 2012 to a total of (~~(\$3,177.22)~~) \$3,087.03. His new benefit amount includes the \$3,000 he would have received had he originally chosen Option A, plus the (~~(total of the COLAs)~~) COLA he received in (~~(2001 (\$87.30) and 2002 (\$89.92). On July 1, 2003, Bob's COLA will be based on the average consumer price index to a maximum of three percent. See RCW 43.43.260(5))~~) 2012 (\$87.03).

(d) If a retiree whose benefit increases under this subsection dies and there is no eligible child, all benefit payments end. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (d)(i) of this subsection is living or in existence at the time of the retiree's death.

(6) For more information see chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating retirement (~~(allowances)~~) benefits.

(7) Terms used in this section:

"Pop-up" - see WAC 415-02-030.

ial projections. The department must amend its rules to update administrative factors for the law enforcement officers' and firefighters' retirement system (LEOFF), public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), teachers' retirement system (TRS), Washington state patrol retirement system (WSPRS), and judicial retirement system (JRS).

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: RCW 41.26.199, 41.26.432, 41.40.034, 41.37.265, 41.35.183, 41.32.066, and 43.43.233.

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

June 23, 2010

Ken Goolsby

Rules Coordinator

WSR 10-13-150
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed June 23, 2010, 8:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-07-152.

Title of Rule and Other Identifying Information: WAC 415-02-177 May I purchase additional service credit?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on July 29, 2010, at 1:30 p.m.

Date of Intended Adoption: July 29, 2010.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on July 29, 2010.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by May 20, 2010, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the department's administrative rules with new administrative factors provided by the state actuary.

Reasons Supporting Proposal: The office of the state actuary (OSA) has provided the department with new actuar-

AMENDATORY SECTION (Amending WSR 06-16-043, filed 7/26/06, effective 8/26/06)

WAC 415-02-177 May I purchase additional service credit? (1) What is the option for purchasing additional service credit? The following statutes provide an option for eligible members to purchase additional service credit that provides a guaranteed, lifetime increase to their monthly retirement (~~(allowance:))~~ benefit:

(a) (~~(Section 5, chapter 214, Laws of 2006))~~ RCW 41.26.199 for LEOFF Plan 1 members;

(b) RCW 41.26.432 for LEOFF Plan 2 members;

(c) (~~(Section 1, chapter 214, Laws of 2006))~~ RCW 41.40.034 for PERS Plan 1, 2, and 3 members;

(d) (~~(Section 4, chapter 214, Laws of 2006))~~ RCW 41.37.265 for PSERS Plan 2 members;

(e) (~~(Section 3, chapter 214, Laws of 2006))~~ RCW 41.35.183 for SERS Plan 2 and 3 members;

(f) (~~(Section 2, chapter 214, Laws of 2006))~~ RCW 41.32.066 for TRS Plan 1, 2, and 3 members; and

(g) (~~(Section 6, chapter 214, Laws of 2006))~~ RCW 43.43.233 for WSPRS Plan 1 and 2 members.

(2) Am I eligible to purchase additional service credit?

(a) You may purchase additional service credit if you are eligible to retire from one or more of the following plans and you (~~(take your benefit as))~~ elect a monthly (~~(allowance))~~ benefit rather than a lump sum payment:

- (i) LEOFF Plan 1 or 2 under RCW 41.26.090 or 41.26.430;
- (ii) PERS Plan 1, 2 or 3 under RCW 41.40.180, 41.-40.630, or 41.40.820;
- (iii) PSERS Plan 2 under RCW 41.37.210;
- (iv) SERS Plan 2 or 3 under RCW 41.35.420 or 41.35.-680;
- (v) TRS Plan 1, 2, or 3 under RCW 41.32.480, 41.32.765, or 41.32.875; or
- (vi) WSPRS Plan 1 or 2 under RCW 43.43.250.

(b) If you retire as a result of a disability, you may purchase additional service credit if you meet the requirements in (a) of this section.

(3) How much additional service credit may I purchase? If you are eligible, you may purchase from one to sixty months of additional service credit in whole month increments.

(4) May I use the additional purchased service credit to qualify for normal retirement ~~(, or to qualify for the three percent reduction instead of the actuarial reduction for) or an early retirement?~~ No. You may not use the purchased service credit to qualify for normal retirement or to

qualify for ~~((a three percent reduction factor instead of an actuarial reduction for)) an~~ early retirement.

(5) When must I apply to purchase additional service credit? You must submit your request to purchase additional service credit to the department at the same time you submit your application for retirement.

(6) How much will my monthly retirement ~~((allow-ance))~~ benefit increase if I purchase additional service credit? The increase in your monthly retirement ~~((allow-ance))~~ benefit will be calculated using the benefit formula for your system and plan, with a reduction for early retirement, if applicable. ~~((If your monthly allowance will be reduced for early retirement, the same early reduction factor will be used to calculate the increase due to the additional service credit.))~~

PERS Plan 2 example 1: John is a member of PERS Plan 2. He applies for retirement, effective the first month after his 62nd birthday. His AFC is \$4000 per month. If he purchases sixty months of additional service credit, his monthly retirement ~~((allowance))~~ benefit will increase by ~~(((\$292))~~ \$289.60 per month, calculated as follows:

Additional service credit: 60 months ÷ 12 = 5 years
 Early retirement factor (WAC 415-02-320(5)): ~~((-.7300000))~~ .7240000

$$\begin{aligned} \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{AFC} \times \text{early retirement factor} \\ &= 2\% \times 5 \text{ years} \times \$4000 \times \del((-.7300000)) \text{ .7240000} \\ &= \del((\$292)) \text{ \$289.60} \end{aligned}$$

TRS Plan 3 example 2: Jane is a member of TRS Plan 3. She applies for retirement, effective the first month after her 62nd birthday. Her AFC is \$4000 per month. If she purchases sixty months of additional service credit, her monthly retirement ~~((allowance))~~ benefit will increase by ~~(((\$146))~~ \$144.80 per month, calculated as follows:

Additional service credit: 60 months ÷ 12 = 5 years
 Early retirement factor (WAC 415-02-320(5)): ~~((-.7300000))~~ .7240000

$$\begin{aligned} \text{Amount of increase} &= 1\% \times \text{additional service credit years} \times \text{AFC} \times \text{early retirement factor} \\ &= 1\% \times 5 \text{ years} \times \$4000 \times \del((-.7300000)) \text{ .7240000} \\ &= \del((\$146)) \text{ \$144.80} \end{aligned}$$

LEOFF Plan 2 example 3: Jim is a member of LEOFF Plan 2. He applies for retirement, effective the first month after his 53rd birthday. His FAS is \$4000 per month. If he purchases sixty months of additional service credit, his monthly retirement ~~((allowance))~~ benefit will increase by \$400 per month, calculated as follows:

Additional service credit: 60 months ÷ 12 = 5 years

$$\begin{aligned} \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{FAS} \\ &= 2\% \times 5 \text{ years} \times \$4000 \\ &= \$400 \end{aligned}$$

(7) How is the cost of the additional purchased service credit calculated? The cost to purchase additional service credit is calculated by dividing the amount of the increase in subsection (6) of this section by the age-based annuity factor in WAC 415-02-340.

Example. In subsection (6) of this section, Example 1, it was determined that John's retirement ~~((allowance))~~ benefit would increase by ~~(((\$292))~~ \$289.60 per month. The cost to purchase the five years of additional service credit would be ~~(((\$43,558.68))~~ \$44,542.88, calculated as follows:

$$\begin{aligned} \text{Age-based annuity factory (WAC 415-02-340):} & \text{ .0065016} \\ \text{Cost} &= \text{Amount of increase} \div \text{age-based annuity factor} \\ &= \del((\$292)) \text{ \$289.60} \div \del((-.0067036)) \text{ .0065016} \\ &= \del((\$43,558.68)) \text{ \$44542.88} \end{aligned}$$

(8) How and when do I pay for the additional service credit? The department will generate a bill to you for the cost of the additional service credit.

(a) Payment may be made with an eligible rollover, a direct rollover or a trustee-to-trustee transfer, if allowed by the transferring plan. ~~(You)~~ Payment may also (use) be made with after-tax dollars, such as (those) money from a personal savings account(;- however-). However, IRS regulations limit the amount of after-tax dollars you (can use for this type of purchase) may use to purchase additional service credit.

(b) Payment must be made in full within ninety days after the bill issue date.

(9) If I choose a benefit option with a survivor feature, will my survivor beneficiary's monthly ((allowance)) benefit reflect the additional purchased service credit? Yes. Depending upon the rules for your retirement system and plan and the benefit option you choose at retirement, your survivor beneficiary's monthly ((allowance)) benefit will be a percentage of the gross monthly retirement ((allowance)) benefit you were receiving at the time of your death. If you choose a benefit option with a survivor feature and your survivor beneficiary dies before you, your monthly retirement ((allowance)) benefit will increase to the amount it would have been had you not selected a survivor option.

(10) Will I receive a cost of living adjustment (COLA) on the portion of my ((allowance)) benefit that is based on the additional purchased service credit?

(a) For all systems and plans, except ((PERS Plan 1 and TRS Plan 1)) as noted in subsection (b), your COLA will be based on your gross monthly retirement ((allowance)) benefit, including the increase due to the purchased service credit.

(b) If you ~~((retired))~~ retire from PERS Plan 1 or TRS Plan 1 and you ~~((did not elect the COLA option))~~ do not elect the optional auto COLA, you will not receive a COLA on the additional purchased service credit amount.

(11) If I purchase additional service credit and then return to work, how will my retirement ((allowance)) benefit be affected?

(a) If you return to work with an employer that participates with the department:

(i) Elect to return to membership - ((and your)) Your entire retirement ((allowance)) benefit is suspended, including the portion of your retirement ((allowance)) benefit attributable to service credit purchased under this section ((will also be suspended. When your retirement allowance resumes, the portion attributable to service credit purchased under this section will also resume)).

(ii) Do not elect to return to membership - If your retirement benefit is suspended due to working over the hours allowed annually, the portion of your retirement benefit attributable to service credit purchased under this section will not be suspended.

(b) If you return to work with an employer that does not participate with the department, your retirement benefit and the portion of your retirement benefit attributable to service credit purchased under this section will not be suspended.

(12) If I retire and purchase less than sixty months of additional service credit, may I purchase more at a later time? If you retire and purchase less than sixty months of

additional service credit, you may not purchase additional months of service credit from the same plan unless you return to membership and rehire from the same system and plan. You must meet the eligibility requirements provided in subsection (2) of this section at the time you rehire. You may not purchase more than a total of sixty months of service credit regardless of how many times you rehire from the same system and plan.

(13) May I purchase service credit from more than one retirement plan?

(a) If you are a dual member under chapter 415-113 WAC, Portability of public employment benefits, and you combine service credit to retire ~~((from two retirement plans))~~ as a dual member, you may purchase up to sixty months of additional service credit from each ~~((plan))~~ of your dual member plans.

(b) If you retire from more than one plan, but are not a dual member under chapter 415-113 WAC, you may purchase up to sixty months of additional service credit from each plan in which you meet the eligibility requirements in subsection (2) of this section.

(14) ((Will the money I paid to purchase the additional service credit be distributed to my beneficiary or estate if I die?

~~(a) If you have a survivor beneficiary at the time of your death, your survivor beneficiary will receive a monthly allowance according to subsection (9) of this section.~~

~~(b) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement (including the money you paid for additional service credit):~~

~~(i) **Plan 1 members:** The balance will be distributed according to RCW 41.26.160 and 41.26.161 (LEOFF), 41.40.188 (PERS), 41.32.530 (TRS), or WAC 415-103-215 (WSPRS).~~

~~(ii) **Plan 2 members and PSERS:** The balance will be distributed according to RCW 41.26.460 (LEOFF), 41.40.660 (PERS), 41.35.220 (SERS), 41.37.170 (PSERS), 41.32.785 or 41.32.790 (TRS), or 43.43.271 (WSPRS).~~

~~(iii) **Plan 3 members:** The balance will be retained by the Plan 3 trust fund. Money paid for additional service credit is posted directly to the Plan 3 trust fund to cover the increased cost of defined benefits, and is not distributable.)~~

How are the funds I paid to purchase the additional service credit treated upon my death (and the death of my survivor beneficiary, if applicable)?

(a) Plans 1 and 2. The amount paid to purchase the additional service credit is credited to your individual account as part of your accumulated contributions. Distribution of accumulated contributions after your death (and the death of your survivor beneficiary, if any) is governed by the statutes and rules applicable to your plan. See:

(i) WAC 415-108-326 for PERS Plans 1 and 2;

(ii) WAC 415-112-504(8) for TRS Plan 1;

(iii) WAC 415-112-505(7) for TRS Plan 2;

(iv) WAC 415-110-610(7) for SERS Plan 2;

(v) WAC 415-106-600(7) for PSERS Plan 2;

(vi) WAC 415-103-215 for WSPRS Plan 1;

(vii) WAC 415-103-225(7) for WSPRS Plan 2;

(viii) WAC 415-104-202 for LEOFF Plan 1; or

(ix) WAC 415-104-215(7) for LEOFF Plan 2.

(b) Plan 3. The amount paid to purchase the additional service credit is credited to the Plan 3 trust fund and not to your member account. There are no circumstances under which the amount will be distributed upon your death.

WSR 10-13-151
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed June 23, 2010, 8:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-07-152.

Title of Rule and Other Identifying Information: WAC 415-02-300 How does the department use actuarial tables, schedules, and factors? and 415-111-320 May I purchase a life annuity with my Plan 3 deferred contribution account?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on July 29, 2010, at 1:30 p.m.

Date of Intended Adoption: July 29, 2010.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on July 29, 2010.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by May 20, 2010, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the department's administrative rules with new administrative factors provided by the state actuary.

Reasons Supporting Proposal: The office of the state actuary (OSA) has provided the department with new actuarial projections. The department must amend its rules to update administrative factors for the law enforcement officers' and firefighters' retirement system (LEOFF), public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), teachers' retirement system (TRS), Washington state patrol retirement system (WSPRS), and judicial retirement system (JRS).

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: Chapter 41.45 RCW for WAC 415-02-300.

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no affect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

June 23, 2010

Ken Goolsby

Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-18-048, filed 8/28/02, effective 9/1/02)

WAC 415-02-300 How does the department use actuarial tables, schedules, and factors? (1) The department uses actuarial tables, schedules, and factors ~~((to calculate optional retirement allowances))~~ for, but not limited to, benefit calculations, annuitizing benefits, and calculating cost to purchase service credit for members, retirees, and beneficiaries.

(2) The department adopted ~~((these))~~ tables, schedules, and factors upon the office of the state actuary's (OSA) recommendation, following OSA's investigation into the mortality, service, compensation, and other experience of retirement plan members, retirees, and beneficiaries.

(3) ~~((These))~~ The tables, schedules, and factors may be amended from time to time, based upon subsequent actuarial investigation.

(4) The department uses the tables, schedules, and factors:

(a) ~~((in))~~ In effect at the time of the member's effective retirement date to calculate the member's retirement ~~((allow-ance))~~ benefit.

~~((5) The department will use these tables, schedules, and factors to process any payments when there is a death in service))~~ (b) In effect at the time of the annuitizing to calculate an annuitized benefit.

~~((6) The tables, schedules, and factors in this chapter apply to the calculation of retirement allowances for those who retire on or after September 1, 2002, (until subsequent amendment-))~~ (c) In effect at the time of purchase to determine a member's cost to purchase service credit.

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.

AMENDATORY SECTION (Amending WSR 05-24-050, filed 12/1/05, effective 1/1/06)

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

must use funds that are in the self-directed investment program.

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

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

(b) **A joint life annuity** is based on two lifetimes, yours and another person that you choose (referred to as your joint annuitant). It provides guaranteed payments ~~((for as long as you live, and then for as long as your joint annuitant lives))~~ to you during your lifetime, and then, if your joint annuitant survives you, to your joint annuitant for the remainder of his/her lifetime. The payments stop when both you and your joint annuitant die.

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

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

Example ~~((Term-certain))~~ (Term-certain—Joint life annuity):

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

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

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

(3) **How is the original purchase price of the life annuity determined?** You will choose how much of your defined contribution funds to use as your original purchase

price. The minimum purchase price depends on the type of annuity you purchase: the minimum purchase price for a TAP annuity is \$25,000 and the minimum purchase price for an annuity through a self-directed investment program insurance company is \$5,000.

The minimum purchase price for a life annuity is subject to change.

~~((3))~~ (4) **How are the monthly annuity payments calculated?** ~~((Your))~~ The amount of your monthly annuity payment ~~((amount))~~ is based on various actuarial assumptions, including without limitation, assumptions about life expectancy and anticipated investment returns. The amount of your monthly annuity payment will vary depending on:

- The original purchase price;
- Your age;
- The age of your joint annuitant~~((;))~~ (if any);
- ~~((Assumptions about life expectancy;~~
- ~~((;))~~ The survivorship percentage you select on a joint annuity if any; and
- ~~((Anticipated investment returns; and~~
- The specific features of the annuity you select, such as, but not limited to, COLAs or refunds of any undistributed balance upon death)) (e) other features of your specific annuity, including, but not limited to, COLAs or refunds of undistributed balances upon your death.

For more information about the factors used in calculating a TAP annuity, see WAC 415-02-390. For more information about the factors used in calculating an annuity through a self-directed investment program insurance company, contact the Plan 3 recordkeeper.

~~((4))~~ (5) **May I ~~((change my mind after I purchase an annuity))~~ cancel my purchase of an annuity contract?** Your contract will specify a period of time in which you can ~~((rescind))~~ cancel your decision to purchase the annuity. Once the rescission period expires, your decision is irrevocable.

~~((5))~~ **May I ~~((change the terms of the annuity))~~ (6) Can the terms of the annuity be changed after the rescission period expires?** You may not make any changes after the rescission period unless your annuity contract explicitly states otherwise. Some ~~((policies))~~ contracts allow you to make changes in specific circumstances. For instance, you may make changes to an annuity purchased through the Washington state investment board investment program only as follows:

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

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

(i) ~~((Your monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation))~~ Your monthly annuity payment is not subject to property division pursuant to a dissolution order (definition of dissolution order in RCW 41.50.500 includes orders of legal separation);

(ii) The selection is made during a one-year window on or after the date of the first anniversary and before the second anniversary of your marriage; and

(iii) You provide satisfactory proof of your new marriage and your new spouse's birth date. ~~((This option may only be used once and is irrevocable.))~~

~~((6))~~ **(7) What are the tax consequences of a life annuity?**

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

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

(c) The department does not:

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

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

(iii) Represent or guarantee ~~((that))~~ any particular federal or state income, payroll, personal property or other tax consequence ~~((will occur))~~ because of ~~((its nontaxable determination))~~ the department's determination of the taxable status of a distribution; or

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

~~((7))~~ **(8) How do I purchase a life annuity?**

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

(i) Plan 3 Request for Payment of Defined Contributions Funds Form;

(ii) Plan 3 Annuity Payment Request Form;

(iii) Spousal consent form, if married;

(iv) Proof of your birth date;

(v) Proof of your joint annuitant's birth date, if applicable; and

(vi) Tax withholding Form W-4P.

(b) You may transfer funds from one investment program to the other in order to have sufficient funds in the appropriate investment program to cover the cost of the annuity purchase.

~~((8))~~ **(9) What if there is an error in my contract?** Carefully examine your contract upon receipt. If there is an error or omission, you must report the error or omission immediately according to the instructions in your contract.

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 section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 10-13-152
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed June 23, 2010, 8:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-07-152.

Title of Rule and Other Identifying Information: WAC 415-02-310 How does the department use my age in calculating benefits? and 415-02-345 TRS Plan 1 Option benefit factors.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on July 29, 2010, at 1:30 p.m.

Date of Intended Adoption: July 29, 2010.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on July 29, 2010.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by May 20, 2010, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the department's administrative rules with new administrative factors provided by the state actuary.

Reasons Supporting Proposal: The office of the state actuary (OSA) has provided the department with new actuarial projections. The department must amend its rules to update administrative factors for the law enforcement officers' and firefighters' retirement system (LEOFF), public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), teachers' retirement system (TRS), Washington state patrol retirement system (WSPRS), and judicial retirement system (JRS).

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: Chapter 41.45 RCW.

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no affect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

June 23, 2010

Ken Goolsby

Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-20-068, filed 9/25/08, effective 10/26/08)

WAC 415-02-310 How does the department use my age in calculating benefits? This section provides an overview of the several different ways in which the department uses age in calculating benefits. The department may use your age to determine your retirement date, early retirement factors to apply, survivor factors, or cost of living adjustment factors.

(1) **Present value:** The department uses a rounding method to determine your age when calculating what your future lifetime monthly benefit is worth in present-day dollars. If the number of months in your age is under six months, the department will round down. If the number is six months or more, the department will round up. See WAC 415-02-340 for more information about the present value calculations.

Example 1:

At the time that the department is calculating Sharon's age in making a present value calculation, Sharon is 55 years, 5 months and 26 days old. The department will round down and use 55 as Sharon's age.

Example 2:

At the time that the department is calculating Donna's age in making a present value calculation, Donna is 54 years and 7 months old. The department will round up and use 55 as Donna's age.

(2) **Early retirement:** The department uses the difference between ~~((your "fully eligible retirement date" and your actual retirement date in calculating any actuarial reductions to your benefits))~~ the date you are eligible for normal retirement and your date of actual retirement to calculate any actuarial reduction to your benefit. See WAC 415-02-320 for more information about early retirement.

(a) **Step 1:** ~~((Determine the fully eligible retirement date))~~ The department determines the date you are eligible for normal retirement.

(i) ~~((The department first calculates the date on which you would have been fully eligible to retire.~~

~~((ii)))~~ All plans (except for LEOFF Plan 1, TRS Plan 1, WSPRS Plans 1 and 2, JRF and JRS): You can retire the first day of the month following your meeting the age requirement for retirement if you are otherwise eligible.

Example: Jake was born on May 12, ~~((1934.))~~ 1941. On May 12, ~~((1999))~~ 2006, Jake ~~((reaches))~~ reached age 65 and ~~((has))~~ met the age requirement for retirement. Provided that he is otherwise eligible, Jake's retirement date is June 1, ~~((1999))~~ 2006.

~~((iii)))~~ (ii) LEOFF Plan 1, TRS Plan 1, WSPRS Plans 1 and 2, JRF, and JRS: If a retirement date other than the first of the month is allowed, you can retire on the day you meet the age requirement, or the following day (depending on the plan).

Example: If Jake is a member of this type of plan, he could retire May 12th or 13th, ~~((1999))~~ 2006 (his birthday or the day after his birthday).

(b) **Step 2:** ~~((Determine the difference.))~~ The department determines the difference between the date you are eligible for normal retirement and your date of actual retirement as follows: ~~((The department next calculates the difference between your fully eligible retirement date and your actual retirement date by subtracting the actual retirement year and month from the fully eligible retirement year and month. (Days are not used in the calculation.)~~

~~((i))~~ Example:

Fully eligible date:	06/01/99
Minus actual retirement date:	08/01/95
Difference:	3 years, 10 months

~~((ii))~~ Example:

Fully eligible date:	05/25/99
Minus actual retirement date:	08/01/95
Difference:	3 years, 9 months))

(i) Example 1:

<u>Date of eligibility for normal retirement</u>	06/01/06
<u>Date of actual retirement</u>	08/01/02
<u>Determination of full years:</u>	08/01/02 to 07/31/05 is 3 years
<u>Determination of full months:</u>	08/01/05 to 05/31/06 is 10 months
<u>Difference is:</u>	3 years, 10 months

(ii) Example 2:

<u>Date of eligibility for normal retirement</u>	05/13/06
<u>Date of actual retirement</u>	08/01/02
<u>Determination of full years:</u>	08/01/02 to 07/31/05 is 3 years
<u>Determination of full months:</u>	08/01/05 to 04/30/06 is 9 months
<u>Additional days are not considered:</u>	05/01/06 to 05/13/06 are not considered
<u>Difference is:</u>	3 years, 9 months

(c) **Step 3: Determine the early retirement factor.** The department uses the difference calculated in step 2 to determine the early retirement factor (ERF) used to calculate your benefit as described in WAC 415-02-320.

(3) **Optional Auto COLA Factor for PERS Plan 1 and TRS Plan 1.** The department uses the rounding method described in the "present value" subsection in this section to calculate your age when determining the optional auto COLA factor. See WAC 415-02-360 for a description of the optional auto COLA factor calculation.

(4) **Calculating age to use in determining the survivor option factor.** At retirement, if you select a survivor option, the department must calculate the difference between your

age and your survivor beneficiary's age. See WAC 415-02-380 for more information about survivor options.

(a) **Step 1:** The department calculates your age and your survivor beneficiary's age at the time of your retirement.

(b) **Step 2:** The department rounds the ages, using the same method described in the "present value" subsection in this section.

(c) **Step 3:** The department subtracts your survivor beneficiary's age from your age.

Example:

Member's age:	60
Minus <u>survivor</u> beneficiary's age:	49
	11

Result: The department will use the survivor option factor for a survivor beneficiary who is 11 years younger than the member.

Example:

Member's age:	65
Minus <u>survivor</u> beneficiary's age:	67
	-2

Result: The department will use the survivor option factor for a survivor beneficiary who is two years older than the member.

(5) **Terms used**

- (a) JRF - Judicial retirement fund.
- (b) JRS - Judicial retirement system.

(c) LEOFF - Law enforcement officers' and firefighters' retirement system.

(d) PERS - Public employees' retirement system.

(e) SERS - School employees' retirement system.

(f) TRS - Teachers' retirement system.

(g) WSPRS - Washington state patrol retirement system.

AMENDATORY SECTION (Amending WSR 03-24-051, filed 11/26/03, effective 1/1/04)

WAC 415-02-345 TRS Plan 1 Option 1 benefit factors. (1) **What is a TRS Plan 1 Option 1 benefit factor?** At the time of retirement, a TRS Plan 1 member may choose to receive an Option 1, standard ((allowance)) benefit, which is a slightly reduced lifetime monthly benefit. This option allows the final unpaid monthly benefit and any remaining balance of contributions to be paid in a lump sum to the retiree's estate or named beneficiary at the time of the retiree's death. The reduction to the monthly benefit is based on an Option 1 factor and is applied against the annuity portion of the monthly benefit. The factor that is used is determined by the age of the member at the time of retirement. For more information about the Option 1, standard ((allowance)) benefit, see RCW 41.32.530 (1)(a).

(2) ((**Option 1 benefit factor table.**)) Table - The following option 1 benefit factors are effective September 1, 2010.

Age	Factor	Reduction	Age	Factor	Reduction
20	99.8876%	0.1%	50	99.1060%	0.9%
21	99.8851%	0.1%	51	99.0237%	1.0%
22	99.8825%	0.1%	52	98.9288%	1.1%
23	99.8794%	0.1%	53	98.8184%	1.2%
24	99.8757%	0.1%	54	98.6970%	1.3%
25	99.8710%	0.1%	55	98.5566%	1.4%
26	99.8650%	0.1%	56	98.3876%	1.6%
27	99.8575%	0.1%	57	98.1977%	1.8%
28	99.8480%	0.2%	58	97.9853%	2.0%
29	99.8362%	0.2%	59	97.7388%	2.3%
30	99.8220%	0.2%	60	97.4759%	2.5%
31	99.8053%	0.2%	61	97.1849%	2.8%
32	99.7858%	0.2%	62	96.8657%	3.1%
33	99.7638%	0.2%	63	96.5199%	3.5%
34	99.7413%	0.3%	64	96.1340%	3.9%
35	99.7184%	0.3%	65	95.7405%	4.3%
36	99.6951%	0.3%	66	95.3342%	4.7%
37	99.6712%	0.3%	67	94.8664%	5.1%
38	99.6461%	0.4%	68	94.4041%	5.6%
39	99.6195%	0.4%	69	93.9285%	6.1%
40	99.5908%	0.4%	70	93.3893%	6.6%
41	99.5597%	0.4%	71	92.8393%	7.2%
42	99.5255%	0.5%	72	92.2534%	7.7%
43	99.4881%	0.5%	73	91.5922%	8.4%

Age	Factor	Reduction		Age	Factor	Reduction
44	99.4474%	0.6%		74	90.9422%	9.1%
45	99.4018%	0.6%		75	90.2102%	9.8%
46	99.3542%	0.6%		76	89.4917%	10.5%
47	99.2994%	0.7%		77	88.7582%	11.2%
48	99.2421%	0.8%		78	85.9377%	14.1%
49	99.1781%	0.8%		79	85.8097%	14.2%
				80	86.1255%	13.9%

Age	Factor	Reduction		Age	Factor	Reduction
20	99.3233%	0.7%		50	98.5277%	1.5%
21	99.1906%	0.8%		51	98.8267%	1.2%
22	99.0506%	0.9%		52	99.2279%	0.8%
23	98.9113%	1.1%		53	99.1329%	0.9%
24	98.7803%	1.2%		54	99.0247%	1.0%
25	98.6679%	1.3%		55	98.9011%	1.1%
26	98.5907%	1.4%		56	98.7584%	1.2%
27	98.5248%	1.5%		57	98.5936%	1.4%
28	98.4698%	1.5%		58	98.4070%	1.6%
29	98.4281%	1.6%		59	98.1990%	1.8%
30	98.4011%	1.6%		60	97.9599%	2.0%
31	98.3898%	1.6%		61	98.0472%	2.0%
32	98.3880%	1.6%		62	97.7597%	2.2%
33	98.3919%	1.6%		63	97.4355%	2.6%
34	98.3889%	1.6%		64	97.0756%	2.9%
35	98.3802%	1.6%		65	96.6774%	3.3%
36	98.3656%	1.6%		66	96.2422%	3.8%
37	98.3360%	1.7%		67	96.1337%	3.9%
38	98.2896%	1.7%		68	96.0251%	4.0%
39	98.2246%	1.8%		69	95.5281%	4.5%
40	98.1380%	1.9%		70	94.9709%	5.0%
41	98.0401%	2.0%		71	94.3415%	5.7%
42	97.9596%	2.0%		72	94.2358%	5.8%
43	97.8978%	2.1%		73	94.1300%	5.9%
44	97.8557%	2.1%		74	93.3902%	6.6%
45	97.8346%	2.2%		75	92.5634%	7.4%
46	97.8359%	2.2%		76	92.5038%	7.5%
47	97.8815%	2.1%		77	92.4441%	7.6%
48	97.9786%	2.0%		78	91.4887%	8.5%
49	98.3106%	1.7%		79	90.4121%	9.6%
				80	90.4374%	9.6%

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.

WSR 10-13-154
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed June 23, 2010, 8:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-07-152.

Title of Rule and Other Identifying Information: WAC 415-02-340 Monthly benefit per \$1.00 of accumulation for defined benefit plans and 415-02-350 What are cost-of-living adjustments (COLA) and how are they calculated?

Hearing Location(s): Department of Retirement Systems

6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on July 29, 2010, at 1:30 p.m.

Date of Intended Adoption: July 29, 2010.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on July 29, 2010.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by May 20, 2010, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the department's administrative rules with new administrative factors provided by the state actuary.

Reasons Supporting Proposal: The office of the state actuary (OSA) has provided the department with new actuarial projections. The department must amend its rules to update administrative factors for the law enforcement officers' and firefighters' retirement system (LEOFF), public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), teachers' retirement system (TRS), Washington state patrol retirement system (WSPRS), and judicial retirement system (JRS).

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: WAC 415-02-340 is chapter 41.45 RCW; and 415-02-350 is RCW 2.10.170, 41.26-240, 41.26.440, 41.32.489, 41.32.530 (1)(d), 41.32.770, 41.32.845, 41.35.210, 41.37.160, 41.40.188 (1)(c), 41.40.197, 41.40.640, 41.40.840, 43.43.260.

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no affect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

June 23, 2010

Ken Goolsby

Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-18-009, filed 8/24/06, effective 9/24/06)

WAC 415-02-340 Monthly benefit per \$1.00 of accumulation for defined benefit plans. (1) **How does the department use the information in the table called "monthly benefit per \$1.00 of accumulation for defined benefit plans"?** The department uses this information to:

(a) Determine what a future lifetime monthly benefit is worth in present-day dollars;

(b) Determine the equivalent value of a lump sum when compared with monthly payments; ~~((and))~~

(c) Determine the cost of purchasing additional service credit as described in WAC 415-02-177(7); and

(d) For TRS Plan 1 only: ~~((Reduce))~~ Determine the reduction in the monthly retirement ~~((allowance))~~ benefit if some or all of the ~~((funds))~~ accumulated contributions in a member's individual account are ~~((taken in a lump sum payment))~~ withdrawn at retirement pursuant to RCW 41.32.498.

(2) **What type of information is in this table?** The information in this table ~~((reflects))~~ is based on the expected duration of lifetime payments for recipients over a range of ages. These values differ by system and plan, and all reflect an assumed rate of return of 8.0%.⁽²⁾ The younger a person is at retirement, the longer the anticipated lifetime of payments would be, and the greater the sum required to provide for these payments. The amount of monthly lifetime benefit that a present-day dollar buys increases as the remaining life expectancy of the recipient decreases.

⁽²⁾~~The younger a person is, the longer the anticipated lifetime of payments would be, and the greater the sum required to provide for these payments. The amount of monthly lifetime benefit that a present-day dollar buys increases as the remaining life expectancy of the recipient decreases.)~~

~~((3))~~(a) **Example:**

Celina is a 65-year-old PERS Plan 2 member who is eligible to receive \$45.00 per month. She wants to know how much money she would receive if she accepted a lump sum payment instead. Celina looks at the row in the table for age 65 in the PERS Plan 2 column and learns that ~~((0.0072458))~~ \$0.0069798 per month for life ~~((is equivalent to))~~ has a present day cash value of one dollar ~~((in cash))~~ (\$1.00) for this system, plan, and age class. Celina divides \$45.00 by ~~((0.0072458))~~ 0.0069798 and learns that her lump sum payment would be ~~((0.0072458))~~ \$6,447.18.

(b) **Example:**

Fred is a 58-year-old TRS Plan 1 member. The balance in Fred's account is \$124,934.00. Upon retirement, Fred chooses to withdraw the \$124,934.00 (as only members of TRS Plan 1 can do and still receive a monthly ~~((allowance))~~ benefit). From the row in the table for age 58 in the TRS Plan 1 column, Fred learns that ~~((0.0077573))~~ \$0.0077298 per month for life ~~((is the equivalent to))~~ has a present day cash value of one dollar ~~((in cash))~~ (\$1.00) for this system, plan,

and age class. Fred multiplies \$124,934.00 by ((0.0077573)) 0.0077298, and learns that his monthly retirement ((allowance)) benefit will be reduced by ((\$969.15)) \$965.71 per month if he withdraws his account balance.

(a) January 1, 2010, for LEOFF Plan 2.
 (b) September 1, 2010, for LEOFF Plan 1, PSERS Plan 2, PERS Plans 1, 2, and 3, SERS Plans 2 and 3, TRS Plans 1, 2 and 3, and WSPRS Plans 1 and 2.

((4)) (3) Table(*) - Monthly benefit per \$1.00 of accumulation for defined benefit plans. The rates contained in this table are effective:

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
20	0.0039835	0.0043310	0.0065444	0.0043102	0.0043248	0.0042786	0.0065267	0.0042774	0.0043319
21	0.0039997	0.0043459	0.0065518	0.0043243	0.0043395	0.0042911	0.0065329	0.0042897	0.0043469
22	0.0040168	0.0043615	0.0065598	0.0043390	0.0043549	0.0043042	0.0065396	0.0043027	0.0043626
23	0.0040347	0.0043780	0.0065684	0.0043546	0.0043711	0.0043181	0.0065468	0.0043165	0.0043791
24	0.0040535	0.0043955	0.0065778	0.0043710	0.0043882	0.0043327	0.0065546	0.0043309	0.0043966
25	0.0040734	0.0044139	0.0065878	0.0043884	0.0044063	0.0043481	0.0065630	0.0043462	0.0044150
26	0.0040943	0.0044333	0.0065987	0.0044067	0.0044255	0.0043644	0.0065720	0.0043622	0.0044346
27	0.0041163	0.0044539	0.0066105	0.0044261	0.0044457	0.0043816	0.0065818	0.0043792	0.0044552
28	0.0041396	0.0044757	0.0066232	0.0044466	0.0044671	0.0043997	0.0065924	0.0043971	0.0044771
29	0.0041641	0.0044988	0.0066370	0.0044682	0.0044897	0.0044189	0.0066038	0.0044161	0.0045002
30	0.0041899	0.0045231	0.0066517	0.0044911	0.0045136	0.0044391	0.0066162	0.0044361	0.0045246
31	0.0042171	0.0045488	0.0066676	0.0045152	0.0045388	0.0044605	0.0066295	0.0044572	0.0045503
32	0.0042456	0.0045758	0.0066845	0.0045405	0.0045653	0.0044830	0.0066438	0.0044795	0.0045774
33	0.0042755	0.0046042	0.0067025	0.0045672	0.0045932	0.0045067	0.0066592	0.0045031	0.0046059
34	0.0043069	0.0046340	0.0067217	0.0045952	0.0046225	0.0045316	0.0066756	0.0045278	0.0046358
35	0.0043398	0.0046654	0.0067421	0.0046247	0.0046533	0.0045578	0.0066930	0.0045539	0.0046672
36	0.0043745	0.0046984	0.0067639	0.0046558	0.0046857	0.0045854	0.0067116	0.0045812	0.0047004
37	0.0044109	0.0047333	0.0067873	0.0046886	0.0047200	0.0046145	0.0067315	0.0046101	0.0047353
38	0.0044494	0.0047701	0.0068123	0.0047233	0.0047562	0.0046452	0.0067527	0.0046404	0.0047723
39	0.0044900	0.0048091	0.0068393	0.0047600	0.0047945	0.0046777	0.0067754	0.0046725	0.0048114
40	0.0045330	0.0048505	0.0068682	0.0047988	0.0048351	0.0047120	0.0067998	0.0047065	0.0048529
41	0.0045784	0.0048944	0.0068994	0.0048400	0.0048782	0.0047483	0.0068261	0.0047423	0.0048969
42	0.0046266	0.0049409	0.0069329	0.0048837	0.0049239	0.0047868	0.0068543	0.0047803	0.0049436
43	0.0046777	0.0049904	0.0069690	0.0049300	0.0049724	0.0048275	0.0068846	0.0048206	0.0049932
44	0.0047319	0.0050430	0.0070078	0.0049791	0.0050240	0.0048706	0.0069172	0.0048632	0.0050460
45	0.0047894	0.0050989	0.0070495	0.0050312	0.0050787	0.0049163	0.0069523	0.0049084	0.0051021
46	0.0048504	0.0051584	0.0070945	0.0050866	0.0051370	0.0049647	0.0069900	0.0049562	0.0051617
47	0.0049153	0.0052218	0.0071429	0.0051455	0.0051990	0.0050161	0.0070305	0.0050070	0.0052253
48	0.0049844	0.0052894	0.0071953	0.0052082	0.0052652	0.0050707	0.0070740	0.0050609	0.0052932
49	0.0050581	0.0053617	0.0072519	0.0052752	0.0053358	0.0051287	0.0071210	0.0051183	0.0053657
50	0.0051368	0.0054390	0.0073132	0.0053466	0.0054114	0.0051905	0.0071717	0.0051793	0.0054432
51	0.0052210	0.0055218	0.0073796	0.0054231	0.0054923	0.0052564	0.0072265	0.0052444	0.0055264
52	0.0053104	0.0056098	0.0074510	0.0055044	0.0055783	0.0053265	0.0072858	0.0053139	0.0056147
53	0.0054060	0.0057042	0.0075283	0.0055914	0.0056704	0.0054014	0.0073500	0.0053881	0.0057094
54	0.0055084	0.0058054	0.0076121	0.0056846	0.0057692	0.0054813	0.0074191	0.0054671	0.0058110
55	0.0056182	0.0059141	0.0077029	0.0057845	0.0058752	0.0055668	0.0074939	0.0055515	0.0059201
56	0.0057354	0.0060302	0.0078008	0.0058912	0.0059885	0.0056581	0.0075749	0.0056420	0.0060367
57	0.0058601	0.0061539	0.0079058	0.0060049	0.0061091	0.0057557	0.0076627	0.0057388	0.0061608
58	0.0059937	0.0062865	0.0080192	0.0061265	0.0062384	0.0058600	0.0077573	0.0058422	0.0062940
59	0.0061368	0.0064287	0.0081415	0.0062566	0.0063769	0.0059712	0.0078589	0.0059524	0.0064368
60	0.0062900	0.0065812	0.0082732	0.0063959	0.0065253	0.0060901	0.0079685	0.0060703	0.0065898
61	0.0064540	0.0067444	0.0084149	0.0065448	0.0066842	0.0062172	0.0080866	0.0061963	0.0067538
62	0.0066294	0.0069191	0.0085668	0.0067036	0.0068540	0.0063529	0.0082138	0.0063311	0.0069292
63	0.0068167	0.0071058	0.0087294	0.0068729	0.0070354	0.0064976	0.0083506	0.0064751	0.0071168
64	0.0070165	0.0073050	0.0089030	0.0070531	0.0072287	0.0066517	0.0084970	0.0066285	0.0073169
65	0.0072307	0.0075186	0.0090893	0.0072458	0.0074359	0.0068158	0.0086537	0.0067919	0.0075315
66	0.0074600	0.0077474	0.0092891	0.0074517	0.0076576	0.0069903	0.0088208	0.0069657	0.0077614
67	0.0077052	0.0079921	0.0095028	0.0076715	0.0078946	0.0071765	0.0090000	0.0071514	0.0080073
68	0.0079692	0.0082556	0.0097332	0.0079076	0.0081496	0.0073755	0.0091921	0.0073497	0.0082721

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
69	0.0082539	0.0085400	0.0099823	0.0081620	0.0084247	0.0075879	0.0093974	0.0075612	0.0085580
70	0.0085622	0.0088479	0.0102523	0.0084366	0.0087223	0.0078162	0.0096186	0.0077883	0.0088676
71	0.0088938	0.0091793	0.0105419	0.0087308	0.0090421	0.0080615	0.0098577	0.0080327	0.0092008
72	0.0092539	0.0095393	0.0108558	0.0090487	0.0093889	0.0083261	0.0101166	0.0082964	0.0095628
73	0.0096446	0.0099300	0.0111955	0.0093919	0.0097647	0.0086093	0.0103939	0.0085784	0.0099559
74	0.0100684	0.0103538	0.0115628	0.0097624	0.0101717	0.0089142	0.0106939	0.0088826	0.0103824
75	0.0105280	0.0108135	0.0119604	0.0101627	0.0106127	0.0092422	0.0110180	0.0092104	0.0108451
76	0.0110267	0.0113124	0.0123914	0.0105960	0.0110908	0.0095951	0.0113678	0.0095637	0.0113472
77	0.0115688	0.0118547	0.0128599	0.0110662	0.0116103	0.0099757	0.0117460	0.0099450	0.0118933
78	0.0121597	0.0124460	0.0133705	0.0115778	0.0121762	0.0103875	0.0121558	0.0103575	0.0124885
79	0.0128051	0.0130919	0.0139278	0.0121352	0.0127939	0.0108344	0.0126012	0.0108049	0.0131389
80	0.0135111	0.0137984	0.0145368	0.0127433	0.0134689	0.0113202	0.0130863	0.0112914	0.0138505
81	0.0142843	0.0145725	0.0152030	0.0134074	0.0142077	0.0118492	0.0136157	0.0118211	0.0146303
82	0.0151240	0.0154130	0.0159279	0.0141293	0.0150101	0.0124242	0.0141938	0.0123986	0.0154769
83	0.0160353	0.0163252	0.0167162	0.0149136	0.0158811	0.0130497	0.0148256	0.0130286	0.0163958
84	0.0170241	0.0173149	0.0175726	0.0157650	0.0168262	0.0137302	0.0155137	0.0137139	0.0173927
85	0.0180966	0.0183884	0.0185016	0.0166876	0.0178509	0.0144701	0.0162628	0.0144589	0.0184740
86	0.0192583	0.0195513	0.0195059	0.0176841	0.0189598	0.0152736	0.0170771	0.0152680	0.0196456
87	0.0205119	0.0208062	0.0205851	0.0187541	0.0201546	0.0161432	0.0179605	0.0161446	0.0209102
88	0.0218550	0.0221507	0.0217347	0.0198932	0.0214321	0.0170791	0.0189147	0.0170905	0.0222656
89	0.0232781	0.0235752	0.0229444	0.0210916	0.0227826	0.0180779	0.0199388	0.0181048	0.0237021
90	0.0247625	0.0250609	0.0241977	0.0223336	0.0241882	0.0191323	0.0210275	0.0191823	0.0252008
91	0.0262789	0.0265782	0.0254717	0.0235975	0.0256220	0.0202301	0.0221705	0.0203134	0.0267317
92	0.0278427	0.0281429	0.0267640	0.0248804	0.0270932	0.0213620	0.0233525	0.0214834	0.0283116
93	0.0294384	0.0297392	0.0280581	0.0261661	0.0285859	0.0225126	0.0245532	0.0226729	0.0299249
94	0.0310505	0.0313517	0.0293389	0.0274402	0.0300847	0.0236656	0.0257646	0.0238739	0.0315562
95	0.0326651	0.0329665	0.0305940	0.0286908	0.0315762	0.0248057	0.0269704	0.0250708	0.0331914
96	0.0342704	0.0345719	0.0318149	0.0299099	0.0330499	0.0259197	0.0281559	0.0262493	0.0348186
97	0.0358572	0.0361585	0.0329987	0.0310951	0.0344988	0.0269980	0.0293096	0.0273986	0.0364281
98	0.0374173	0.0377185	0.0341503	0.0322517	0.0359196	0.0280348	0.0304239	0.0285118	0.0380114
99	0.0389423	0.0392433	0.0352857	0.0333956	0.0373129	0.0290309	0.0314979	0.0295884	0.0395582

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1/2
20	.0039630	.0042990	.0066256	.0044560	.0044926	.0043681	.0067741	.0043601	.0043122
21	.0039783	.0043125	.0066400	.0044786	.0045172	.0043857	.0067970	.0043765	.0043261
22	.0039944	.0043266	.0066556	.0045024	.0045432	.0044042	.0068200	.0043935	.0043409
23	.0040113	.0043414	.0066725	.0045277	.0045708	.0044238	.0068425	.0044110	.0043563
24	.0040290	.0043571	.0066909	.0045527	.0045970	.0044446	.0068636	.0044289	.0043727
25	.0040476	.0043735	.0067108	.0045775	.0046219	.0044665	.0068824	.0044471	.0043899
26	.0040672	.0043908	.0067323	.0046023	.0046458	.0044898	.0068973	.0044650	.0044081
27	.0040879	.0044091	.0067558	.0046271	.0046688	.0045144	.0069111	.0044835	.0044273
28	.0041096	.0044283	.0067812	.0046522	.0046911	.0045404	.0069240	.0045024	.0044475
29	.0041325	.0044486	.0068089	.0046765	.0047126	.0045658	.0069358	.0045218	.0044690
30	.0041567	.0044701	.0068389	.0047004	.0047338	.0045907	.0069464	.0045417	.0044917
31	.0041821	.0044927	.0068716	.0047243	.0047552	.0046155	.0069558	.0045622	.0045156
32	.0042089	.0045166	.0069070	.0047485	.0047771	.0046406	.0069647	.0045835	.0045409
33	.0042369	.0045416	.0069454	.0047740	.0048004	.0046662	.0069736	.0046056	.0045674
34	.0042663	.0045679	.0069870	.0048003	.0048250	.0046915	.0069837	.0046292	.0045953
35	.0042972	.0045956	.0070321	.0048278	.0048512	.0047169	.0069950	.0046542	.0046246
36	.0043296	.0046246	.0070452	.0048564	.0048790	.0047428	.0070072	.0046806	.0046555
37	.0043637	.0046552	.0070575	.0048864	.0049084	.0047694	.0070212	.0047088	.0046879
38	.0043996	.0046874	.0070688	.0049179	.0049396	.0047969	.0070369	.0047387	.0047222
39	.0044374	.0047214	.0070789	.0049517	.0049727	.0048272	.0070543	.0047705	.0047584
40	.0044774	.0047574	.0070877	.0049878	.0050077	.0048606	.0070735	.0048043	.0047968
41	.0045196	.0047956	.0070940	.0050264	.0050448	.0048971	.0070945	.0048402	.0048374

Age	LEOFF 1	LEOFF 2	PERS1	PERS 2/3	PSERS	SERS 2/3	TRS1	TRS 2/3	WSPRS 1/2
42	.0045644	.0048361	.0070990	.0050678	.0050842	.0049369	.0071156	.0048778	.0048805
43	.0046118	.0048791	.0070989	.0051123	.0051264	.0049803	.0071367	.0049171	.0049263
44	.0046620	.0049248	.0070984	.0051581	.0051690	.0050256	.0071581	.0049584	.0049750
45	.0047153	.0049733	.0070975	.0052058	.0052129	.0050731	.0071796	.0050016	.0050267
46	.0047719	.0050249	.0070965	.0052558	.0052584	.0051232	.0072015	.0050470	.0050817
47	.0048320	.0050797	.0070915	.0053071	.0053044	.0051753	.0072216	.0050943	.0051402
48	.0048959	.0051382	.0071400	.0053597	.0053509	.0052297	.0072393	.0051435	.0052026
49	.0049640	.0052005	.0071924	.0054123	.0053965	.0052834	.0072541	.0051948	.0052691
50	.0050366	.0052671	.0072490	.0054649	.0054413	.0053369	.0072655	.0052480	.0053403
51	.0051142	.0053389	.0073101	.0055179	.0054854	.0053893	.0072727	.0053034	.0054164
52	.0051972	.0054158	.0073762	.0055712	.0055289	.0054418	.0072741	.0053604	.0054980
53	.0052853	.0054978	.0074471	.0056258	.0055733	.0054938	.0073367	.0054189	.0055849
54	.0053797	.0055858	.0075233	.0056745	.0056596	.0055433	.0074042	.0054793	.0056779
55	.0054807	.0056802	.0076058	.0057184	.0057498	.0055902	.0074767	.0055411	.0057777
56	.0055889	.0057814	.0076921	.0058127	.0058440	.0056775	.0075550	.0056278	.0058848
57	.0057044	.0058893	.0077823	.0059112	.0059501	.0057690	.0076393	.0057206	.0059992
58	.0058273	.0060042	.0078773	.0060140	.0060619	.0058646	.0077298	.0058208	.0061211
59	.0059589	.0061272	.0079792	.0061247	.0061827	.0059661	.0078266	.0059269	.0062516
60	.0060997	.0062589	.0080922	.0062396	.0063106	.0060720	.0079310	.0060395	.0063915
61	.0062505	.0064002	.0082202	.0063666	.0064504	.0061903	.0080462	.0061608	.0065415
62	.0064118	.0065513	.0083578	.0065016	.0065977	.0063169	.0081703	.0062902	.0067019
63	.0065841	.0067129	.0085052	.0066506	.0067558	.0064550	.0083036	.0064296	.0068736
64	.0067682	.0068853	.0086629	.0068077	.0069257	.0066012	.0084463	.0065775	.0070570
65	.0069647	.0070694	.0088312	.0069798	.0071083	.0067597	.0085990	.0067357	.0072527
66	.0071751	.0072670	.0090119	.0071671	.0073064	.0069302	.0087617	.0069054	.0074626
67	.0074005	.0074781	.0092055	.0073673	.0075182	.0071120	.0089361	.0070866	.0076873
68	.0076417	.0077043	.0094125	.0075807	.0077444	.0073062	.0091231	.0072802	.0079279
69	.0079015	.0079491	.0096357	.0078101	.0079879	.0075136	.0093229	.0074865	.0081872
70	.0081820	.0082138	.0098771	.0080572	.0082505	.0077363	.0095381	.0077080	.0084672
71	.0084859	.0085025	.0101389	.0083241	.0085349	.0079758	.0097709	.0079465	.0087708
72	.0088138	.0088151	.0104201	.0086103	.0088406	.0082342	.0100231	.0082039	.0090984
73	.0091701	.0091561	.0107251	.0089197	.0091722	.0085108	.0102934	.0084793	.0094545
74	.0095574	.0095288	.0110556	.0092540	.0095316	.0088090	.0105863	.0087767	.0098417
75	.0099786	.0099363	.0114135	.0096154	.0099213	.0091299	.0109028	.0090974	.0102629
76	.0104363	.0103798	.0118015	.0100065	.0103437	.0094759	.0112453	.0094437	.0107207
77	.0109340	.0108658	.0122231	.0104305	.0108023	.0098495	.0116161	.0098178	.0112186
78	.0114761	.0113957	.0126816	.0108908	.0113009	.0102538	.0120181	.0102226	.0117609
79	.0120673	.0119743	.0131812	.0113914	.0118439	.0106928	.0124555	.0106622	.0123525
80	.0127133	.0126071	.0137267	.0119372	.0124365	.0111699	.0129318	.0111400	.0129990
81	.0134199	.0132991	.0143230	.0125327	.0130838	.0116897	.0134518	.0116607	.0137063
82	.0141935	.0140556	.0149754	.0131831	.0137915	.0122554	.0140201	.0122286	.0144806
83	.0150329	.0148749	.0156858	.0138907	.0145603	.0128713	.0146417	.0128485	.0153209
84	.0159449	.0157725	.0164602	.0146610	.0153963	.0135431	.0153203	.0135243	.0162339
85	.0169344	.0167437	.0173034	.0154990	.0163048	.0142750	.0160601	.0142601	.0172243
86	.0180074	.0178057	.0182194	.0164082	.0172909	.0150708	.0168660	.0150605	.0182984
87	.0191721	.0189719	.0192109	.0173915	.0183603	.0159338	.0177414	.0159287	.0194643
88	.0204278	.0202253	.0202755	.0184464	.0195120	.0168612	.0186859	.0168647	.0207214
89	.0217668	.0215551	.0214081	.0195682	.0207399	.0178513	.0197002	.0178688	.0220619
90	.0231832	.0229787	.0225995	.0207480	.0220372	.0188950	.0207759	.0189334	.0234798
91	.0246573	.0244483	.0238330	.0219700	.0233859	.0199836	.0219061	.0200515	.0249552
92	.0261621	.0259752	.0250904	.0232169	.0247641	.0211073	.0230763	.0212095	.0264610
93	.0277078	.0275207	.0263675	.0244841	.0261746	.0222518	.0242665	.0223884	.0280075
94	.0292794	.0291108	.0276431	.0257513	.0275992	.0233979	.0254667	.0235783	.0295796
95	.0308761	.0307651	.0289073	.0270087	.0290311	.0245376	.0266650	.0247675	.0311768
96	.0324718	.0323798	.0301473	.0282442	.0304507	.0256481	.0278402	.0259359	.0327726

Age	LEOFF 1	LEOFF 2	PERS1	PERS 2/3	PSERS	SERS 2/3	TRS1	TRS 2/3	WSPRS 1/2
97	.0340569	.0340193	.0313572	.0294522	.0318500	.0267305	.0289917	.0270827	.0343576
98	.0356440	.0357060	.0325325	.0306287	.0332303	.0277699	.0300994	.0281894	.0359444
99	.0372127	.0373073	.0336697	.0317712	.0345762	.0287711	.0311701	.0292630	.0375126

(~~This table is based on the 1995-2000 actuarial experience study monthly benefit per \$1.00 of accumulation defined benefit (DB) single life pension.~~)

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 08-20-068, filed 9/25/08, effective 10/26/08)

WAC 415-02-350 What are cost-of-living adjustments (COLA) and how are they calculated? (1) What is a cost-of-living adjustment (COLA)? The value of a retiree's, beneficiary's, or ex-spouse's monthly ~~((allowance))~~ benefit may change in the years after retirement because of inflation or other factors. A COLA automatically adjusts benefits based on the cost of living changes.

(2) What retirement plans include COLAs? With one exception, all retirement plans administered by the department provide one or more of the types of COLAs listed in subsection (3) of this section. The judges retirement fund (chapter 2.12 RCW) does not provide a COLA.

RETIREMENT SYSTEM	PLAN	COLA TYPE	STATUTE
JUDICIAL		Base	RCW 2.10.170
LEOFF	Plan 1	Base	RCW 41.26.240
LEOFF	Plan 2	Base	RCW 41.26.440
PSERS		Base	RCW 41.37.160
PERS	Plan 1	Uniform	RCW 41.40.197
PERS	Plan 1	Optional Auto	RCW 41.40.188 (1)(c)
PERS	Plan 2	Base	RCW 41.40.640
PERS	Plan 3	Base	RCW 41.40.840
SERS	Plans 2 and 3	Base	RCW 41.35.210
TRS	Plan 1	Uniform	RCW 41.32.489
TRS	Plan 1	Optional Auto	RCW 41.32.530 (1)(d)
TRS	Plan 2	Base	RCW 41.32.770
TRS	Plan 3	Base	RCW 41.32.845
WSPRS	Plans 1 and 2	Base	RCW 43.43.260

(3) What are the types of COLAs?

(a) Optional Auto COLA

The optional auto COLA ~~((, if offered under your plan,))~~ is an option you may select at retirement. If you choose this option, your monthly retirement ~~((allowance))~~ benefit will be actuarially reduced at retirement, and you will receive an automatic adjustment in your monthly retirement ~~((allowance))~~ benefit each year for the rest of your life. The optional auto COLA has no age requirement and is limited to a maximum of three percent of your monthly ~~((allowance))~~ benefit.

(b) Base COLA

The base COLA is applied in July (April for LEOFF Plan 1) of each year and adjusts the benefit based on the change in the Consumer Price Index for the Seattle-Tacoma-

Bremerton, Washington area for all plans except the Judicial Retirement System which is based on the U.S. City Average. Base COLAs are limited to a maximum of three percent of the monthly ~~((allowance))~~ benefit for all affected plans except LEOFF Plan 1. During a calendar year, the base COLA is payable to:

(i) Retirees who have been retired for at least one year by July 1st of each year (April 1st for LEOFF Plan 1); and

(ii) Beneficiaries or eligible ex-spouses who receive benefit payments from an account that, by July 1st, has paid a monthly benefit for at least one year (April 1st for LEOFF Plan 1).

(c) Uniform COLA

The uniform COLA is an annual adjustment to the benefit, based on years of service. The annual adjustment for the uniform COLA is independent from any other COLA. During a calendar year, it is payable to:

(i) Retirees who, by July 1st, have received a retirement benefit for at least one year and who, by December 31st, will have reached age sixty-six or older;

(ii) Beneficiaries and eligible ex-spouses who receive benefit payments from an account that, by July 1st, has paid a monthly benefit for at least one year and who, by December 31st, will have reached age sixty-six or older; and

(iii) Retirees, beneficiaries, or eligible ex-spouses of any age whose retirement benefit is calculated under the minimum formula.

(4) Who is responsible for determining the amount of the COLA? The office of the state actuary (OSA) bases the percentages of the COLAs on the Consumer Price Index. The Index is based on wages earned by urban wage earners and clerical workers in the Seattle-Tacoma-Bremerton, Washington area. OSA provides this information to the department annually.

**WSR 10-13-155
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed June 23, 2010, 8:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-07-152.

Title of Rule and Other Identifying Information: WAC 415-02-360 What is the optional cost-of-living adjustment (COLA) for PERS Plan 1 and TRS Plan 1? and new section WAC 415-02-390 Total allocation portfolio (TAP) annuity factors.

Hearing Location(s): Department of Retirement Systems
6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on July 29, 2010, at 1:30 p.m.

Date of Intended Adoption: July 29, 2010.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on July 29, 2010.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator by May 20, 2010, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the department's administrative rules with new administrative factors provided by the state actuary.

Reasons Supporting Proposal: The office of the state actuary (OSA) has provided the department with new actuarial projections. The department must amend its rules to update administrative factors for the law enforcement officers' and firefighters' retirement system (LEOFF), public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), teachers' retirement system (TRS), Washington state patrol retirement system (WSPRS), and judicial retirement system (JRS).

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: Chapter 41.45 RCW for WAC 415-02-360.

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

June 23, 2010

Ken Goolsby
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-20-068, filed 9/25/08, effective 10/26/08)

WAC 415-02-360 What is the optional auto cost-of-living adjustment (COLA) for PERS Plan 1 and TRS Plan 1? ~~((1) At the time of retirement, if you are a PERS Plan 1 or TRS Plan 1 member, you can choose initially reduced retirement payment benefits that will provide you with annual cost of living adjustments in the future.))~~ PERS plan 1 and TRS plan 1 members can choose to receive an initially reduced retirement benefit in order to receive an annual cost of living adjustment in the future. With this optional auto COLA, the member's monthly retirement benefit is actuarially reduced at the time of retirement. Thereafter, the monthly benefit of the member (and subsequently their bene-

ficiary) is adjusted annually, based on changes in the consumer price index (CPI) for the Seattle-Tacoma-Bremerton, Washington area, up to the statutory maximum. For more information, see:

PERS Plan 1: RCW 41.40.188 (1)((e))(c); WAC 415-108-326

TRS Plan 1: RCW 41.32.530 (1)(d); WAC 415-112-504 ~~((2) By opting to receive a lower dollar amount at the beginning of your retirement, you will receive a progressively higher amount as the payments continue.))~~

~~((3))~~ (2) Examples

~~((a))~~ (a) Example (a):

~~Ernie, a TRS Plan 1 member, retires at age 55 with 30 years of service and chooses the COLA option. TRS Plan 1 provides two percent (.02) of average final compensation (AFC) per year of service. At the time he retires, Ernie's AFC is \$4,295.33. As shown in the "Plan 1 Optional COLA" table below, Ernie would receive 0.7408 of his normal retirement benefit as the starting amount of the COLA-protected benefit. TRS would calculate the benefit as follows: 30.00 (years of service credit) x .02 x \$4,295.33 (AFC) = \$2,577.20 (monthly benefit without the COLA option). TRS would then multiply \$2,577.20 x .7408 = \$1,909.19 (the COLA-protected starting benefit Ernie would receive).-~~

~~((b))~~ (b) Example (b):

~~Tina is a PERS Plan 1 member with 30 years of service credit at age 52 and eight months. Because she has reached 30 years of service, there is no reduction for an early retirement. However, Tina chooses the optional COLA. Tina would receive .7388 of her normal retirement benefit as the starting amount of the COLA-protected benefit. Her normal retirement benefit is \$2,295.00; her COLA-reduced benefit will be \$1,695.55.))~~ Ernie is a member of TRS plan 1. He retires at age 55 with 30 years of service and chooses the Single Life Option (no survivor beneficiary). His average final compensation (AFC) is \$4,295.33 per month.

(i) If he does not choose the optional auto COLA, his monthly benefit will be \$2,577.20 (2% x 30 x \$4,295.33).

(ii) If he does choose the optional auto COLA, his initial monthly benefit will be reduced to \$1,909.19, based on the factor in the table in subsection (3) (0.7396 x \$2,577.20). This monthly amount may increase each year with changes in the CPI.

Regardless whether or not Ernie chooses the optional auto COLA, he will begin to receive the uniform COLA at age 66, consistent with all statutory requirements.

(b) Tina is a member of PERS plan 1. She retires with 30 years of service credit at age 52 and 8 months. Because she has 30 years of service, there is no reduction for an early retirement. Tina chooses the Single Life Option (no survivor beneficiary). Her average final compensation (AFC) is \$3,825.00 per month.

(i) If she does not choose the optional auto COLA, her monthly benefit will be \$2,295.00 (2% x 30 x \$3,825.00).

(ii) If she does choose the optional auto COLA, her initial monthly benefit will be reduced to \$1,692.56, based on the factor in the table in subsection (3) (0.7375 x \$2,295.00). This monthly amount may increase each year with changes in the CPI.

Regardless whether or not Tina chooses the optional auto COLA, she will begin to receive the uniform COLA at age 66, consistent with all statutory requirements.

~~((4)) (3) Table (-The optional cost of living adjustment (COLA) table is based on the 1995-2000 actuarial experience study-)~~

Use these factors to convert ~~((from standard option))~~ monthly benefit payments ~~(any retirement option)~~ without ~~((a))~~ the optional auto COLA to the same retirement option with ~~((a))~~ the optional auto COLA. The following factors are effective September 1, 2010.

Plan 1 Optional COLA

Age	PERS 1 Factor	TRS 1 Factor		Age	PERS 1 Factor	TRS 1 Factor
20	0.6586	0.6554		61	0.7778	0.7662
21	0.6600	0.6566		62	0.7825	0.7708
22	0.6615	0.6580		63	0.7873	0.7754
23	0.6630	0.6593		64	0.7922	0.7801
24	0.6645	0.6607		65	0.7972	0.7849
25	0.6661	0.6622		66	0.8022	0.7897
26	0.6678	0.6638		67	0.8073	0.7946
27	0.6696	0.6654		68	0.8124	0.7996
28	0.6714	0.6670		69	0.8176	0.8046
29	0.6732	0.6687		70	0.8229	0.8097
30	0.6752	0.6705		71	0.8282	0.8149
31	0.6772	0.6723		72	0.8335	0.8201
32	0.6793	0.6742		73	0.8389	0.8253
33	0.6814	0.6762		74	0.8443	0.8306
34	0.6836	0.6783		75	0.8497	0.8359
35	0.6859	0.6804		76	0.8551	0.8413
36	0.6883	0.6826		77	0.8605	0.8467
37	0.6908	0.6849		78	0.8659	0.8521
38	0.6933	0.6872		79	0.8713	0.8575
39	0.6960	0.6896		80	0.8766	0.8628
40	0.6987	0.6921		81	0.8819	0.8682
41	0.7015	0.6947		82	0.8871	0.8735
42	0.7044	0.6974		83	0.8922	0.8788
43	0.7074	0.7002		84	0.8971	0.8840
44	0.7105	0.7031		85	0.9020	0.8891
45	0.7137	0.7060		86	0.9066	0.8941
46	0.7170	0.7091		87	0.9111	0.8989
47	0.7204	0.7122		88	0.9153	0.9036
48	0.7238	0.7154		89	0.9192	0.9080
49	0.7274	0.7188		90	0.9230	0.9123
50	0.7311	0.7222		91	0.9264	0.9162
51	0.7349	0.7256		92	0.9296	0.9200
52	0.7388	0.7293		93	0.9326	0.9234
53	0.7427	0.7331		94	0.9353	0.9266
54	0.7468	0.7369		95	0.9378	0.9296
55	0.7510	0.7408		96	0.9401	0.9323
56	0.7552	0.7448		97	0.9423	0.9348
57	0.7595	0.7489		98	0.9444	0.9372
58	0.7640	0.7531		99	0.9464	0.9394
59	0.7685	0.7574				

Plan 1 Optional COLA

Age	PERS 1 Factor	TRS 1 Factor		Age	PERS 1 Factor	TRS 1 Factor
60	0.7731	0.7618				

Plan 1 Optional Auto COLA Factors

Age	PERS 1	TRS 1		Age	PERS 1	TRS 1
20	0.6636	0.6664		61	0.7713	0.7648
21	0.6650	0.6675		62	0.7760	0.7693
22	0.6665	0.6687		63	0.7807	0.7739
23	0.6680	0.6698		64	0.7855	0.7786
24	0.6695	0.6710		65	0.7904	0.7833
25	0.6711	0.6722		66	0.7953	0.7881
26	0.6727	0.6734		67	0.8003	0.7930
27	0.6743	0.6746		68	0.8054	0.7980
28	0.6760	0.6759		69	0.8105	0.8030
29	0.6777	0.6772		70	0.8157	0.8081
30	0.6794	0.6786		71	0.8210	0.8133
31	0.6811	0.6800		72	0.8263	0.8185
32	0.6828	0.6815		73	0.8317	0.8238
33	0.6845	0.6831		74	0.8370	0.8291
34	0.6862	0.6847		75	0.8425	0.8344
35	0.6879	0.6864		76	0.8479	0.8398
36	0.6897	0.6881		77	0.8533	0.8452
37	0.6915	0.6900		78	0.8588	0.8506
38	0.6934	0.6918		79	0.8642	0.8560
39	0.6954	0.6938		80	0.8696	0.8614
40	0.6975	0.6959		81	0.8750	0.8668
41	0.6997	0.6980		82	0.8803	0.8722
42	0.7020	0.7002		83	0.8856	0.8775
43	0.7045	0.7024		84	0.8907	0.8828
44	0.7071	0.7048		85	0.8957	0.8879
45	0.7099	0.7073		86	0.9006	0.8929
46	0.7129	0.7098		87	0.9053	0.8978
47	0.7161	0.7125		88	0.9098	0.9025
48	0.7194	0.7153		89	0.9141	0.9070
49	0.7229	0.7183		90	0.9181	0.9113
50	0.7264	0.7214		91	0.9218	0.9153
51	0.7300	0.7247		92	0.9253	0.9191
52	0.7337	0.7282		93	0.9286	0.9226
53	0.7375	0.7319		94	0.9316	0.9258
54	0.7414	0.7357		95	0.9343	0.9288
55	0.7454	0.7396		96	0.9369	0.9316
56	0.7494	0.7435		97	0.9392	0.9342
57	0.7536	0.7476		98	0.9415	0.9365
58	0.7579	0.7518		99	0.9436	0.9388

Plan 1 Optional Auto COLA Factors

Age	PERS 1	TRS 1		Age	PERS 1	TRS 1
59	0.7623	0.7560				
60	0.7668	0.7604				

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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.

NEW SECTION

WAC 415-02-390 Total allocation portfolio (TAP) annuity factors. If you are a Plan 3 member of the Public Employees' Retirement System (PERS), School Employees' Retirement System (SERS) or Teachers' Retirement System (TRS) and you have funds in the Washington State Investment Board (WSIB) Investment Program, you may use those funds to purchase a life annuity that is administered by the state of Washington when you become eligible to withdraw funds from your Plan 3 account. See WAC 415-111-320 for more information about purchasing a TAP annuity.

(1) How is the monthly TAP Annuity payment determined? Your single life annuity payment amount is based on the original purchase price and the annuity factor for your age at the time of purchase.

$$\text{Original Purchase Price} \times \text{Factor} = \text{Single Life Annuity Payment Amount}$$

Factors - The following factors are effective September 1, 2010.

Age	PERS Plan 3	SERS Plan 3	TRS Plan 3
20	.0042981	.0042752	.0042735
21	.0043115	.0042875	.0042857
22	.0043255	.0043004	.0042985
23	.0043403	.0043140	.0043119
24	.0043559	.0043283	.0043260
25	.0043722	.0043433	.0043409
26	.0043894	.0043591	.0043565
27	.0044074	.0043758	.0043729
28	.0044264	.0043932	.0043901
29	.0044464	.0044116	.0044083
30	.0044674	.0044309	.0044273
31	.0044894	.0044512	.0044473
32	.0045144	.0044726	.0044683
33	.0045389	.0044966	.0044921
34	.0045646	.0045203	.0045154
35	.0045915	.0045451	.0045398
36	.0046197	.0045712	.0045655
37	.0046492	.0045986	.0045923

Age	PERS Plan 3	SERS Plan 3	TRS Plan 3
38	.0046800	.0046274	.0046205
39	.0047124	.0046576	.0046501
40	.0047507	.0046893	.0046812
41	.0047868	.0047226	.0047139
42	.0048246	.0047618	.0047524
43	.0048641	.0047989	.0047890
44	.0049054	.0048379	.0048274
45	.0049486	.0048787	.0048677
46	.0050025	.0049215	.0049101
47	.0050508	.0049664	.0049545
48	.0051015	.0050216	.0050086
49	.0051544	.0050719	.0050584
50	.0052099	.0051246	.0051107
51	.0052819	.0051798	.0051654
52	.0053441	.0052375	.0052227
53	.0054090	.0053119	.0052956
54	.0054761	.0053765	.0053597
55	.0055453	.0054440	.0054263
56	.0056425	.0055148	.0054972
57	.0057222	.0056100	.0055713
58	.0058050	.0056893	.0056717
59	.0058914	.0057719	.0057554
60	.0060024	.0058574	.0058425
61	.0061134	.0059677	.0059332
62	.0062157	.0060779	.0060501
63	.0063231	.0061801	.0061669
64	.0064666	.0062857	.0062734
65	.0066102	.0064271	.0064146
66	.0067381	.0065685	.0065558
67	.0069142	.0066932	.0066812
68	.0070904	.0068650	.0068527
69	.0072409	.0070367	.0070243
70	.0074580	.0071836	.0071720
71	.0076750	.0073948	.0073831
72	.0078537	.0076060	.0075943
73	.0081241	.0077801	.0077698
74	.0083945	.0080424	.0080323
75	.0086079	.0083046	.0082949
76	.0089494	.0085123	.0085049
77	.0092910	.0088426	.0088361
78	.0095472	.0091729	.0091674
79	.0099864	.0094231	.0094204
80	.0104255	.0098473	.0098460
81	.0107358	.0102714	.0102716
82	.0113112	.0105753	.0105794
83	.0118866	.0111296	.0111364
84	.0122633	.0116840	.0116935
85	.0130303	.0120540	.0120687

Age	PERS Plan 3	SERS Plan 3	TRS Plan 3
86	.0137973	.0124197	.0124401
87	.0142547	.0131966	.0132228
88	.0146958	.0139735	.0140056
89	.0157858	.0144064	.0144471
90	.0168759	.0154392	.0154931
91	.0173946	.0164719	.0165391
92	.0178765	.0169752	.0170558
93	.0194101	.0174443	.0175370
94	.0209437	.0178745	.0179796
95	.0215135	.0193483	.0194888
96	.0220376	.0208221	.0209980
97	.0225187	.0213149	.0215118
98	.0229620	.0217660	.0219824
99	.0233764	.0221845	.0224187

(2) **Can I choose a Joint Life Annuity option?** When you purchase your annuity, you can choose a joint life annuity option that will provide a lifetime monthly payment to another person upon your death. Your joint life annuity payment amount is a reduction from the single life annuity payment amount and will depend on the survivorship percentage you choose and the age of you and your joint annuitant at the time of the annuity purchase.

**WSR 10-13-156
PROPOSED RULES**

DEPARTMENT OF AGRICULTURE

[Filed June 23, 2010, 8:33 a.m.]

Supplemental Notice to WSR 10-12-078.

Preproposal statement of inquiry was filed as WSR 10-01-103.

Title of Rule and Other Identifying Information: Chapter 16-54 WAC, Animal importation.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Second Floor, Conference Room 259, Olympia, WA 98504, on September 16, 2010, at 1:00 p.m.

Date of Intended Adoption: September 30, 2010.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARuleComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., September 16, 2010 [2010].

Assistance for Persons with Disabilities: Contact WSDA receptionist by September 7, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department held hearings in Olympia and Ellensburg on April 29 and May 10, 2010, to accept testimony on proposed amendments to chapter 16-54 WAC, Animal importation. Based on testimony received the department has decided to make additional changes to certain sections of the proposed language and conduct additional hearings on WAC 16-54-010 Definitions, 16-54-068 Restrictions, 16-54-082 Domestic bovine animals—Importation requirements, 16-54-085 Domestic

bovine tuberculosis requirements, and 16-54-086 Bovine trichomoniasis requirements.

The department is proposing to add a feral swine definition, a restricting holding facility definition and amend the virgin bull definition. This rule proposal adds contagious equine metritis (CEM) to the import restrictions. CEM is a foreign animal disease that was introduced in the United States in 2009 and has the potential to be detrimental to our equine industry. This rule proposal also clarifies bovine tuberculosis entry requirements and exemptions, and amends the trichomoniasis section in that accredited veterinarians may not perform official trichomoniasis testing of bulls in Washington state until they have successfully completed a training provided by the department and pass a proficiency examination.

Reasons Supporting Proposal: These rule amendments are necessary to prevent the spread of infectious and communicable diseases in Washington livestock.

Statutory Authority for Adoption: RCW 16.36.040 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 16.36 RCW.

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

Name of Proponent: Washington state department of agriculture (WSDA), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Kohrs, DVM, Olympia, (360) 902-1835; and Enforcement: Leonard E. Eldridge, DVM, Olympia, (360) 902-1881.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030(1) requires that WSDA prepare a small business economic impact statement (SBEIS) if proposed rules will impose more than minor costs on affected businesses or industry. The department has analyzed the economic effects of the proposed revisions and has concluded that they do not impose more than minor costs on small businesses in the regulated industry, and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

June 23, 2010

Leonard E. Eldridge
State Veterinarian

AMENDATORY SECTION (Amending WSR 08-14-057, filed 6/25/08, effective 7/26/08)

WAC 16-54-010 Definitions. In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Accredited free state" means a state that has been determined by United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) to have a zero prevalence of cattle and bison herds affected with bovine tuberculosis as listed in Title 9 CFR Part 77.79 (January 1, 2006).

"Approved veterinary laboratory" means a laboratory that has been approved by National Veterinary Services Laboratories.

"Certificate of veterinary inspection" means a legible veterinary health inspection certificate on an official form (electronic or paper) from the state of origin or from APHIS, USDA executed by a licensed and accredited veterinarian or a veterinarian approved by APHIS, USDA. The certificate of veterinary inspection is also known as an "official health certificate."

"Class free and Class A, B, and C states" means states that are classified for brucellosis by USDA, APHIS in Title 9 CFR Part 78.41 (January 1, 2006).

"Consigned" means to deliver for custody or sale.

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of WSDA or the director's authorized representative.

"Domestic bovine" means domesticated cattle, including bison.

"Domestic equine" means horses, donkeys, mules, ponies, and other animals in the *Equidae* family.

"Entry permit" means prior written permission issued by the director to admit or import animals or animal reproductive products into Washington state.

"Exotic animal" means species of animals that are not native to Washington state but exist elsewhere in the world in the wild state.

"Feral swine" means animals included in any of the following categories:

- Animals of the genus *Sus* that are free roaming on public or private lands and do not appear to be domesticated;

- Swine from domesticated stocks that have escaped or been released or born into the wild state;

- European wild hogs and their hybrid forms (also known as European wild boars or razorbacks), regardless of whether they are free roaming or kept in confinement; or

- Animals of the family *Tayassuidae* such as peccaries and javelinas, regardless of whether they are free roaming or kept in confinement.

"Immediate slaughter" means livestock will be delivered to a federally inspected slaughter plant within (~~three days~~) twelve hours of entry into Washington state.

"Mature vaccinate" means a female bovine over the age of twelve months that has been vaccinated, under directions issued by the state of origin, with a mature dose of brucellosis vaccine.

"Modified accredited state" means a state that has been determined by USDA, APHIS to have a prevalence of bovine tuberculosis of less than 0.1 percent of the total number of herds of cattle and bison as listed in Title 9 CFR Part 77.11 (January 1, 2006).

"Movement permit" means an entry permit that is valid for six months and permits the entry of domestic equine into Washington state.

"NPIP" means the National Poultry Improvement Plan.

"Official brucellosis test" means the official test defined by Title 9 CFR Part 78.1 (January 1, 2006).

"Official brucellosis vaccinate" means an official adult vaccinate or official calthood vaccinate as defined by Title 9 CFR Part 78.1 (January 1, 2006).

"Official individual identification" means identifying an animal or group of animals using USDA-approved or

WSDA-approved devices or methods, including, but not limited to, official tags, unique breed registry tattoos, and registered brands when accompanied by a certificate of inspection from a brand inspection authority who is recognized by the director.

"Poultry" means chickens, turkeys, ratites, waterfowl, game birds, pigeons, doves, and other domestic fowl (~~designated by statute~~). (~~Poultry does not mean free ranging birds defined as wildlife in RCW 77.08.010(16).~~)

"Restricted feedlot" means a feedlot holding a permit issued under chapter 16-30 WAC.

"Restricted holding facility" means an isolated area approved and licensed by the director, as advised by the state veterinarian.

"Stage I, II, III, IV, or V pseudorabies state" means states as classified by the Pseudorabies Eradication State-Federal-Industry Program Standards (November 1, 2003).

"USDA, APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.

"Virgin bull" means a sexually (~~active~~) intact male bovine less than twelve months of age (~~or a sexually intact male bovine between twelve and twenty-four months of age~~) that is certified by the owner or the owner's designee as having had no breeding contact with female cattle.

"Wild animals" is defined in RCW 77.08.010(~~(47)~~) (61).

AMENDATORY SECTION (Amending WSR 07-14-056, filed 6/28/07, effective 7/29/07)

WAC 16-54-068 Restrictions. (1) It is a violation to import animals into Washington state that do not comply with the requirements of this chapter or any other Washington state regulation relating to animal health and care, or to the importation and movement of poultry, hatching eggs, and wildlife.

(2) All animals entering Washington state must comply with the requirements of USDA, APHIS regulations found at Title 9 CFR for movement or importation from foreign countries.

(3)(a) Livestock entering Washington state from a state where a reportable disease listed in WAC 16-70-010 has been diagnosed within the past thirty days must be accompanied by a valid entry permit and a certificate of veterinary inspection.

(b) The certificate of veterinary inspection shall also include written verification that the animals have not been exposed to any reportable disease (~~nor located within ten miles of an area where such a disease has been diagnosed~~).

(c) In the case of a state where vesicular stomatitis has been diagnosed, the certificate of veterinary inspection for susceptible livestock must be issued within twenty-four hours of shipment to Washington state and must contain:

(i) The temperature reading of each (~~animal~~) equine at the time of inspection; and

(ii) The following statement written by an accredited veterinarian:

"All animals identified on this certificate have been examined and found to be free from clinical signs of vesicular stomatitis. During the past thirty days, these animals have not

been exposed to vesicular stomatitis (~~(or located within ten miles of an area where vesicular stomatitis has been diagnosed)).~~"

(d) Cattle entering Washington state from a state or a foreign state or province where vesicular stomatitis has been diagnosed must be held at their destination separate and apart from all other cattle for a period of seven days and reexamined by ~~((an accredited veterinarian))~~ the state veterinarian or designee at the end of that period.

(e) In the case of a state where contagious equine metritis (CEM) has been diagnosed, the certificate of veterinary inspection for equine must contain the following statement: "The equine and equine reproductive products listed in this document have not originated from a premises where *T. equigenitalis* has been isolated during the sixty days immediately preceding importation to Washington or from a location currently under quarantine or investigation for CEM. No female equine in the shipment has been bred naturally to, or inseminated with, semen from an intact male positive for CEM or from an intact male resident upon positive premises or under quarantine or investigation for CEM. The equine showed no clinical signs of CEM on the day of inspection or semen collection."

(4) Dogs, cats, and ferrets must be accompanied by an entry permit and proof of current rabies vaccination if they originate from a rabies quarantined area ~~((or an area where the state or country of origin has designated terrestrial rabies as endemic)).~~

AMENDATORY SECTION (Amending WSR 08-14-057, filed 6/25/08, effective 7/26/08)

WAC 16-54-082 Domestic bovine animals—Importation requirements. Import health requirements.

(1) Domestic bovine entering Washington state must have a certificate of veterinary inspection and an entry permit issued by the office of the state veterinarian prior to entry. Entry permits are required on all ~~((feeder))~~ cattle entering ~~((restricted feedlots and are to be obtained by the brand inspector of the state of origin and recorded on the brand document))~~ the state.

(2) Before entering Washington state, Canadian cattle, including calves, must be identified on the right hip by a "CAN" brand (C open-A N).

Exemptions to import health requirements.

(3) ~~Unless an emergency rule is in effect, a~~ certificate of veterinary inspection is not required for domestic bovine that are:

(a) Consigned to federally inspected slaughter plants for immediate slaughter; or

(b) Consigned to state-federal approved livestock markets for sale for immediate slaughter only; or

(c) Consigned to specifically approved livestock markets or restricted holding facilities where import requirements can be met; or

(d) Consigned to a restricted feedlot or a category 2 restricted holding facility, unless originating from a state or country with less than free status; or

(e) Cattle moving interstate from contiguous states on grazing permits.

AMENDATORY SECTION (Amending WSR 08-14-057, filed 6/25/08, effective 7/26/08)

WAC 16-54-085 ((Domestic)) Bovine tuberculosis requirements. (1) All domestic bovine ~~((from a modified accredited advanced or lower state))~~ must have a negative tuberculosis (TB) test within sixty days before entry into Washington state and must be identified with a USDA silver identification ear tag, or a USDA-approved RFID tag, or an orange brucellosis vaccination tag when:

(a) Originating from a state or country where a tuberculosis affected herd has been identified within the past twelve months;

(b) Originating from a state or country where there is an ongoing epidemiological investigation related to bovine infected with tuberculosis;

(c) Originating from a state or country where tuberculosis is endemic or present in wildlife populations; or

(d) Originating from a modified accredited advanced or lower state as defined by USDA, APHIS in Title 9 CFR, Chapter 1, Part 77 (January 1, 2010) or a country equivalent in status. Such domestic bovine ((from a modified accredited or lower state)) shall be held separate and apart from native cattle for sixty days and retested negative at least sixty days after entry into Washington state.

(2) Dairy cattle (including steers and spayed heifers) six months of age or older must:

(a) Test negative for bovine tuberculosis within sixty days before entering Washington state; and

(b) Be identified with a USDA silver identification ear tag, or a USDA-approved RFID tag, or an orange brucellosis vaccination tag.

(3) Dairy heifers, steers, and bull calves less than six months of age must:

(a) Be issued a hold order or a quarantine order that requires the animals to be taken directly to a designated premises or facility;

(b) Be held separate and apart from all other domestic bovine until they test negative for bovine tuberculosis after six months of age; and

(c) Be identified with a USDA silver identification ear tag, or a USDA-approved RFID tag, or an orange brucellosis vaccination tag.

(4) Dairy cattle are exempt from bovine tuberculosis testing requirements of subsections (2) and (3) of this section if they:

(a) Originate from an accredited bovine tuberculosis-free herd, as defined by USDA, APHIS in Title 9 CFR, Chapter 1, Part 77 (January 1, 2010), and if an accredited herd number and the date of the last bovine tuberculosis test are shown on the certificate of veterinary inspection;

(b) Are consigned to federally inspected slaughter plants for immediate slaughter;

(c) Are consigned to slaughter through state and federally approved public livestock markets and remain in slaughter channels; or

(d) Enter a category 2 restricted holding facility (restricted feedlot) to be fed for slaughter.

(5) Cattle used for rodeo or timed events.

(a) All cattle used for rodeo or timed events, except those imported directly from Mexico, must be accompanied by

proof recorded on a certificate of veterinary inspection of a negative bovine tuberculosis test within twelve months before entry into Washington state.

(b) Calves under six months old that were born and have continuously resided in the state of Washington are excluded from this requirement.

~~((5))~~ **(6) Mexican cattle** - All cattle imported from Mexico that enter Washington, including those imported for rodeo or recreation purposes, must be sexually neutered and must bear official Mexican identification and brand before entry.

(a) All Mexican cattle must be accompanied by proof of two negative bovine tuberculosis tests conducted in the United States after entry from Mexico. The second negative test must be a minimum of sixty days after the first test and within thirty days before entry into Washington state.

(b) All Mexican cattle that remain in the state of Washington shall be tested annually for tuberculosis.

(c) If Mexican cattle entering Washington state are not accompanied by proof of two negative bovine tuberculosis tests prior to entry, they will be issued a hold order or a quarantine order that requires the animals to be taken directly to a designated premises or facility and kept separate and apart from Washington cattle until the completion of required tests.

(d) Sexually intact Mexican beef cattle may enter only with a prior entry permit and at the discretion of the director.

~~(Exemptions to domestic bovine tuberculosis test requirements.~~

~~(6) Dairy cattle~~ are exempt from bovine tuberculosis testing requirements if they:

~~(a) Originate from an accredited bovine tuberculosis-free herd, as defined by USDA, APHIS in Title 9 CFR Chapter 1 Part 77 (January 1, 2006), and if an accredited herd number and the date of the last bovine tuberculosis test are shown on the certificate of veterinary inspection;~~

~~(b) Are consigned to federally inspected slaughter plants for immediate slaughter; or~~

~~(c) Are consigned to slaughter through state and federally approved sale yards and remain in slaughter channels.)~~

(e) Mexican cattle are exempt from the second bovine tuberculosis test and isolation requirements if their official Mexican identification remains intact and they are consigned to a federally inspected slaughter plant for immediate slaughter.

(7)(a) Cattle that have not met the ~~((department's))~~ tuberculosis requirements in this subsection may enter, with approval from the director, a category 1 restricted holding facility in Washington state until testing requirements have been met.

(b) The category 1 restricted holding facility must be approved by the director and operated in accordance with a written agreement between the facility owner and the director.

(c) The restricted holding facility must be maintained and all inspections and testing done at the owner's expense.

~~((8) Dairy steers and spayed heifers are exempt from bovine tuberculosis testing requirements before entry into Washington state if they are entering restricted feedlots to be fed for slaughter.~~

~~(9) Mexican cattle~~ are exempt from the second bovine tuberculosis test and isolation requirements if their official

~~Mexican identification remains intact and they are consigned to a federally inspected slaughter plant for immediate slaughter.)~~

AMENDATORY SECTION (Amending WSR 08-14-057, filed 6/25/08, effective 7/26/08)

WAC 16-54-086 Bovine trichomoniasis requirements. (1) **Breeding bulls** may be imported into the state of Washington if they meet the following requirements:

(a) The bulls originate from a herd wherein all bulls have tested negative for bovine trichomoniasis since they were removed from female cattle; ~~((and))~~ or

(b) The bulls have tested negative to a bovine trichomoniasis ~~((culture))~~ quantitative polymerase chain reaction (qPCR) test within thirty days before import and have had no contact with female cattle from the time of the test to the time of import; or

~~(c) The bulls have tested negative to a bovine trichomoniasis culture test, if from a state that recognizes a culture test as an official test; or~~

(d) If the bulls originate from a herd where one or more bulls or cows have been found infected with bovine trichomoniasis **within the past twelve months**, the bulls must have ~~((three consecutive negative bovine trichomoniasis culture tests one week apart or one))~~ two negative ~~((polymerase chain reaction (PCR)))~~ qPCR tests one week apart. The samples for each test must be collected within thirty days before cattle are imported into Washington state, and an import permit must be obtained from the director and include a certifying statement that the bulls originated from an infected herd.

(2) Before arrival at their destination in Washington state, all imported bulls must be identified with official identification or an official trichomoniasis bangle tag.

(3) Bulls that enter Washington state without meeting the bovine trichomoniasis requirements of this section will be quarantined at the owner's expense until they have had ~~((three consecutive negative bovine trichomoniasis culture tests one week apart or one))~~ two negative ~~((PCR))~~ qPCR tests one week apart.

(4)(a) Any bull or cow that is positive to a trichomoniasis ~~((culture))~~ test, and any herd in which one or more bulls or cows are found infected with trichomoniasis is considered infected.

(b) In the case of bulls testing positive to trichomoniasis, the herd shall be quarantined pending an epidemiological investigation to determine the source of the infection, and as long as infection persists in the herd.

(c) Infected bulls will be quarantined and will not be used for breeding. They must be slaughtered, sold for slaughter, or sent to a restricted feedlot or category 2 restricted holding facility to remain in slaughter channels.

(5) **Certification and proficiency testing and types of tests.** The state veterinarian will determine trichomoniasis training for veterinarians and laboratories, and the types of tests used to determine trichomoniasis infection. All sampling will be obtained by pipette scrapings from the prepuce and glans of a bull.

(a) ~~((Only veterinarians registered with WSDA shall collect samples for official tests for trichomoniasis. Prior to~~

being granted registered status, all veterinarians who will collect samples for trichomoniasis testing shall attend an educational seminar conducted by the animal services division on trichomoniasis and proper sample collection techniques.)) All trichomoniasis testing of bulls in Washington state shall be performed by a veterinarian accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA APHIS). In addition, all accredited veterinarians testing bulls in Washington state for trichomoniasis are required to successfully complete training and pass a trichomoniasis testing procedure proficiency examination provided by the department. Effective January 1, 2011, accredited veterinarians may not perform official trichomoniasis testing of bulls in Washington state until they have successfully completed the training and passed the proficiency examination.

A schedule of training opportunities is available by contacting the department at:

Washington State Department of Agriculture
Animal Services Division
1111 Washington Street S.E.
P.O. Box 42577
360-902-1878

(b) Registered veterinarians shall only utilize official laboratories recognized by the state veterinarian for ~~((culture))~~ testing of trichomoniasis samples.

(c) Registered veterinarians collecting samples in the state of Washington shall submit results of all trichomoniasis tests and all official identification on official trichomoniasis test and report forms to the animal services division within five business days of receiving test results from an official laboratory or identifying virgin bulls with official trichomoniasis bangle tags.

(d)(i) Polymerase chain reaction is accepted as an official test when completed by a qualified laboratory approved by the director and when the sample is received by the laboratory within forty-eight hours of collection.

(ii) Other tests for trichomoniasis may be approved as official tests by the state veterinarian after the tests have been proven effective by research, have been evaluated sufficiently to determine efficacy, and a protocol for use of the test has been established.

(iii) An official test is one in which the sample is received in the official laboratory in good condition within forty-eight hours of collection. Samples in transit for more than forty-eight hours will not be accepted for official testing and must be discarded. Samples that have been frozen or exposed to high temperatures must also be discarded.

Exemptions to bovine trichomoniasis test requirements.

(6) **Virgin bulls** are exempt from bovine trichomoniasis test requirements. If sold, virgin bulls must be officially identified and accompanied by a certificate signed by the owner or the owner's designee that they have had no breeding contact with female cattle.

WSR 10-13-157

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed June 23, 2010, 8:35 a.m.]

Supplemental Notice to WSR 10-12-079.

Preproposal statement of inquiry was filed as WSR 10-01-105.

Title of Rule and Other Identifying Information: Chapter 16-604 WAC, Public livestock markets—Health, brands and weights and measures.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Second Floor, Conference Room 259, Olympia, WA 98504, on September 16, 2010, at 1:00 p.m.

Date of Intended Adoption: September 30, 2010.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARuleComments@agr.wa.gov, fax (360)902-2092, by 5:00 p.m., September 16, 2010.

Assistance for Persons with Disabilities: Contact WSDA receptionist by September 7, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend chapter 16-604 WAC to correct references to the Code of Federal Regulation as well as make it clear and readable. The department is also proposing to change the name of this WAC to Public livestock markets—Health, facilities, and sanitation.

Reasons Supporting Proposal: The proposed amendments will make the rules easier to understand and interpret.

Statutory Authority for Adoption: RCW 16.36.040 and chapter 34.05 RCW.

Statute Being Implemented: RCW 16.36.040.

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

Name of Proponent: Washington state department of agriculture (WSDA), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Kohrs, DVM, Olympia, (360) 902-1835; and Enforcement: Leonard E. Eldridge, DVM, Olympia, (360) 902-1881.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030(1) requires that WSDA prepare a small business economic impact statement (SBEIS) if proposed rules will impose more than minor costs on affected businesses or industry. The department has analyzed the economic effects of the proposed revisions and has concluded that they do not impose more than minor costs on small businesses in the regulated industry, and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

June 23, 2010

Leonard E. Eldridge
State Veterinarian

Chapter 16-604 WAC

**PUBLIC LIVESTOCK MARKETS—HEALTH,
(~~BRANDS AND WEIGHTS AND MEASURES~~)
FACILITIES, AND SANITATION**

AMENDATORY SECTION (Amending WSR 92-21-022, filed 10/13/92, effective 11/13/92)

WAC 16-604-009 Definitions. For the purposes of this order:

~~((1)) "Market" means public livestock market as defined in RCW 16.65.010(1).~~

~~((2)) "C.F.R." means Code of Federal Regulations.~~

"Consigned" means to deliver for sale at a public livestock market.

"Department" means the department of agriculture of the state of Washington.

~~((3)) "Director" means the director of the department or (his) the director's~~ duly authorized representative.

~~((4)) "Licensee" means any person licensed to operate a public livestock market.~~

~~((5)) "Livestock" ((except as used in the brand inspection regulations of this order)) means ((all)) cattle, bison, horses, mules, donkeys, swine, sheep, goats, rabbits, llamas, alpacas, ratites, poultry ((and rabbits)), waterfowl, game birds, and other species so designated by statute. "Livestock" does not mean free ranging wildlife as defined in Title 77 RCW.~~

~~((6)) "Livestock" as used in the brand inspection regulations of this order means all cattle of whatever species, breed or age.~~

~~((7)) "Lot" means livestock of one ownership.~~

~~((8)) "Market" means public livestock market as defined in RCW 16.65.010(1).~~

"Market veterinarian" means a ~~((graduate))~~ veterinarian licensed in the state of Washington, accredited by USDA, and ~~((employed by))~~ contracted with a public livestock market.

"Official individual identification" means identifying an animal or group of animals using USDA-approved or WSDA-approved devices or methods including, but not limited to, official tags, unique breed registry tattoos, and registered brands when accompanied by a certificate of inspection from a brand inspection authority who is recognized by the director.

AMENDATORY SECTION (Amending WSR 92-21-022, filed 10/13/92, effective 11/13/92)

WAC 16-604-020 Facilities and sanitation. Licensees shall provide facilities and sanitation for the prevention of livestock diseases at their public livestock markets, as follows:

(1) The licensee shall be responsible for the moving and yarding of livestock necessary for ~~((brand))~~ animal disease traceability, brand, or animal health inspection. Personnel employed by the ~~((salesmarket))~~ public livestock market will be required to sort and designate any ~~((apparent))~~ unhealthy

animals, as determined by the market veterinarian, before they are admitted into trade channels.

(2) The floors of all pens and alleys that are part of a public livestock market shall be constructed of concrete or similar impervious material and kept in good repair, with a slope of not less than one-fourth inch per foot to adequate drains leading to an approved system~~((: Provided, That))~~. The director may designate certain pens within such public livestock markets as feeding and holding pens and the floors and alleys of such pens shall not be subject to the aforementioned surfacing requirements.

(3) Feeding and holding pens maintained in an area adjacent to a public livestock market shall be constructed and separated from such public livestock market, in a manner prescribed by the director, in order to prevent the spread of communicable diseases to the livestock sold or held for sale in such public livestock market.

(4) All yards, chutes and pens used in handling livestock shall be constructed of such material which will render them easily cleaned and disinfected, and such yards, pens and chutes shall be kept clean, sanitary and in good repair at all times, as required by the director.

(5) Sufficient calf pens of adequate size to prevent overcrowding shall be provided, and such pens when used shall be cleaned and disinfected no later than the day subsequent to each sale.

(6) All swine pen facilities shall be covered and when used shall be cleaned and disinfected no later than the day subsequent to each sale.

(7) A water system carrying a pressure of forty pounds psi and supplying sufficient water to thoroughly wash all pens, floors, alleys and equipment shall be provided.

(8) Sufficient quarantine pens of adequate capacity shall be provided. Such pens shall be used to hold only cattle reacting to brucellosis and tuberculosis or to quarantine livestock with other contagious or communicable diseases and shall be:

(a) Hard surfaced with concrete or similar impervious material and shall be kept in good repair.

(b) Provided with separate watering facilities.

(c) Painted white with the word "quarantine" painted in red letters not less than four inches high on such quarantine pen's gate.

(d) Provided with a tight board fence not less than five and one-half feet high.

(e) Cleaned and disinfected not later than one day subsequent to the date of sale.

To prevent the spread of communicable diseases among livestock, the director shall have the authority to cause the cleaning and disinfecting of any area or all areas of a public livestock market and equipment or vehicles with a complete coverage of disinfectants approved by the director.

AMENDATORY SECTION (Amending WSR 92-21-022, filed 10/13/92, effective 11/13/92)

WAC 16-604-025 Health regulations. (1) The director shall require such testing, treating, identifying, examining and recordkeeping of livestock by a market veterinarian and/or livestock market as in the director's judgment may be necessary to prevent the spread of brucellosis, tuberculosis,

or any other infectious, contagious or communicable disease among the livestock of this state.

(2) For livestock health purposes, the director shall establish procedures for inspection of livestock markets for compliance with sanitary requirements and to observe livestock being handled. Such inspections shall be conducted by animal health inspection personnel working under the jurisdiction of the director. Such inspectors will not issue health certificates, perform "private treaty work" or engage in functions other than those in connection with surveillance for communicable, infectious animal diseases and sanitary measures. Operators of markets shall arrange with a market veterinarian to perform animal health inspections, issue health certificates or certificates of veterinary inspection, perform private treaty work, and perform any testing, quarantine, or movement restrictions of animals as directed by the director of agriculture or required by federal law. Departmental inspectors will work in cooperation with any market veterinarians in performing yard inspections.

(3) Markets handling swine shall be required to identify all boars and sows with official identification. Markets must comply with chapters 16-54 and 16-80 WAC and ~~((Title 9, Code of Federal Regulations, Parts 71 and 76,))~~ 9 C.F.R. Sec. 71.19 and 71.20 when handling swine for market.

(4) No livestock may leave the market for points outside the state of Washington without first meeting the requirements of the state of destination and ~~((Title 9, Subchapter C, Code of Federal Regulations))~~ 9 C.F.R. Parts 71 through 89, interstate transportation of animals (including poultry) and animal products.

(5) Any animal or animals which have been found by the ~~((inspector))~~ market veterinarian to be diseased or unhealthy shall be handled in accordance with instructions ~~((of a))~~ from the state veterinarian as to disposition. ~~((He))~~ The market veterinarian may require they be marked "slaughter only" and:

(a) Be sold only to immediate slaughter at a federally inspected slaughter plant;

(b) Require they be sold "as is" with an announcement;

(c) Require they be returned to consignor with or without quarantine; or

(d) Require they be held under quarantine in the yard.

(6) ~~((Brucellosis.))~~ Market requirements.

(a) Animal health requirements as prescribed in chapters 16-54 and 16-86 WAC shall be met for animals entering or released from the public livestock markets. Those public livestock markets that are not specifically approved as per ~~((Title 9, Part 78, Subchapter C, Code of Federal Regulations))~~ 9 C.F.R. Part 78 that wish to provide brucellosis blood testing as approved by the director shall comply with the facilities requirements for specifically approved ~~((saleyards))~~ public livestock markets. Specifically approved ~~((yards (Title 9, Part 78, Code of Federal Regulations))~~ markets (9 C.F.R. Part 78) can accept cattle and bison from out-of-state without meeting the import requirements provided that all Washington state animal health requirements are met at the ~~((yard))~~ market upon arrival and the animals are consigned to sell through that market. Those ~~((yards))~~ markets not specifically approved can receive from out-of-state only those cattle and bison that have met all animal health requirements prior to entering the state.

(b) Animals released from Washington markets to points outside the state shall be in compliance with ~~((Federal Interstate Regulations and must meet the import requirements of the state of destination))~~ subsection (4) of this section.

(c) ~~((Salesyard))~~ Public livestock market brucellosis reactors will be:

(i) Tagged with reactor identification tags in the left ear and branded "B" ~~((on the left jaw))~~ according to 9 C.F.R. Sec. 78.1.

(ii) Placed in a "quarantine pen."

(iii) Sold at the close of the regular sale to licensed slaughterer or their designated agent operating under federal or state inspection or return to the farm of origin under a written quarantine.

(iv) The market veterinarian shall issue VS Form 1-27 on all suspects or reactors immediately after their sale or detection and the original copy must accompany the animals to slaughter or back to the farm of origin. The pink and yellow copies are to be mailed immediately to the state ~~((veterinarian))~~ veterinarian's office at P.O. Box 42560, Olympia, Washington, 98504-2560 and the green copy mailed immediately to the destination of shipment ~~((or shall accompany shipment)).~~

(v) All brucellosis reactors consigned and transported directly to a licensed slaughtering establishment for immediate slaughter cannot be transported with any animals not so consigned. All trucks and railway cars or other conveyances used for the transportation of such reactors shall be cleaned and disinfected at destination under state and federal supervision.

(7) ~~((For the purpose of tracing dealer consigned livestock to herds of origin for health purposes, the certificates of permit (S.F. No. 4847) will be the accepted document for transferring tracing information to the director at the market.~~

~~Exceptions — this section does not apply to dairy cattle under twenty months nor beef cattle under twenty-four months of age.))~~ The market must provide to the department a certificate of permit (haul slip) for all livestock consigned to the market.

(8) All public livestock markets shall officially identify all sexually intact cattle and bison over eighteen months of age with ~~((an))~~ official ~~((backtag))~~ individual identification prior to being presented for sale. Records of ~~((the backtags))~~ official individual identification applied to the animal indicating seller, buyer, and brucellosis vaccination status if animal is a female shall be maintained by the market for a period of one year.

(9) ~~((Immediate slaughter))~~ Slaughter-only livestock.

(a) Livestock purchased through a market in the state of Washington for ~~((slaughter in the state of Washington may))~~ slaughter-only must be consigned ~~((only))~~ to a ~~((licensed slaughtering establishment,))~~ federally inspected slaughter plant, restricted ~~((feed lot))~~ feedlot, or ~~((another market for sale for immediate slaughter))~~ a category 2 restricted holding facility. Such animals will be cleared from the market on a Washington state cattle brand certificate and must reach the declared point of destination ~~((at))~~ slaughter establishment, category 2 restricted holding facility or restricted ~~((feed lot))~~ feedlot, within ~~((ten days))~~ twelve hours of first being declared ~~((immediate slaughter))~~ slaughter-only livestock.

Official individual identification (~~(tags may)~~) must not be removed and (~~(clearance papers)~~) cattle brand certificates must be presented with the animals at declared point of destination and livestock shall not be diverted to any other point.

(b) Cattle that have been declared (~~(immediate slaughter)~~) slaughter-only cattle shall not be commingled with cattle not so declared.

(c) No Washington state cattle brand certificate will be issued at any market unless the purchaser first (~~(certifies the exact)~~) provides the full name of the purchaser and seller and the complete physical address of the destination (~~(of such domestic animals or animal)~~), and (~~(such animals)~~) the cattle are identified to herd of origin (~~(in a manner prescribed by the director)~~).

(10) Health of swine.

(a) Intrastate consignments. Washington swine that are healthy, (~~(unexposed)~~) not known to be affected with or exposed to any contagious or infectious swine diseases, and not under quarantine may enter and leave any market in the state after veterinary inspection.

(b) Interstate consignments.

(i) Slaughter swine. Swine not known to be affected with or exposed to infectious or communicable swine diseases may be (~~(moved)~~) imported into the state without (~~(health)~~) a certificate of veterinary inspection to a recognized (~~(slaughtering center)~~) federally inspected slaughter plant, (~~(public stockyards under federal supervision)~~) or (~~(livestock market)~~) specifically approved livestock market under (~~(Part 76, Title 9, Code of Federal Regulations)~~) 9 C.F.R. Sec. 71.19 for immediate slaughter, and may not be diverted (~~(enroute)~~) en route. The waybills or certificates for shipment must contain an entry permit number obtained from the office of the state veterinarian and must state for "slaughter only to a federally inspected slaughter plant."

(ii) Feeder and breeder swine - must have originated from states in Stage IV or Stage V pseudorabies free status and/or comply with the entry requirements as stated in chapter 16-54 WAC. Animals must be accompanied by an official (~~(health)~~) certificate of veterinary inspection stating that they are clinically free of symptoms of infectious and contagious disease or exposure thereto, unless consigned to a specifically approved livestock market (~~(approved)~~) under (~~(Part 76, Title 9, CFR)~~) 9 C.F.R. Part 85. The certificate of veterinary inspection will contain an entry permit number obtained from the office of the state veterinarian and the consignor and consignee will be properly listed with exact (~~(mailing)~~) physical origin and destination addresses clearly shown. Such (~~(hogs)~~) swine must not come in contact with (~~(hogs)~~) swine from states of unlike status prior to or during shipment, and must have been transported in one continuous movement.

(c) Swine brucellosis. All interstate swine over six months of age entering public livestock markets to be sold for breeding purposes must have been tested and found negative to swine brucellosis within thirty days prior to entry or originate in a validated swine brucellosis free herd or state. Swine not in compliance with this requirement will not be sold as breeder swine. (~~(Swine originating from a herd where brucellosis is known to exist will not be sold as breeder swine.)~~)

WSR 10-13-158
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 23, 2010, 8:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-09-074.

Title of Rule and Other Identifying Information: The department is proposing to eliminate the use of administrative review teams, replace obsolete terminology and revise functional assessment language by revising WAC 388-448-0050 PEP step II—How we determine the severity of mental impairments, 388-448-0080 PEP step V—How we determine your ability to function in a work environment if you have a mental impairment, 388-448-0090 PEP step V—How we determine your ability to function in a work environment if you have a physical impairment, 388-448-0100 PEP step VI—How we evaluate capacity to perform relevant past work, and 388-448-0110 PEP step VII—How we evaluate your capacity to perform other work.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on August 10, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 11, 2010.

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 DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 10, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by July 27, 2010, 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: The proposed amendments include elimination of the administrative review teams, obsolete language, and a revision of the functional assessment language.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.04.005.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.04.005.

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: Melissa Mathson, 712 Pear Street S.E., Olympia, WA 98503, (360) 725-4563.

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 clarifying the description of medical evidence requirements to determine incapacity.

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 17, 2010

Katherine I. Vasquez
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 10-14 issue of the Register.

WSR 10-13-160

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed June 23, 2010, 8:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-09-097.

Title of Rule and Other Identifying Information: Chapter 16-86 WAC, Cattle and bison diseases in Washington state.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Second Floor, Conference Room 259, Olympia, WA 98504, on September 16, 2010, at 1:00 p.m.

Date of Intended Adoption: September 30, 2010.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARuleComments@agr.wa.gov, fax (360) 902-2092.

Assistance for Persons with Disabilities: Contact WSDA receptionist by September 7, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposed to amend chapter 16-86 WAC to add trichomoniasis to the rule. The department is proposing to add definitions, add a new section outlining the process and testing requirements, and add training requirements for veterinarians that will be performing the trichomoniasis testing.

Reasons Supporting Proposal: These changes are necessary to prevent the spread of disease in the state and to protect the public's health and welfare.

Statutory Authority for Adoption: Chapters 16.36 and 34.05 RCW.

Statute Being Implemented: Chapter 16.36 RCW.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Kohrs, DVM, Olympia, (360)

902-1835; and Enforcement: Leonard Eldridge, DVM, Olympia, (360) 902-1878.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic effects of the proposed revisions and has concluded that they are negligible costs on the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

June 23, 2010

Leonard E. Eldridge, DVM
State Veterinarian

AMENDATORY SECTION (Amending WSR 09-03-019, filed 1/9/09, effective 2/9/09)

WAC 16-86-005 Definitions. In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Accredited veterinarian" means a veterinarian licensed to practice veterinary medicine, surgery, and dentistry in the state of Washington and approved by the United States Department of Agriculture (USDA) Veterinary Services to participate in state-federal cooperative programs.

"Breed registry tattoo" means individual registry tattoos issued by breed associations.

"Brucellosis vaccine" means only those *Brucella abortus* products that are approved by and produced under license of the USDA for injection into cattle to enhance their resistance to brucellosis.

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of WSDA or the director's authorized representative.

"Herd plan" means a written management agreement between the animal owner and the state veterinarian, with possible input from a private accredited veterinarian designated by the owner, in which each participant agrees to undertake actions specified in the herd plan to control the spread of infectious, contagious, or communicable disease within and from an infected herd and to work toward eradicating the disease in the infected herd.

"Official calfhooed vaccinate" means female cattle between four and twelve months of age that are vaccinated with brucellosis vaccine at a calfhooed dose (2cc subcutaneously).

"Official individual identification" means identifying an animal or group of animals using devices or methods approved by the director, including, but not limited to, official tags, unique breed registry tattoos, and registered brands when accompanied by a certificate of inspection from a brand inspection authority who is recognized by the director.

"Official Washington mature vaccinate" means female cattle over the age of twelve months that are native to Washington state, or originate from other class free states or coun-

tries to be determined on a case-by-case investigation by the director, and vaccinated with a reduced dose of brucellosis vaccine (0.25cc subcutaneously) under directions issued by the director.

"Premises" means a location or physical address.

"Timed events" means competitive events that take place where time elapsed is the factor that determines the placing of individuals competing in the event.

"USDA" means the United States Department of Agriculture.

"Vaccination tattoo" means a tattoo in the right ear bearing the United States registered shield and V preceded by a number indicating the quarter of the year and followed by a number corresponding to the last digit of the year in which the animal was vaccinated with strain 19 *Brucella* vaccine. For strain RB-51 calfhood vaccination, an R precedes the shield and V. In the case of strain RB-51 mature vaccination, an M precedes the shield and V. For strain RB-51 vaccinates, the last number of the tattoo corresponds to the last digit of the year in which vaccine was administered.

"Virgin bull" means a sexually intact male bovine less than twelve months of age that is certified by the owner or the owner's designee with a signed statement as having had no breeding contact with female cattle.

TRICHOMONIASIS

NEW SECTION

WAC 16-86-115 Trichomoniasis in Washington cattle. (1) Any sexually intact bovine, except for bison, that is found test-positive for trichomoniasis, and any herd in which one or more bulls or cows are found test-positive for trichomoniasis, is considered infected. Test-positive means a positive result on a quantitative polymerase chain reaction (qPCR) test for trichomoniasis.

(2) In the case of infected sexually intact bovine, the herd shall be quarantined pending an epidemiological investigation to determine the source of the infection.

(3) All exposed herds will be identified by an accredited veterinarian in conjunction with the department. An exposed herd is defined as a cattle herd which has had, within the past twelve months, direct commingling or cross-fence contact with an infected herd during a time of potential breeding activity. The owner of exposed herds will be notified of the possible exposure and requested to test the herd using a qPCR test. All testing will be at the owner's expense.

(4)(a) Infected bulls will be quarantined and branded high on the tail head by the department with a USDA regulatory S-brand, and will not be used for breeding.

(b) Infected bulls must be slaughtered, sold for slaughter, sent to a restricted feedlot, or to a category 2 restricted holding facility to remain in slaughter channels. Infected bulls shall only be moved when accompanied by a USDA form VS 1-27.

(c) Bulls of unknown origin offered for sale at a livestock market must be tested negative for trichomoniasis by a qPCR test before being turned out with breeding stock or must be sold for slaughter, sent to a restricted feedlot, or to a

category 2 restricted holding facility to remain in slaughter channels.

(d) A nonpregnant female, with no calf at side, which is identified by the owner as being from an infected herd and is offered for sale at a livestock market, must remain in slaughter channels.

(5) The quarantine will be removed when all remaining bulls in the herd test negative to a second qPCR test for trichomoniasis and following proof of removal of infected bulls. Bulls must have a minimum of two negative qPCR tests at least one week apart for quarantine release. All bulls from infected herds, except virgin bulls, will be tested using a qPCR test the following trich-year before breeding. A trich-year means the period from September 1st to August 31st of any given year. Bulls from infected herds may not have to be tested the following trich-year if a herd plan has been approved by the state veterinarian.

(6) Information that cattle have tested positive for trichomoniasis may be supplied to county extension agents, accredited veterinarians, and industry representatives. Each month, the department may publish a press release of counties that have infected herds.

NEW SECTION

WAC 16-86-116 Duties of certified, accredited veterinarians—Training requirement for veterinarians performing trichomoniasis testing in cattle. (1) Effective January 1, 2011, accredited veterinarians may not perform official trichomoniasis testing of bulls in Washington state until they are certified to do so by having successfully completed training and passed a proficiency examination provided by the department.

(2) All official trichomoniasis testing of bulls in Washington state shall be performed by a certified, accredited veterinarian.

(3) A schedule of training opportunities is available by contacting the department at:

Washington State Department of Agriculture
Animal Services Division
1111 Washington Street S.E.
P.O. Box 42577
Olympia, Washington 98504-2577
360-902-1878

(4) Certified veterinarians shall utilize only official laboratories recognized by the state veterinarian for testing trichomoniasis samples. Positive test results will be sent to the department by the next business day.

(5)(a) Quantitative polymerase chain reaction (qPCR) is the test method for official tests accepted by the department.

(b) An official test is one in which the sample is collected by a certified veterinarian and received in the official laboratory in good condition within forty-eight hours of collection. Samples in transit for more than forty-eight hours or have been frozen or exposed to high temperatures will not be accepted for official testing. All samples shipped to the laboratory must be in pouch media, lactated Ringer's solution, or in normal saline solution. All sampling will be obtained by pipette scrapings from the prepuce and glans of a bull.

WSR 10-13-162
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed June 23, 2010, 8:43 a.m.]

Supplemental Notice to WSR 10-12-074.

Preproposal statement of inquiry was filed as WSR 10-02-112.

Title of Rule and Other Identifying Information: Chapter 16-30 WAC, Restricted feedlots and restricted holding facilities.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Second Floor, Conference Room 259, Olympia, WA 98504, on September 16, 2010, at 1:00 p.m.

Date of Intended Adoption: September 30, 2010.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092.

Assistance for Persons with Disabilities: Contact WSDA receptionist by September 7, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department held hearings in Olympia and Ellensburg on April 29 and May 10, 2010, to accept testimony on proposed amendments to chapter 16-30 WAC, Restricted feedlots and restricted holding facilities. Based on testimony received the department has decided to make additional changes to the proposed language and conduct another hearing.

The department proposes to amend chapter 16-30 WAC to establish three types of restricted holding facilities. The first type of holding facility is one where imported animals are held in quarantine until they meet animal health import requirements. The second type of holding facility is a dry feed yard with no provision for grazing where cattle that have been imported into the state and are destined for slaughter only are confined for feeding. These cattle can only be moved to a federally inspected slaughter plant. The third type of holding facility is a holding facility for permanently quarantined animals.

Reasons Supporting Proposal: These changes are necessary to prevent the spread of disease in the state and to protect the public's health and welfare.

Statutory Authority for Adoption: Chapters 16.36 and 34.05 RCW.

Statute Being Implemented: Chapter 16.36 RCW.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Kohrs, DVM, Olympia, (360) 902-1835; and Enforcement: Leonard Eldridge, DVM, Olympia, (360) 902-1878.

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

Small Business Economic Impact Statement

The Washington state department of agriculture (WSDA) proposes to amend chapter 16-30 WAC to establish

three types of restricted holding facilities. The first type of holding facility is one where imported animals are held in quarantine until they meet animal health import requirements. The second type of holding facility is a dry feed yard with no provision for grazing where cattle that have been imported into the state and are destined for slaughter only are confined for feeding. These cattle can only be moved to a federally inspected slaughter plant. The third type of holding facility is a holding facility for permanently quarantined animals.

Washington state has a vital and growing livestock industry, **the value of which in Washington state is \$1.6 billion**. This industry growth has placed additional financial burdens on WSDA as the industry has requested WSDA to monitor livestock import activities so that diseases such as tuberculosis (TB), brucellosis, bovine spongiform encephalopathy (BSE), and foot and mouth disease are not introduced into the state. BSE is a disease of adult cattle that are exposed at a young age.

The border between the United States and Canada had been closed to adult breeding cattle due to the BSE positive cow found in Washington state in December of 2003. WSDA monitoring became especially critical after the United States/Canadian border reopened on November 17, 2007, to breeding cattle that were born after March 1, 1999, as several recent BSE cases in Canada were born after March 1, 1999. When the United States/Canadian border opened, monitoring became critical to determine the origin of the livestock for disease trace-back purposes.

To understand the economic impact of BSE, the one BSE positive cow that was illegally imported into Washington in December of 2003 cost (at a minimum) \$11 billion to the national beef industry and the costs are still being tallied. The economic loss is mainly due to markets that are still closed to United States beef imports.

Washington state has been free of TB and brucellosis for over twenty years. When affected herds are found for either of these diseases in a state, the state loses its United States Department of Agriculture (USDA) tuberculosis/brucellosis "free" status and USDA places mandatory testing requirements upon the affected state. USDA has proposed changing its approach to addressing these long term program diseases. Both of these diseases are near eradication and resources are being focused on apparent problem areas. Whatever the outcome of these changes, there will be significant costs to our industry as outlined below when an affected herd is identified and the investigation is completed. This creates a financial burden on the industry because producers have to pay for additional testing and handling fees and the value of the animal drops at point of sale by an estimated \$0.06 - \$0.10 cents per pound due to increased movement restrictions and testing requirements put on by other states and other countries.

Once a state loses its TB or brucellosis "free" status, it is difficult to regain the "free" status because the disease is very difficult to eradicate. The time frame to regain "free" status depends upon the necessary investigations and the ability to trace the movement of livestock.

The table below describes the potential economic impact of some states that have lost either their TB or brucellosis "free" status. The economic impact of the restricted feedlot fees would be economically insignificant as compared to the loss of the "free" status for the industry as a whole.

State	Disease	Testing Impact \$ (Lost Status)	Lost Value @ Point of Sale (Lost Status)	Depopulation
Washington (Disease Free)	Tuberculosis			
New Mexico (Lost Status) USDA FY 2007	Tuberculosis	\$6 - \$8 per head Testing only	\$.05 - \$.10 per pound Example: 600 pound animal would decrease to \$30 - \$60 per head	\$22 million (USDA)
Minnesota (Lost Status) USDA FY 2008	Tuberculosis	\$6 - \$8 per head Testing only	\$.05 - \$.10 per pound Example: 600 pound animal would decrease to \$30 - \$60 per head	\$6 million (State legislature buy-out program: \$75.00 per head)
California (Lost Status) USDA FY '08-'09	Tuberculosis	\$6 - \$8 per head Testing only	\$.05 - \$.10 per pound Example: 600 pound animal would decrease to \$30 - \$60 per head	\$55 million (USDA)
Montana (Lost Status) USDA FY 2008	Brucellosis	\$6 - \$8 per head \$80 million	\$.05 - \$.10 per pound Example: 600 pound animal would decrease to \$30 - \$60 per head	

Another major concern is the potential for an accidental or intentional introduction of a foreign animal disease, such as foot and mouth disease, into the state. It has been estimated that for each hour this disease goes undetected it will cost the United States economy \$10 million. The proposed rule, chapter 16-30 WAC, Restricted feedlots and restricted holding facilities will allow WSDA to better monitor live-stock imports and reduce the risk to industry.

Estimated Costs of Proposed Rule to Small Livestock Businesses: Under WSDA rules, industry may establish restricted holding facilities. The holding facilities provide industry with additional flexibility in meeting Washington state animal import requirements. Use of such a facility is not mandatory and producers always have the option of meeting import requirements prior to entry without endangering our disease "free" status as outlined above. The proposed rule will allow WSDA to recover the costs associated with monitoring all categories of restricted holding facilities.

When the legislature granted the department the authority to obtain fee for service in the 2008 legislature with the passage of RCW 16.36.023, it was estimated that four to six restricted holding facilities would be established for tuberculosis and brucellosis testing and vaccination. Since this law went into effect the need for these holding facilities has increased with the reopening of the United States/Canada border to breeding cattle. WSDA oversight is necessary to ensure that animals entering Washington state meet WSDA's animal health entry requirements or that untested and unvaccinated animals remain in slaughter channels or in a category three restricted holding facility.

There are presently ten restricted holding facilities licensed in the state and there is indication that this number will grow. The present holding facilities have accepted any economic impact since they have been established.

In a very limited number of cases the department may need to extend the life of a quarantine which is proposed as a category 3 restricted holding facility (lifetime quarantine). Such quarantines do not disproportionately impact small businesses due to the fact that other alternatives such as removal or meeting import requirements do exist. The department finds it necessary to make regular visits to ensure that conditions of the category three restricted holding facility are being followed and the health of the animal(s) is being maintained. These costs may include time and mileage necessary for regular surveillance on the category three restricted holding facility to ensure bio-security and isolation protocols are being adhered to, observation of testing or treatment of animals to satisfy chain of custody requirements are met and general evaluation of the health of the animal(s).

Compliance Requirements: The proposed restricted holding facility designation does not affect importation compliance requirements. In actuality, when requested by the producer, the restricted holding facility designation option makes interstate health requirement compliance easier.

Professional Services Required to Comply: WSDA does not anticipate that the proposed rule will not necessitate the creation of a need for new professional services.

Cost of Compliance: The cost of establishing a restricted holding facility will include the initial application fee (\$200), annual renewal fee (\$100), and the cost of inspections to monitor compliance at \$85.00/hr and mileage at established rates. This cost will be capped at \$1,500.00 per licensed category two restricted holding facility for the license period unless there is a violation discovered. In the case that a violation occurs the cap will be removed so costs can be recovered to complete the investigation (SB 6299).

Other Actions Taken by the Department That Will Contain Costs:

- WSDA combining trips with other inspections and offering the requesting party the option to take advantage of doing several inspections in the same day, if scheduling permits.
- In the case an extended quarantine is needed, the department will always strive to offer other options to the owner/producer that would allow the release of the quarantine without long term supervision and the costs associated with it.

Justification: According to the Small Business Administration, a small business is defined as a one with less than fifty employees. Several of the category two restricted holding facilities would not be classified as a small business within this guideline. The Code of Federal Regulations further defines restricted feedlots as a small business as a restricted feedlot with less than \$2 million dollars of gross revenue. This eliminates most of the restricted feedlots that would be affected by this rule. The remaining restricted feedlots that are not eliminated by these criteria would be able to test and vaccinate incoming animals to meet the import requirements for less than the \$1500 cap that is proposed. The other factor is that this fee would be a very small percent (.075%) of the gross revenues and very minor when compared to the impact of the loss of "free" status from a disease outbreak.

A copy of the statement may be obtained by contacting Dr. Paul Kohrs, 1111 Washington Street S.E., Olympia, WA 98504-2560, phone (360) 902-1835, fax (360) 902-2087, e-mail pkohrs@agr.wa.gov.

RCW 19.85.030 (1)(a) requires that an agency prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic effects of the proposed revisions and has concluded that they are negligible costs on the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

June 23, 2010

Leonard E. Eldridge
State Veterinarian

AMENDATORY SECTION (Amending WSR 08-01-095, filed 12/17/07, effective 1/17/08)

WAC 16-30-010 Definitions. In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of the department of agriculture or the director's authorized representative.

"Official individual identification" means identifying an animal or group of animals using devices or methods including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of brand inspection from a brand inspection authority who is recognized by the director.

"Restricted (~~(cattle)~~) animals" means (~~(cattle)~~) animals being held in a restricted holding facility or a restricted feedlot.

~~("Restricted feedlot" means a dry feed yard with no provision for grazing where cattle specified in this rule are confined for feeding and kept separate and apart from all other cattle.~~

~~"Restricted holding facility" means a dry feed yard with no provision for grazing where cattle are held to meet import test requirements.~~

~~"Test-eligible" means bulls over six months of age, brucellosis vaccinated female dairy cattle over twenty months of age, and brucellosis vaccinated beef breed female cattle over twenty-four months of age.)~~

AMENDATORY SECTION (Amending WSR 08-01-095, filed 12/17/07, effective 1/17/08)

WAC 16-30-025 Restricted feedlots. (1) A restricted feedlot is a designated area that is isolated from all other non-restricted areas within a feedlot. A restricted feedlot is a category 2 restricted holding facility and subject to all the requirements pertaining to category 2 restricted holding facilities in addition to the requirements applicable to restricted feedlots.

(2) Restricted feedlots must meet the following standards:

(a) All cattle in a restricted feedlot must remain in slaughter channels.

(b) Cattle in the restricted feedlot must not share water or feeding facilities accessible to other areas.

~~((b))~~ (c) Restricted feedlots must be clearly identified as such by signs permanently affixed at all corners stating "restricted feeding area" in letters a minimum of six inches in height.

~~((e))~~ (d) There must be a minimum of thirty feet between restricted feedlots and other lots and facilities.

~~((f))~~ (e) No common fences and gates may be used.

~~((2))~~ (3) The purpose of a restricted feedlot is to accept for feeding purposes with no provision for grazing or commingling with unrestricted cattle:

(a) Female cattle from a Class Free state that are not officially brucellosis vaccinated and not knowingly exposed to brucellosis;

(b) Cattle that enter Washington state on a brand certificate that includes the entry permit number and without a certificate of veterinary inspection; and

(c) Cattle imported from Canada. These cattle must be confined to the initial restricted feedlot until moved to slaughter.

~~((3))~~ (4)(a) Restricted feedlots may buy and import cattle from a Class A state if the cattle do not originate from a herd known to be exposed to brucellosis. Female cattle entering a restricted feedlot from a Class A state must be:

(i) Officially brucellosis vaccinated; or

(ii) Brucellosis tested negative within thirty days prior to movement.

(b) Cattle may not be imported from restricted feedlots that accept cattle known to be exposed to brucellosis.

~~((4))~~ (5) The classification of states and areas as Class Free and Class A is designated by United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) in Title 9 CFR Part 78.41 (January 1, 2006) and is defined in *Brucellosis Eradication: Uniform Methods and Rules*, effective October 1, 2003.

AMENDATORY SECTION (Amending WSR 09-03-018, filed 1/9/09, effective 2/9/09)

WAC 16-30-030 Conditions of permit to operate a restricted feedlot. The operator of a restricted feedlot must abide by the following conditions:

(1) There shall be no contact between animals not also similarly restricted.

(2) No cattle shall be removed from the restricted feedlot except to a federally inspected slaughter plant, a slaughter plant of like status, or a restricted feedlot of like status.

(3) The restricted feedlot will be maintained in a condition that follows common industry practices to mitigate disease risk.

(4) The owner or manager of a restricted feedlot will notify the department ((will be notified)) immediately of any outbreak of any infectious or contagious disease.

(5) The disposal of dead livestock will be in accordance with the laws relating to the disposal of dead livestock and in accordance with chapter 16-25 WAC.

(6) Accurate records will be kept for six years accounting for all cattle entering and leaving the restricted feedlot. Records must be open for review by authorized department of agriculture personnel during normal business hours, and must be provided to the department upon the director's request.

(7) Proper facilities shall be provided for inspection of brands, branding, and identification of cattle.

(8) The state veterinarian has the authority to enter the restricted feedlot at any reasonable time to conduct tests, examinations, and inspections.

AMENDATORY SECTION (Amending WSR 08-01-095, filed 12/17/07, effective 1/17/08)

WAC 16-30-035 Types of restricted holding facilities.

(1) Restricted holding facilities are isolated areas approved and licensed by the director, as advised by the ~~((designated brucellosis and tuberculosis epidemiologist. Such facilities are specifically for cattle that have been imported into the state but have not met the department's brucellosis and tuberculosis entry requirements.~~

~~(2) The restricted holding facility area shall house restricted cattle separate and apart from all other cattle.~~

~~(3) Upon negative brucellosis and tuberculosis test results, restricted cattle will be released from the holding facility.~~

~~(4) Milk from restricted cattle may not be used for human consumption.~~

~~(5) Restricted holding facilities must be clearly identified as such by signs permanently affixed at all corners stating "restricted holding facility" in letters a minimum of six inches in height.) state veterinarian. Fees associated with~~

restricted holding facilities are referenced under chapter 16-91 WAC.

(2) There are three categories of restricted holding facilities.

(a) A category 1 restricted holding facility is a facility where imported animals are held in quarantine until they meet animal health import requirements.

(b) A category 2 restricted holding facility is a dry feed yard with no provision for grazing where cattle that have been imported into the state and are destined for slaughter only are confined for feeding. Cattle in a category 2 restricted holding facility must remain in slaughter channels and move only to a federally inspected slaughter plant or other restricted facilities of like status.

(c) A category 3 restricted holding facility is a holding facility for permanently quarantined animals.

AMENDATORY SECTION (Amending WSR 08-01-095, filed 12/17/07, effective 1/17/08)

WAC 16-30-038 Conditions of permit to operate ((#)) restricted holding ((facility)) facilities. (1) The following requirements are applicable to all categories of restricted holding facilities:

(a) The restricted holding facility area shall house restricted animals separate and apart from all other nonrestricted animals. There may be no contact between animals not also similarly restricted and no commingling between separate shipments of animals.

(b) The restricted holding facility will be maintained in a sanitary condition to mitigate disease risk.

(c) The department of agriculture will be notified immediately of any outbreak of any infectious or contagious disease.

(d) Milk from restricted animals may not be used for human consumption.

(e) Restricted holding facilities must be clearly identified as such by signs permanently affixed at all corners stating "restricted holding facility" in letters a minimum of six inches in height.

(f) The disposition of dead animals will be in accordance with the laws relating to the disposal of dead livestock and in accordance with chapter 16-25 WAC.

(g) Accurate records will be kept for six years to account for all animals entering and leaving the restricted holding facility. Records must be open for review by authorized department of agriculture personnel during normal business hours, and must be provided to the department upon the director's request.

(h) The state veterinarian has the authority to enter the restricted holding facility at any reasonable time to conduct tests, examinations, and inspections.

(2) **Additional requirements for a category 1 restricted holding facility.** In addition to the requirements of subsection (1) of this section for all types of restricted holding facilities, the operator of a category 1 restricted holding facility must abide by the following conditions:

~~((4))~~ (a) All ~~((cattle))~~ animals entering a category 1 restricted holding ~~((facilities))~~ facility must have official

individual identification listed on the certificate of veterinary inspection.

~~((2))~~ (b) No animals may be removed from the category 1 restricted holding facility until they meet state and federal import regulations.

(c) Animals may be removed from the restricted holding facility without meeting state and federal import regulations if they are sent to a federally inspected slaughter establishment and have not commingled with any other animals not also similarly restricted. Animals that have commingled with others not also similarly restricted will be quarantined and must be tested negative for disease as determined by the state veterinarian within thirty days before being released from the holding facility.

(3) Additional requirements for a category 2 restricted holding facility. In addition to the requirements of subsection (1) of this section for all types of restricted holding facilities, the operator of a category 2 restricted holding facility must abide by the following conditions:

(a) There may be no contact between cattle not also similarly restricted ((and no commingling between separate shipments of cattle)).

~~((3))~~ No cattle may be removed from the restricted holding facility until they meet state and federal import regulations:

~~((4))~~ (b) Cattle may be removed from the restricted holding facility without meeting state and federal import regulations if they are sent immediately to a federally inspected slaughter plant.

~~((5))~~ The restricted holding facility will be maintained in a sanitary condition.

~~(6)~~ The department of agriculture will be notified immediately of any outbreak of any infectious or contagious disease.

~~(7)~~ The disposition of dead cattle will be in accordance with the laws relating to the disposal of dead livestock and in accordance with chapter 16-25 WAC.

~~(8)~~ Accurate records will be kept for six years to account for all cattle entering and leaving the restricted holding facility. Records must be open for review by authorized department of agriculture personnel during normal business hours, and must be provided to the department upon the director's request. (c) There must be a minimum of thirty feet between the restricted holding facility and other lots and facilities.

(d) No common fences and gates may be used.

(e) Cattle in the restricted holding facility must not share water or feeding facilities accessible to other areas.

(f) The state veterinarian will conduct at least two and up to four random, unannounced audits during each licensing period. The audits will consist of a physical inspection. The licensee is also required to periodically confirm with the department cattle shipments identified on state import permits as destined to the restricted holding facility by telephone or e-mail. The rate for audits is established in WAC 16-91-040, but the total amount charged per licensed restricted holding facility shall not exceed one thousand five hundred dollars in a calendar year.

(g) (f) of this subsection shall not limit the number of inspections necessary to investigate potential violations or limit the number of inspections or total amount charged to

ensure compliance after a violation is found. Category 2 restricted holding facilities that have been found to be in violation of animal health or import regulations may be charged for audits and inspections in excess of the one thousand five hundred dollar limit in (f) of this subsection. This section shall not limit the department from charging the time and mileage fee for inspecting livestock and related records during an investigation of a proven violation of section 3, chapter 66, Laws of 2010.

(4) Additional requirements for category 3 restricted holding facilities. In addition to the requirements of subsection (1) of this section for all types of restricted holding facilities, the operator of a category 3 restricted holding facility must abide by the following conditions:

(a) The operator of a category 3 restricted holding facility must abide by quarantine conditions set forth by the state veterinarian.

(b) Accurate records will be kept accounting for all animals entering the category 3 restricted holding facility for the length of the quarantine.

(c) An animal in a category 3 restricted holding facility may be legally removed from the facility only upon the animal's death or if the animal is moved from the location by permit from the state veterinarian's office on a United States Department of Agriculture VS form 1-27 for the movement of restricted or quarantined animals to another category 3 restricted holding facility.

(d) If an animal dies or is moribund in a category 3 restricted holding facility, the operator of the holding facility will immediately notify the state veterinarian of the animal's condition. The state veterinarian may require inspection and testing of the animal before disposal.

AMENDATORY SECTION (Amending WSR 08-01-095, filed 12/17/07, effective 1/17/08)

WAC 16-30-039 ((Permit)) Applications for a restricted feedlot or restricted holding facility. (1) Application forms to establish a restricted feedlot or restricted holding facility may be obtained from:

Washington State Department of Agriculture
Animal Services Division
1111 Washington St. S.E.
P.O. Box 42577
Olympia, Washington 98504-2577
Phone: 360-902-1878.

(2) Applicants for restricted feedlots and restricted holding facilities must provide the following information on the application form:

(a) Name and address of applicant;

(b) Location of the restricted feedlot or restricted holding facility; and

(c) Drawing of the layout of the restricted feedlot or restricted holding facility.

AMENDATORY SECTION (Amending WSR 08-01-095, filed 12/17/07, effective 1/17/08)

WAC 16-30-040 Expiration and revocation of restricted feedlot and restricted holding facility permits.

(1) All permits for restricted feedlots and holding facilities expire on the 30th day of June of the year following the date of issue. Restricted feedlots and holding facilities must be inspected annually upon renewal and at any other time as determined by the director. Renewal of a restricted feedlot or a restricted holding facility is contingent upon accurate recordkeeping.

(2) Any violation of chapter 16.36 RCW or any of the rules adopted under that chapter is sufficient cause for the suspension or revocation of any permit to operate a restricted feedlot or restricted holding facility. In all proceedings for suspension or revocation of a restricted feedlot or restricted holding facility permit, the owner or manager has the right to request a hearing before revocation is made permanent. Any action shall be taken under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-30-050	Brands.
WAC 16-30-060	Brand time.
WAC 16-30-070	Place of brand.

WSR 10-13-163
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)

[Filed June 23, 2010, 8:48 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 388-501-0135, 388-501-0200, 388-502-0100, 388-502-0120, 388-502-0150, 388-502-0160, 388-502-0210, 388-502-0220, 388-531-0050, 388-531-0150, 388-531-0200, 388-531-0300, 388-531-0350, 388-531-0450, 388-531-0500, 388-531-0550, 388-531-0600, 388-531-0650, 388-531-0700, 388-531-0750, 388-531-0800, 388-531-0850, 388-531-0900, 388-531-0950, 388-531-1050, 388-531-1100, 388-531-1150, 388-531-1200, 388-531-1250, 388-531-1300, 388-531-1350, 388-531-1450, 388-531-1500, 388-531-1550, 388-531-1650, 388-531-1700, 388-531-1750, 388-531-1850, 388-531-1900, 388-532-730, 388-532-760, 388-534-0200, 388-539-0200, 388-539-0300, 388-539-0350, 388-551-1350, 388-533-100, 388-533-300, 388-533-400, and 388-556-0200.

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://www.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on August 24, 2010, at 10:00 a.m.

Date of Intended Adoption: Not sooner than August 25, 2010.

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 DSH-SRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on August 24, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by August 10, 2010, 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: Correcting old terminology such as "medical assistance administration (MAA)" to "the department," "internal control number" to "a transaction control number," "medical identification card" to "services card," "foster care placement" to "in out-of-home placement," "EPSDT screens" to "EPSDT exams," fixing errant WAC cross references, adding updated web site links, and removing erroneous addresses.

Reasons Supporting Proposal: Conforms to the new ProviderOne claims processing system and will eliminate confusion for people who read these rules by using correct citations and using uniform terminology.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 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: Wendy L. Boedigheimer, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1306.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These are just "housekeeping" changes.

A cost-benefit analysis is not required under RCW 34.05.328. Because there are just "housekeeping" changes, it is exempt under RCW 34.05.328 (5)(b)(iv).

June 9, 2010

Katherine I. Vasquez
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 10-15 issue of the Register.

WSR 10-13-172
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed June 23, 2010, 9:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-19-012.

Title of Rule and Other Identifying Information: WAC 246-780-001, 246-780-010, 246-780-020, 246-780-022, 246-

780-025, 246-780-028, 246-780-030, 246-780-040 and 246-780-060; and new section WAC 246-780-026, farmers' market nutrition program.

Hearing Location(s): Department of Health, 111 Israel Road S.E., Building 2, Room 158, Tumwater, WA 98504-7886, on July 29, 2010, at 10:00 a.m.

Date of Intended Adoption: August 2, 2010.

Submit Written Comments to: Janice K. Boden, Department of Health, P.O. Box 47886, 111 Israel Road S.E., Tumwater, WA 98504-7886, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2345, by July 16, 2010.

Assistance for Persons with Disabilities: Contact Janice K. Boden by July 16, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal adds farm stores to the women, infants and children farmers' market nutrition program. Adding farm stores gives WIC clients the opportunity to purchase locally grown fresh fruits and vegetables directly from the farmer at the farm. The proposal tells farmers how to apply for authorization and what will be expected of them after authorization. The proposal also updates and clarifies language throughout the existing rule.

Reasons Supporting Proposal: This proposal will benefit WIC clients by authorizing additional locations where they may purchase fresh local fruits and vegetables with their WIC farmers' market checks. Small local farmers will benefit from having an additional source of revenue.

Statutory Authority for Adoption: RCW 43.70.700.

Statute Being Implemented: RCW 43.70.700.

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: Drafting: Janice K. Boden, 111 Israel Road S.E. Tumwater, WA, (360) 236-3610; Implementation and Enforcement: Janet Charles, WIC Director, 111 Israel Road S.E., Tumwater, WA, (360) 236-3697.

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 Janice K. Boden, P.O. Box 47886, Tumwater, WA 98504-7886, phone (360) 236-3610, fax (360) 236-2345, e-mail janice.boden@doh.wa.gov.

June 22, 2010

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-001 What is the ((WIC)) purpose of the farmers' market nutrition program? (1) The purpose of the ((WIC)) farmers' market nutrition program (FMNP) is to:

(a) Provide locally grown, fresh, nutritious, unprepared fruits and vegetables to women, infants over five months of

age, and children, who participate in the special supplemental nutrition program for women, infants, and children ((WIC)); and

(b) Expand the awareness and use of farmers' markets where consumers can buy directly from the grower.

(2) The ((WIC farmers' market nutrition program)) FMNP is administered by the Washington state department((s)) of health ((and agriculture)).

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly implies otherwise.

(1) "Authorized" or "authorization" means an ((eligible grower and/or farmers' market)) applicant has met the selection criteria and has been issued a signed ((an agreement)) contract with the department allowing participation in the ((WIC farmers' market nutrition program)) FMNP.

(2) "Authorized farm store" means a store or stand authorized by the department which is located at the site of agricultural production and is owned, leased, rented, or share-cropped and operated by an authorized grower where produce is sold directly to consumers.

(3) "Authorized farmers' market" means a farmers' market authorized by the department that has a minimum of five or more authorized growers who assemble at a defined location for the purpose of selling their produce directly to consumers.

(4) "Authorized grower" means an individual authorized by the department who grows a portion of the produce that they sell at a Washington state authorized farmers' market or authorized farm store.

(5) "Broker" or "wholesale distributor" means an individual or business who exclusively sells produce grown by others. There is an exception for an individual employed by ((a)) an authorized grower ((who is qualified to participate in the WIC farmers' market nutrition program or is employed by a)) or nonprofit organization to sell produce on behalf of ((qualified)) authorized growers.

((3)) (6) "Check" means a negotiable financial instrument issued by the FMNP to WIC clients to purchase eligible foods.

(7) "Contract" ((or "agreement")) means a written legal document binding the contractor and the department to designated terms and conditions.

((4)) "Contractor" means a farmers' market who has a signed contract with the department to participate in the WIC farmers' market nutrition program.

((5)) (8) "Cut herbs" means fresh herbs with no medicinal value that are not potted ((or bagged)).

((6)) (9) "Department" means the Washington state department((s)) of health ((and agriculture)).

((7)) (10) "Disqualification" means ((the act of)) terminating the ((agreement and/or)) contract of an authorized farmers' market, authorized grower ((and/or)) ((farmers' market from the WIC farmers' market nutrition program)) authorized farm store for noncompliance with ((program)) FMNP requirements.

~~((8))~~ (11) "Eligible foods" means locally grown, unprocessed (except for washing), fresh, nutritious fruits, vegetables, and cut herbs.

~~((9))~~ "Eligible grower" means an individual or business who grows a portion of the produce that they sell at Washington state authorized farmers' markets.

~~((10))~~ (12) "Farmers' market" means a ~~((membership of))~~ farmers' market authorized by the department that has at least five or more authorized growers who assemble at a defined location for the purpose of selling their produce directly to consumers.

~~((11))~~ (13) "FMNP" ~~((or "program"))~~ means the WIC farmers' market nutrition program.

~~((12))~~ "Locally grown" means Washington grown or grown in an adjacent county of Idaho or Oregon.

(13) "Local WIC agency" means the contracted agency or clinic where a client receives WIC services and WIC farmers' market checks.

~~((14))~~ (14) "Local WIC agency" means the contracted agency or clinic where a client receives WIC services and farmers' market checks.

(15) "Locally grown" means Washington grown or grown in an adjacent county of Idaho or Oregon.

(16) "Market manager" means an individual designated by the farmers' market ~~((manager-))~~ management or ~~((market))~~ board member ~~((s))~~ who is responsible for overseeing the market's participation in the ~~((WIC farmers' market nutrition program))~~ FMNP.

~~((15))~~ (17) "Trafficking" means the buying or exchanging of ~~((WIC))~~ farmers' market checks for cash, drugs, or alcohol.

~~((16))~~ "Validating" means stamping the WIC farmers' market check in the designated box with appropriate market and grower identification numbers using the stamper provided by the department.

~~((17))~~ (18) "WIC" or "WIC nutrition program" means the federally funded special supplemental nutrition program for women, infants, and children administered in Washington state by the department of health.

~~((18))~~ (19) "WIC client" ~~((or "client"))~~ means a pregnant, breast feeding, or postpartum woman, infant, or child receiving WIC benefits.

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-020 How does ~~((a))~~ an applicant farmers' market become ~~((a-contractor))~~ authorized to participate in the farmer's market nutrition program? (1) ~~((A farmers' market wanting))~~ To become authorized to participate in the ~~((WIC farmers' market nutrition program))~~ FMNP, an applicant must:

(a) Apply for authorization~~((:))~~ on a form provided by the department;

(b) Meet the selection criteria~~((:))~~ in subsection (2) of this section;

(c) Complete training on FMNP requirements; and ~~((sign))~~

(d) Receive a contract ~~((with))~~ from the department signed by both the department and the applicant.

(2) The selection ~~((is based on the following))~~ criteria are:

(a) ~~((The local WIC agency in the farmers' market service area must participate in the WIC farmers' market nutrition program.~~

~~((b))~~ The farmers' market must have a designated market manager on-site during operating hours~~((:))~~;

~~((c))~~ (b) The farmers' market must have been in operation a minimum of one year. ~~((If there is a market currently participating in the program in an area where a new market has applied to participate,))~~ The one-year requirement may be waived~~((:~~

~~((d))~~ The farmers' market must keep a current list of eligible growers, including the farmer's name, business address, telephone number, and crops to be sold July through October. The farmers' market must agree to provide this list to the state WIC office on request.

~~((e))~~ by the department based on capacity and need;

(c) The farmers' market must be located within twenty miles of the local WIC agency~~((:))~~;

~~((f))~~ A minimum of five eligible) (d) At least five authorized growers must participate in the farmers' market each year~~((:))~~;

~~((g))~~ (e) The ~~((farmers' market))~~ applicant must agree to comply with training sessions and monitor visits~~((:))~~; and

~~((h))~~ (f) The ~~((farmers' market))~~ applicant must agree to comply with all terms and conditions specified in the contract.

(3) ~~((The WIC farmers' market nutrition program is not required to authorize all applicants.))~~ The FMNP is not required to authorize all applications. Selection is also based on community need.

(4) An authorized farmers' market, must reapply at the end of the current contract; however, neither the department nor the participant has an obligation to renew a contract.

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-022 What is expected of ~~((a-contractor))~~ an authorized farmers' market? ~~((h))~~ The ~~((contractor-shall))~~ authorized farmers' market must:

~~((a))~~ (1) Comply with the ~~((WIC farmers' market nutrition program))~~ FMNP requirements and the terms and conditions of ~~((the farmers' market))~~ their contract;

~~((b))~~ (2) Accept training and technical assistance on ~~((WIC farmers' market nutrition program))~~ FMNP requirements from department staff;

~~((c))~~ (3) Provide in person training to authorized growers, market employees and ~~((eligible growers in person on WIC farmers' market nutrition program))~~ volunteers on FMNP requirements including, but not limited to: Eligible foods, check redemption procedures, civil rights requirements and the complaint process;

~~((d))~~ (4) Be accountable for the actions of ~~((market))~~ employees ~~((involved in the WIC farmers' market nutrition program))~~ and volunteers;

~~((e))~~ Obtain signed grower agreements from eligible growers before they accept WIC farmers' market checks;

~~(f)~~) (5) Keep a current list of authorized growers, including the authorized grower's name, business address, telephone number, and crops to be sold during the farmers' market season. The authorized farmers' market must provide this list to the department on request.

(6) Ensure that ~~(WIC farmers' market)~~ FMNP checks are ~~(redeemed)~~ accepted only by ~~(eligible)~~ authorized growers for locally grown eligible foods;

~~((g) Allow only growers selling locally grown produce to accept WIC farmers' market checks;~~

~~(h) Ensure that WIC farmers' market checks are redeemed only for eligible foods;~~

~~(i) Ensure eligible growers redeem WIC farmers' market checks within valid dates;~~

~~(j) Ensure eligible growers have and display the "WIC Farmers' Market Checks Welcome Here" sign each market day when at authorized markets;~~

~~(k)) (7) Report to the department anyone that accepts FMNP checks without authorization from the department.~~

~~(8) Refuse to ~~(validate)~~ process any ~~(WIC farmers' market)~~ FMNP checks ~~(from ineligible growers);~~~~

~~(l) Agree to designate a program coordinator to validate WIC farmers' market checks with the appropriate market and grower identification numbers;~~

~~(m) Comply with federal and state nondiscrimination laws;~~

~~(n) Ensure that WIC farmers' market nutrition program clients receive the same courtesies as other customers;~~

~~(o) Agree to provide the department with any information it has available regarding its participation in the WIC farmers' market nutrition program;~~

~~(p) Agree to keep WIC farmers' market client information confidential;~~

~~(q) Agree to allow the department to monitor the farmers' market for compliance with program requirements;~~

~~(r) Notify the department immediately if and when market operations cease; and~~

~~(s) Report any suspected noncompliance with WIC farmers' market nutrition program requirements to the department.~~

~~(2) Neither the department nor the contractor have an obligation to renew a contract.) taken by unauthorized individuals;~~

(9) Ensure FMNP checks are stamped with the appropriate market and authorized grower identification numbers;

(10) Ensure authorized growers have and display the "WIC Farmers' Market Checks Welcome Here" sign each day;

(11) Comply with federal and state nondiscrimination laws;

(12) Ensure that WIC clients receive the same courtesies as other customers;

(13) Provide the department, upon request, with any information it has available regarding its participation in the FMNP;

(14) Keep WIC client information confidential;

(15) Allow the department to monitor the authorized farmers' market for compliance with FMNP requirements;

(16) Notify the FMNP immediately if authorized farmers' market operations cease; and

(17) Notify the FMNP immediately of any authorized farmers' market, authorized grower or authorized farm store suspected of noncompliance with FMNP requirements.

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-025 How does an ~~(eligible)~~ applicant grower become authorized ~~((by a farmers' market)) to ~~(accept WIC)~~ participate in the farmers' market ~~(checks)~~ nutrition program?~~ (Eligible growers must:

~~(1) Grow a portion of the produce they have for sale. Any individual who purchases all the produce they plan to resell is considered a broker and is not allowed to participate in the program;~~

~~(2) Sell at an authorized farmers' market;~~

~~(3) Agree to follow the terms and conditions of the grower agreement; and~~

~~(4) Sign the grower agreement and return it to the department for signature and to be assigned a grower identification number.) (1) To become authorized to participate in the FMNP an applicant must:~~

~~(a) Apply for authorization as a grower on a form provided by the department;~~

~~(b) Meet the grower selection criteria in subsection (2) of this section;~~

~~(c) Complete training on FMNP requirements provided by either an authorized farmers' market manager or the department; and~~

~~(d) Receive a contract from the department signed by both the department and the applicant.~~

~~(2) Grower selection criteria are:~~

~~(a) The applicant must grow a portion of the produce they have for sale;~~

~~(b) The applicant must sell locally grown produce at either or both the authorized farmers' market or the authorized farm store as identified on the completed application;~~

~~(c) The applicant must agree to follow the terms and conditions of the grower contract.~~

~~(3) The FMNP is not required to authorize all applications. Selection is also based on community need.~~

~~(4) An authorized grower must reapply at the end of the current contract; however, neither the department nor the participant has an obligation to renew a contract.~~

NEW SECTION

WAC 246-780-026 How does an applicant farm store become authorized to participate in the farmers' market nutrition program? (1) To become authorized to participate in the FMNP an applicant must:

(a) Apply for authorization as a farm store on a form provided by the department;

(b) Meet the farm store selection criteria in subsection (2) of this section;

(c) Complete training on FMNP requirements provided by either an authorized farmers' market manager or the FMNP; and

(d) Receive a contract from the department signed by both the department and the applicant.

(2) Farm store selection criteria are:

(a) The farm store must be located at the site of agricultural production and grow, at that location, a portion of the produce they have for sale;

(b) The farm store must sell locally grown produce;

(c) The applicant must agree to follow the terms and conditions of the contract.

(3) An authorized farm store must reapply at the end of the current contract; however, neither the department nor the participant has an obligation to renew a contract.

(4) The department is not required to authorize all applicants. Priority for authorization will be given to applicants located in areas without an authorized farmers' market.

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-028 What is expected of an authorized grower or an authorized farm store? The authorized grower ~~((agrees to))~~ or authorized farm store must:

(1) Comply with the ~~((WIC farmers' market nutrition program))~~ FMNP requirements and the terms and conditions of the ((grower agreement)) contract;

(2) Accept training ~~((on WIC farmers' market nutrition program))~~ and technical assistance on FMNP requirements and assure that all persons working ((in the authorized grower's stall)) or volunteering with the authorized grower or at the authorized farm store at the location(s) specified in the contract are trained as well. Training may be provided by either a farmers' market manager or the FMNP and includes, but is not limited to: Eligible foods, check processing and redemption procedures, civil rights requirements and the complaint process;

(3) Be held accountable regarding FMNP purchases and requirements for the actions of all persons working ~~((in the authorized grower's stall regarding WIC farmers' market nutrition program purchases))~~ or volunteering with the authorized grower or at the authorized farm store at the location(s) specified in the contract;

(4) Accept ~~((WIC farmers' market))~~ FMNP checks only for eligible foods;

(5) Accept ~~((WIC farmers' market))~~ FMNP checks only at authorized farmers' markets or at authorized farm stores at the location(s) specified in the contract;

(6) Accept ~~((WIC farmers' market checks within the valid dates of the program;~~

~~(7) Redeem WIC farmers' market checks by the date imprinted on the check;~~

~~((8))~~ FMNP checks within the valid dates of the FMNP and redeem checks by the date imprinted on the check;

~~(7)~~ Display the "WIC Farmers' Market Checks Welcome Here" sign ((each market day when at authorized markets)) when selling eligible foods at authorized farmers' markets and authorized farm stores;

~~((9))~~ (8) Provide ((the)) WIC ((farmers' market nutrition program)) clients with the full amount of product for the value of each ((WIC farmers' market)) FMNP check;

~~((10))~~ (9) Charge WIC ((farmers' market nutrition program)) clients the same prices as other customers;

~~((11) Have the WIC farmers' market checks validated by the program coordinator at the farmers' market where the checks were accepted before cashing or depositing them;~~

~~((12))~~ (10) Make produce available to WIC clients that is the same quality as that offered to other customers;

~~((13))~~ (11) Comply with federal and state nondiscrimination laws;

~~((14))~~ (12) Treat WIC ((farmers' market customers)) clients as courteously as other customers;

~~((15))~~ (13) Cooperate with department staff in monitoring for compliance with ((program)) FMNP requirements and provide information on request;

~~((16))~~ (14) Reimburse the ((department)) FMNP for ((WIC farmers' market)) mishandled FMNP checks ((taken improperly));

~~((17))~~ (15) Not collect sales tax on ((WIC farmers' market)) FMNP check purchases;

~~((18))~~ (16) Not seek ((payment)) reimbursement from WIC ((farmers' market nutrition program)) clients for checks not paid by the ((department)) FMNP;

~~((19))~~ (17) Not give cash back for purchases less than the value of the FMNP checks; and

~~((20))~~ (18) Not trade, barter or otherwise use ((WIC)) farmers' market checks to purchase foods from other growers or pay for market fees or other business costs.

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-030 What kind of foods can WIC clients buy with ((WIC)) farmers' market nutrition program checks? (1) WIC clients can use FMNP checks to buy locally grown, unprocessed (except for washing), fresh fruits, vegetables, and cut herbs ((can be purchased with WIC farmers' market checks)).

(2) ((Ineligible items include, but are not limited to, baked goods, cheeses, cider, crafts, dairy products, dried fruits, dried herbs, dried vegetables, eggs, flowers, fruit juices, honey, jams, jellies, meats, nuts, potted herbs, seafood, seeds, and syrups.)) Federal regulations do not allow WIC clients to buy the following items with FMNP checks:

(a) Baked goods;

(b) Cheeses;

(c) Cider;

(d) Crafts;

(e) Dairy products;

(f) Dried fruits;

(g) Dried herbs;

(h) Dried vegetables;

(i) Eggs;

(j) Flowers;

(k) Fruit juices;

(l) Honey;

(m) Jams;

(n) Jellies;

(o) Meats;

(p) Nuts;

(q) Potted herbs;

(r) Seafood;

(s) Seeds; and

(t) Syrups.

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-040 What happens if ~~((a))~~ an authorized farmers' market ~~((or a))~~, authorized grower or authorized farm store does not comply with ~~((WIC farmers' market nutrition program))~~ FMNP requirements?

(1) Authorized farmers' markets ~~((and))~~, authorized growers or authorized farm stores who do not comply with ~~((WIC farmers' market nutrition program))~~ FMNP requirements are subject to sanctions, such as monetary penalties, ~~((in addition to, or in lieu of,))~~ or disqualification. Prior to ~~((disqualifying a farmers' market or grower))~~ disqualification, the department ~~((shall))~~ must consider whether the disqualification would create undue hardships for WIC ~~((farmers' market nutrition program))~~ clients.

(2) Noncompliance includes, but is not limited to:

(a) Failing to display the "WIC Farmers' Market Checks Welcome Here" sign each ~~((market))~~ day when selling at authorized farmers' markets or authorized farm stores;

(b) Providing unauthorized food, nonfood items, or other items to WIC ~~((farmers' market nutrition program))~~ clients in ~~((lieu of, or in addition to, eligible foods))~~ exchange for the FMNP check;

(c) Charging the ~~((program))~~ FMNP for foods not received by the WIC client;

(d) Providing rain checks or credit to WIC clients in ~~((a WIC farmers' market nutrition program))~~ an FMNP transaction;

(e) Giving change to WIC ~~((farmers' market nutrition program))~~ clients if the purchase is less than the value of the ~~((WIC farmers' market))~~ FMNP check;

(f) ~~((Validating WIC farmers' market checks without having authorization from the department;~~

~~((g))~~ Accepting ~~((WIC farmers' market))~~ FMNP checks without having a signed ~~((agreement))~~ contract with the department;

~~((h))~~ Accepting ~~((WIC farmers' market))~~ FMNP checks at unauthorized farmers' markets or unauthorized farm stores;

~~((i) Failing to get the WIC farmers' market checks validated with the market and grower identification numbers by the farmers' market program coordinator where the checks were accepted;~~

~~((j))~~ Collecting sales tax on ~~((WIC farmers' market))~~ FMNP purchases;

~~((k))~~ Seeking ~~((restitution))~~ reimbursement from ~~((program))~~ WIC clients for checks not paid by the department; and

~~((l) Accepting and/or validating checks outside of the program dates; and~~

~~((m))~~ Violating the rules of this chapter or the provisions of the contract ~~((and/or agreement))~~.

(3) Authorized farmers' markets ~~((and))~~, authorized growers, and authorized farm stores found in noncompliance will be notified by the ~~((department and given the opportunity to correct the problem))~~ department in writing.

(4) If ~~((a farmers' market or grower))~~ an authorized market is subsequently found in noncompliance for the same or a similar reason, the department may impose sanctions, such as monetary penalties or disqualification, without giving the opportunity to correct the problem.

(5) When the department notifies ~~((a))~~ an authorized farmers' market ~~((or))~~, authorized grower or authorized farm store of ~~((anything))~~ a pending adverse action that affects their ~~((participation))~~ authorization status in the ~~((program))~~ FMNP, the department ~~((shall give))~~ must mail written notice ~~((not less than))~~ at least fifteen days before the effective date of the action. The notice ~~((shall))~~ must state what action is being taken, the effective date of the action, and the procedure for requesting an appeal hearing.

(6) The department may deny payment to ~~((a))~~ an authorized grower or an authorized farm store for mishandling ~~((WIC farmers' market))~~ FMNP checks.

(7) The department may seek reimbursement from ~~((a))~~ an authorized grower or authorized farm store for payments made on ~~((improperly handled WIC farmers' market))~~ mishandled FMNP checks.

(8) Monetary penalties ~~((shall))~~ must be paid to the department within the time period specified in the notice. The department ~~((shall))~~ may refer ~~((farmers' markets and/or growers))~~ an authorized grower or authorized farm store who fails to pay within the specified time period to a commercial collection agency. ~~((In addition, the department may disqualify a farmers' market or grower.))~~

(9) ~~((A))~~ An authorized farmers' market ~~((or))~~, authorized grower or authorized farm store that has been disqualified from the ~~((WIC farmers' market nutrition program must))~~ FMNP may reapply at the end of the disqualification period to be considered for authorization.

(10) Any trafficking in ~~((WIC farmers' market))~~ FMNP checks ~~((exchanging checks for cash, drugs, or alcohol))~~ in any amount ~~((shall))~~ must result in disqualification.

(11) ~~((Farmers' markets and growers))~~ An authorized farmers' market, authorized grower or authorized farm store who commits fraud or other unlawful activities are liable for prosecution according to ~~((program))~~ FMNP regulations. (7 C.F.R. 248.10(k).)

AMENDATORY SECTION (Amending WSR 00-07-129, filed 3/22/00, effective 4/22/00)

WAC 246-780-060 How does ~~((a))~~ an authorized farmers' market ~~((or))~~, authorized grower, an authorized farm store or an applicant appeal a department decision?

(1) ~~((Farmers' markets and growers have))~~ An authorized farmers' market, authorized grower, authorized farm store or an applicant has a right to appeal denial of payment, denial of an application, monetary penalty or disqualification from the ~~((WIC farmers' market nutrition program))~~ FMNP. Expiration or nonrenewal of a contract ~~((or agreement))~~ is not subject to appeal.

(2) If the action being appealed is a disqualification of ~~((a))~~ an authorized farmers' market, the authorized farmers' market ~~((shall))~~ must cease ~~((validating WIC))~~ processing farmers' market checks for all authorized growers ~~((partici-~~

participating in the market)) effective the date specified in the sanction notice.

(3) If the action being appealed is a disqualification of ~~((#))~~ an authorized grower or authorized farm store, the authorized grower ~~((shall))~~ or authorized farm store must cease accepting ~~((WIC farmers' market))~~ FMNP checks effective the date specified in the sanction notice. In addition, the authorized farmers' market ~~((shall))~~ must cease ~~((validating))~~ processing checks for the affected authorized grower. Payments ~~((shall))~~ must not be made for any ~~((WIC farmers' market))~~ FMNP checks submitted ~~((by a grower))~~ for payment during a period of disqualification.

(4) The department may, at its discretion, permit the authorized farmers' market ~~((or))~~ authorized grower or authorized farm store to continue participating in the ~~((program))~~ FMNP pending the appeal hearing outcome. The authorized farmers' market, authorized grower or authorized farm store may be required to repay funds for FMNP checks redeemed while waiting for the outcome of the hearing, depending on the hearing outcome.

(5) A request for an appeal hearing ~~((shall))~~ must be in writing and ~~((shall))~~ must:

(a) State the issue raised;

(b) Contain a summary of the authorized farmers' market's ~~((or))~~ authorized grower's, authorized farm store's or applicant's position on the issue, indicating whether each charge is admitted, denied, or not contested;

(c) State the name and address of the authorized farmers' market ~~((or))~~ authorized grower, authorized farm store or applicant requesting an appeal hearing;

(d) State the name and address of the attorney representing the authorized farmers' market ~~((or))~~ authorized grower, authorized farm store or applicant if any;

(e) State the ~~((farmers' market or grower's))~~ need for an interpreter or other special accommodations, if necessary; and

(f) Have a copy of the notice from the department attached.

(6) A request for an appeal ~~((shall))~~ must be filed at the Department of Health, Adjudicative Clerk's Office, ~~((1407 Eastside,))~~ P.O. Box 47879, Olympia, WA 98504-7879. The request ~~((shall))~~ must be made within twenty-eight days of the date the farmers' market or grower received the ~~((department))~~ department's notice.

(7) The decision concerning the appeal ~~((shall))~~ must be made within sixty days from the date the request for an appeal hearing was received by the adjudicative clerk's office. The time ~~((shall be extended by as many days as))~~ may be extended if all parties agree ~~((to with good cause))~~.

WSR 10-13-173

PROPOSED RULES

ENVIRONMENTAL HEARINGS OFFICE

(Pollution Control Hearings Board)

(Shorelines Hearings Board)

(Environmental and Land Use Hearings Board)

(Forest Practices Appeals Board)

(Hydraulics Appeals Board)

[Filed June 23, 2010, 9:39 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310 (4)(e) and (g). Rules to be amended are procedural rules relating to agency hearings. Most of the rule changes are required for compliance with SHB 2935.

Title of Rule and Other Identifying Information: Amendments to pollution control hearings board (PCHB) procedural rules, WAC 371-08-315, 371-08-335, 371-08-395, 371-08-400, and 371-08-555 and shorelines hearings board (SHB) procedural rules, WAC 461-08-305, 461-08-340, 461-08-345, 461-08-415, 461-08-420, and 461-08-570; repealing forest practices appeals board (FPAB) procedural rules, chapters 223-08, 223-09 and 223-12 WAC, with the exception of WAC 223-08-087; also repealing hydraulics appeals board (HAB) procedural rules, chapter 259-04 WAC, and the environmental and land use hearings board (ELUHB) procedural rules, chapter 199-08 WAC.

Hearing Location(s): Environmental Hearings Office, 4224 6th Avenue S.E., Building 2, Lacey, WA 98504-0903, on August 12, 2010, at 10:00 a.m.

Date of Intended Adoption: August 23, 2010.

Submit Written Comments to: Kay Brown, Environmental Hearings Office, P.O. Box 40903, 4224 6th Avenue S.E., Building 2, Lacey, WA 98504-0903, e-mail eho@eho.wa.gov, fax (360) 438-7699, by August 10, 2010.

Assistance for Persons with Disabilities: Contact Robyn Bryant by phone at (360) 459-6327.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these changes is to comply with chapters 7, 84, 130, 210 and 285, Laws of 2010. Chapter 210, Laws of 2010, eliminates the HAB and the FPAB, and transfers the administrative review functions of these boards to the PCHB. Chapter 7, Laws of 2010, eliminates the ELUHB. To comply with these statutory changes, all of the HAB and ELUHB procedural rules are proposed for repeal. All of the FPAB rules, with the exception of WAC 223-08-087, the FPAB rule on temporary suspensions or discontinuances, are proposed for repeal. WAC 223-08-087 will remain in effect, and will be used by the PCHB when hearing forest practices appeals, until such time as a superseding temporary suspension or discontinuance rule is adopted for forest practices appeals before the PCHB. See section 42(2), chapter 210, Laws of 2010.

Chapter 210, Laws of 2010, also changes the time frames for filing appeals from certain actions of various agencies, therefore necessitating changes in the procedural rules of the PCHB and SHB to conform with these statutory changes.

Chapter 210, Laws of 2010, also directs that appeals of listed decisions made by the department of natural resources, the department of fish and wildlife, the department of ecology, the commissioner of public lands, and decisions made by state agencies that are authorized public entities under RCW 79.100.010 pertaining to derelict vessels, be filed with and reviewed by the PCHB.

Additional changes include making the PCHB and SHB rules consistent with chapter 210, Laws of 2010, pertaining to mediations, and adding a requirement regarding submissions of subpoenas for signature to the board's presiding officer at least ten days before the hearing.

Reasons Supporting Proposal: All of these changes are necessary to implement chapters 7, 84, 130, 210, and 285, Laws of 2010, with the exception of the addition of the ten day requirement for submission of subpoenas. The addition of a time period for submission of subpoenas for signature prior to the hearing will facilitate the return of subpoenas to the requesting party sufficiently in advance of the hearing to allow time for the requesting party to serve the subpoena.

Statutory Authority for Adoption: RCW 43.21B.170, 90.58.175, chapters 84, 130, 210, and 285, Laws of 2010.

Statute Being Implemented: Chapters 7, 84, 130, 210, and 285, Laws of 2010.

Name of Proponent: Environmental hearings office, governmental.

Name of Agency Personnel Responsible for Drafting: Kay Brown, Environmental Hearings Office, (360) 459-6327; Implementation and Enforcement: Andrea McNamara Doyle, Environmental Hearings Office, (360) 459-6327.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No statement is required for adoption of rules described in RCW 34.05.310 (4)(g) (amendment to rules relating to procedure, practice, or requirements related to agency hearings) and (e) (rules the content of which is dictated by statute.)

A cost-benefit analysis is not required under RCW 34.05.328. No statement is required for adoption of procedural rules that amend or repeal any procedure, practice, or requirement relating to any agency hearings (RCW 34.05.328 (5)(c)(i)), or for a rule the content of which is specifically dictated by statute (RCW 34.05.328 (5)(b)(v)).

June 22, 2010

Andrea McNamara Doyle
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 199-08-300 Purpose of this chapter and applicability of the board's rules of practice to the civil rules of procedure and the rules of evidence.
- WAC 199-08-305 Definitions.
- WAC 199-08-310 Computation of time.

- WAC 199-08-315 Board membership, function and jurisdiction.
- WAC 199-08-320 Office hours, telephone number, telefacsimile number and address of the board.
- WAC 199-08-325 Public information about practice before the board and public records.
- WAC 199-08-330 Types of petitions before the board.
- WAC 199-08-335 Where to file a petition for review and number of copies.
- WAC 199-08-340 Contents of the petition for review.
- WAC 199-08-345 Correction or amendment of notice.
- WAC 199-08-350 Persons who may appear before the board.
- WAC 199-08-355 Appearance by representative.
- WAC 199-08-360 Withdrawal or substitution of representatives.
- WAC 199-08-365 Conduct before the board by representatives.
- WAC 199-08-370 Parties not represented by legal counsel—Waiver of rules to prevent manifest injustice.
- WAC 199-08-375 Presiding officer duties and powers.
- WAC 199-08-380 Mediation.
- WAC 199-08-385 Subpoenas.
- WAC 199-08-390 Dismissal of petitions for review on jurisdictional grounds.
- WAC 199-08-395 Answers to petitions for review.
- WAC 199-08-400 Certification of permit applications.
- WAC 199-08-425 Intervention.
- WAC 199-08-430 Joinder of parties.
- WAC 199-08-435 Request for initial hearing, jurisdictional motions.
- WAC 199-08-440 Scheduling of initial hearing and motions.
- WAC 199-08-445 Initial hearing.
- WAC 199-08-450 Case conferences.

WAC 199-08-455	Stays.	WAC 223-08-002	Commencement of adjudicative proceedings.
WAC 199-08-460	Discovery.	WAC 223-08-005	Background information.
WAC 199-08-465	Motions.	WAC 223-08-010	Board administration and address of the board.
WAC 199-08-470	Settlement and mediation agreements.	WAC 223-08-020	Board administration—Quorum.
WAC 199-08-475	Use of telephone conferences, motion hearings and hearings.	WAC 223-08-030	Board administration—Procedures applicable.
WAC 199-08-480	Postponements and continuances of hearings.	WAC 223-08-035	Board administration—Definitions.
WAC 199-08-485	Dismissal, default or withdrawal of appeal.	WAC 223-08-037	Board administration—Service of documents on representatives.
WAC 199-08-490	Hearing briefs.	WAC 223-08-040	Board administration—Presiding officer, powers.
WAC 199-08-495	Procedures for hearings on the merits.	WAC 223-08-045	Board administration—Computation of time.
WAC 199-08-500	Scope and standard of review.	WAC 223-08-050	Appearance and practice—Persons who may appear.
WAC 199-08-505	Provision of interpreters and of reasonable accommodations to individuals with special needs.	WAC 223-08-055	Appearance and practice—Notice of appearance.
WAC 199-08-510	Rules of evidence—Admissibility criteria.	WAC 223-08-060	Appearance and practice—No formal admission.
WAC 199-08-515	Rules of evidence—Official notice—Matters of law.	WAC 223-08-065	Appearance and practice—Withdrawal.
WAC 199-08-520	Rules of evidence—Official notice—Material facts.	WAC 223-08-070	Appearance and practice—Conduct.
WAC 199-08-525	Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.	WAC 223-08-072	Appearance and practice—Parties not represented by legal counsel—Waiver of rules to prevent manifest injustice.
WAC 199-08-540	Contents of the record.	WAC 223-08-075	Commencing an appeal—Filing and service.
WAC 199-08-545	Preparation of transcripts.	WAC 223-08-080	Commencing an appeal—Forms.
WAC 199-08-550	Preparation of findings, conclusions and orders.	WAC 223-08-085	Commencing an appeal—Types and time limits.
WAC 199-08-555	Final decisions and orders.	WAC 223-08-090	Commencing an appeal—Jurisdiction.
WAC 199-08-565	Petitions for reconsideration.	WAC 223-08-095	Commencing an appeal—Amendment of notice.
WAC 199-08-570	Time for filing petitions for review to superior court and court of appeals.	WAC 223-08-097	Intervention.
WAC 199-08-580	Certification of record.	WAC 223-08-100	Prehearing conferences.
		WAC 223-08-107	Prehearing procedures—Telephone.
		WAC 223-08-148	Procedures—Motions.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 223-08-001 Purpose and applicability.

WAC 223-08-160	Hearing—Notice of.	WAC 223-12-010	Purpose.
WAC 223-08-162	Hearing—Primary and secondary setting.	WAC 223-12-020	Definitions.
WAC 223-08-165	Hearing—Continuance.	WAC 223-12-030	Organization and operation of forest practices appeals board.
WAC 223-08-171	Hearing—Dismissal or default.	WAC 223-12-040	Public records available.
WAC 223-08-175	Hearing—Procedures at.	WAC 223-12-050	Public records officer.
WAC 223-08-177	Hearing—Standard and scope of review.	WAC 223-12-060	Office hours.
WAC 223-08-180	Hearing—Additional evidence.	WAC 223-12-070	Request for public records.
WAC 223-08-185	Hearing—Rules of evidence.	WAC 223-12-080	Copying.
WAC 223-08-190	Hearing—Admission of evidence and objections.	WAC 223-12-090	Exemptions.
WAC 223-08-195	Hearing—Excerpts from documentary evidence.	WAC 223-12-100	Review of denials of public records request.
WAC 223-08-200	Hearing—Official notice of law.	WAC 223-12-110	Protection of public records.
WAC 223-08-205	Hearing—Official notice of fact.	WAC 223-12-120	Records index.
WAC 223-08-210	Hearing—Basis for finding of fact.	WAC 223-12-130	Communication with the appeals board.
WAC 223-08-215	Hearing—Record.	WAC 223-12-140	Adoption of form.
WAC 223-08-220	Hearing—Transcripts.		
WAC 223-08-250	Decision—Final decision.		
WAC 223-08-252	Decision—Preparation of findings, conclusions and orders.		
WAC 223-08-255	Petition for reconsideration.		
WAC 223-08-257	Appeals to the courts—Certification of record.		
WAC 223-08-260	Appeal—Superior court petition.		
WAC 223-08-265	Appeal—Certification of record.		
WAC 223-08-270	Declaratory ruling—Petition.		
WAC 223-08-275	Rule making—Petition.		

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 223-09-001 Statement of exemption.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 259-04-010	Membership—Function and jurisdiction of the hydraulic appeals board.
WAC 259-04-020	Board administration—Office of the board.
WAC 259-04-030	Board administration—Meeting of the board.
WAC 259-04-040	Board administration.
WAC 259-04-050	Board administration—Communications with the board.
WAC 259-04-060	Procedures applicable.
WAC 259-04-070	Authority.

AMENDATORY SECTION (Amending WSR 04-03-001, filed 1/7/04, effective 2/7/04)

WAC 371-08-315 Membership, function and jurisdiction. (1) **Members.** The board is composed of three members appointed by the governor, with the advice and consent of the senate, for a term of six years. The members are to be qualified by experience or training in pertinent matters pertaining to the environment, and at least one member shall be a lawyer, and not more than two members shall be of the same political party.

(2) **Function and jurisdiction.** The function of this board is to provide an expeditious and efficient disposition of

appeals from the decisions and orders of the department of agriculture pursuant to chapters 90.48 and 90.64 RCW, the department of ecology, from the decisions of air pollution control authorities established pursuant to chapter 70.94 RCW, ~~((and))~~ from the decisions of local health departments, when such orders and decisions concern matters within the jurisdiction of the board as provided in RCW 43.21B.-110(=), the decisions of the department of natural resources, the department of fish and wildlife, and the department of ecology that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7); forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180; decisions of the department of fish and wildlife to issue, deny, condition or modify a hydraulic project approval permit under chapter 77.55 RCW; decisions of the department of natural resources that are reviewable under RCW 78.44.270 and 78.44.380, and decisions of a state agency that is an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable under RCW 79.100.120.

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.105.095, 70.107.050, 76.09.170, section 10, chapter 130, Laws of 2010, section 11, chapter 130, Laws of 2010, RCW 77.55.291, 78.44.250, section 1, chapter 84, Laws of 2010, RCW 86.16.081, 88.46.090, 90.03.600, 90.48.144, 90.56.310, 90.56.320, 90.56.330, 90.58.560 and chapter 90.64 RCW.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 18.104.065, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.107.060, 88.46.070, 90.14.130, 90.14.190, 90.48.120 and chapter 90.64 RCW.

(c) The issuance, modification, termination or denial of any permit certificate or license by the department of ecology or any air pollution control authority.

(d) The granting, denial, revocation, or suspension of a water right examiner certificate issued by the department under chapter 285, Laws of 2010.

(e) Decisions by the department disapproving a comprehensive solid waste management plan or any amendments to that plan that are appealed by the submitting entity pursuant to RCW 70.95.094.

(f) Decisions of local health departments regarding the grant or denial of solid waste permits or of biosolid permits pursuant to chapter 70.95 RCW.

~~((e))~~ (g) Disputes between the department and the governing bodies of local governments regarding local planning requirements under RCW 70.105.220 and zone designation under RCW 70.105.225, pursuant to RCW 70.105.250.

~~((f))~~ (h) Any other decision by the department of ecology, the administrator of marine safety or an air pollution control authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(3) This section is intended to be general and informational only, and failure herein to list matters over which the board has jurisdiction at law shall not constitute any waiver or withdrawal whatsoever from such jurisdiction.

AMENDATORY SECTION (Amending WSR 07-03-074, filed 1/17/07, effective 2/17/07)

WAC 371-08-335 Filing a timely appeal with the board. (1) An appeal before the board is initiated by filing a notice of appeal with the board at the environmental hearings office and by serving a copy of the appeal notice on the agency whose decision is being appealed. For the board to acquire jurisdiction both such filing and such service must be timely accomplished.

(2) The notice of appeal shall be filed with the board within thirty days of the date of receipt of the order or decision unless otherwise provided by law. The board's rule governing the computation of time (WAC 371-08-310) shall determine how the thirty-day appeal period is calculated. The "date of receipt" of an order or decision means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(3) An appeal may be filed with the board by personal delivery, commercial delivery, facsimile, or first-class, registered or certified mail. An appeal is filed with the board on the date the board actually receives the notice of the appeal, not the date that the notice is mailed. Upon receiving the notice of appeal, the board will acknowledge receipt. The date stamped on the appeal notice shall be prima facie evidence of the filing date. The board may thereafter require that additional copies be filed.

AMENDATORY SECTION (Amending WSR 96-15-003, filed 7/3/96, effective 8/3/96)

WAC 371-08-395 Mediation. ~~((The board may on occasion recommend that the parties to an appeal engage in mediation. One or more parties may also recommend to the other parties or the presiding officer that a mediation occur. Subject to availability, an administrative appeals judge from the environmental hearings office may serve as the mediator for the board. In the event that the mediation proves unsuccessful and the appeal proceeds to hearing, any administrative appeals judge who served as a mediator will neither preside over the appeal hearing nor have any contact with the board members regarding the appeal other than to inform the board members that the mediation did not result in a settlement.))~~ In all appeals, upon request of one or more parties and with the consent of all parties, the board may assign a mediator. The mediator must be an administrative appeals judge or other duly authorized agent of the board who has received training in dispute resolution techniques or has a demonstrated history of successfully resolving disputes, as determined by the board. A person who mediates in a particular appeal may not participate in a hearing on that appeal and may not write the decision and order in the appeal. The mediator may not communicate with board members regarding the mediation other than to inform them of the pendency of the mediation and whether the case settled. Mediation pro-

vided by the environmental hearings boards must be conducted pursuant to the provisions of the Uniform Mediation Act, chapter 7.07 RCW.

AMENDATORY SECTION (Amending WSR 96-15-003, filed 7/3/96, effective 8/3/96)

WAC 371-08-400 Subpoenas. (1) **Issuance.** Subpoenas may be issued by any member of the board, the presiding officer assigned to the case or an attorney of record, as provided in the Administrative Procedure Act. Each subpoena shall be subscribed with the signature of the issuing person. Parties desiring subpoenas to be signed by the presiding officer or a board member shall make a showing of general relevance and reasonable scope of the testimony or evidence sought, shall prepare the subpoenas for issuance, shall send them to the board's office for signature at least ten days before the hearing, and, upon return, shall make arrangements for service.

(2) **Form.** Every subpoena shall name the pollution control hearings board and the title of the proceedings, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under that person's control at a specified time and place.

(3) **Service.** Service of subpoenas to a witness who is not a party to the case shall be made by personally serving a copy of the subpoena to such person, in accordance with civil rule 45, and tendering on demand, where entitled to make such a demand, the fees for one day's attendance and the mileage allowed by law. All costs shall be paid by the party seeking the attendance of the witness.

(4) **Proof of service.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the board or presiding officer of the case. Failure to make proof of service does not affect the validity of the service.

(5) **Quashing.** Upon motion made promptly (at or before the time specified in the subpoena for compliance) by the person subpoenaed and upon notice to the party for whom the subpoena was issued, the presiding officer may:

- (a) Quash; or
- (b) Modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or
- (c) Condition denial of the motion upon just and reasonable conditions.

(6) **Geographical scope.** Attendance of witnesses and production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

AMENDATORY SECTION (Amending WSR 06-07-088, filed 3/15/06, effective 4/15/06)

WAC 371-08-555 Time for filing petitions for review to superior court. An appeal of a final board order is called a petition for review. A petition for review must be filed with superior court within thirty days ~~((of))~~ from the date of ~~((receipt))~~ service of the final order or decision. The petitioner shall file a copy of the petition for review to superior court with the board and shall serve all parties of record. All appeals must first be filed in superior court even if direct review to the court of appeals will be sought.

AMENDATORY SECTION (Amending WSR 07-03-074, filed 1/17/07, effective 2/17/07)

WAC 461-08-305 Definitions. The following terms apply throughout this chapter and, unless the context clearly requires otherwise, have the following meanings:

(1) "Agency" means any state governmental entity.

(2) "Adjudicative proceeding" means a proceeding involving an opportunity for hearing before the board as defined in chapter 34.05 RCW. The terms "appeal," "adjudicative proceeding" and "case" are used interchangeably in this chapter.

(3) "Board" means the shorelines hearings board, a quasi-judicial body created pursuant to chapter 90.58 RCW and described in WAC 461-08-315.

(4) "Date of ~~((filing))~~ as used in this chapter and RCW 90.58.140(6) has different meanings depending upon the type of local government decision that is being appealed.

(a) "Date of filing" of a local government's approval or denial of a substantial development permit, or local government's denial of a variance or conditional use permit, is the date that the department actually receives a completed filing.

(b) "Date of filing" of a local government's approval of a conditional use permit or variance is the date that the department transmits its final decision or order to local government.

(c) For substantial development permits filed simultaneously with approvals of conditional use permits or variances, the "date of filing" is the date that the department transmits its final decision or order on the variance or conditional use permit to local government)) receipt" means:

- (a) Five business days after the date of mailing; or
- (b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(5) "Department" refers to and means the department of ecology.

(6) "Filing" of a document means actual receipt by the board during regular office hours. Any document filed with the board shall contain an affirmation that copies were served on the appropriate agency, local government and parties. Filing by facsimile is permitted of documents ten pages or less if the original document is concurrently mailed or submitted to a commercial delivery service. Electronic filing of documents, other than the appeal document itself, may be authorized by the presiding officer after consultation with the parties regarding format and authentication.

(7) "Local government" means any county, incorporated city or town which contains within its boundaries any lands or water subject to chapter 90.58 RCW.

(8) "Party" means:

- (a) A person to whom any local government or agency decision is specifically directed; or
- (b) A person named as a party to the appeal, or allowed to intervene or joined as a party by the board.

(9) "Person" means any individual, partnership, corporation, association, organization, governmental subdivision, agency or entity of any character.

(10) "Petition for review" is a document that when properly filed with the board initiates an adjudicative proceeding before the board.

(11) "Presiding officer" means any member of the board or an administrative appeals judge who is assigned to conduct a conference or hearing by the chairperson or the vice-chairperson.

(12) "Service" of a document means delivery of the document to the other parties to the appeal. Service may be made in any of the following ways:

(a) Personally, in accordance with the laws of the state, with a return of service or affidavit of service completed.

(b) First-class, registered or certified mail. Service is complete upon deposit in the United States mail properly stamped and addressed.

(c) Facsimile transmission with mailing or submission to a commercial delivery service of copies on the same day. Service by facsimile is regarded as complete by production of the confirmation of transmission and evidence of mailing or submission to a delivery service of the copies.

(d) Commercial delivery service. Service by commercial delivery service is regarded as complete upon delivery to the delivery company with charges prepaid.

(e) Electronic service. Electronic service of documents, other than the appeal document itself, is authorized if the parties agree to electronic service or if authorized by the presiding officer.

AMENDATORY SECTION (Amending WSR 07-03-074, filed 1/17/07, effective 2/17/07)

WAC 461-08-340 Where to file a petition for review and number of copies. (1) An adjudicative proceeding before the board is initiated by filing a petition for review with the board at the environmental hearings office. The board shall acknowledge filing of the petition for review by a stamp and the board's stamp on the petition is prima facie evidence of the date of filing. The board may thereafter require that additional copies be filed.

(2) **Deadlines for filing a petition for review.** Different deadlines for filing a petition for review apply depending upon the type of shoreline decision or government action ~~((being appealed))~~ taken, and whether local government or the department makes the final decision.

(a) ~~((A petition for review by))~~ Any person aggrieved by ((the)) a local government's decision granting, denying or rescinding ((of a permit on shorelines of the state must be filed)) a shoreline substantial development, or its denial of a shoreline conditional use or variance must file a petition for review with the board within twenty-one days of the ((⁽²⁾)date of ((filing" as defined in WAC 461-08-305)) receipt by the applicant of a written notice from the department that the department has received the local government's shoreline decision.

(b) ~~((A petition for review by))~~ If local government approves a shoreline conditional use or variance permit, that action will be reviewed by the department, which will make the final decision on the conditional use or variance permit. Any person aggrieved by ((a penalty assessment must be filed)) the department's decision to approve, approve with

conditions or deny a conditional use or variance permit must file a petition for review with the board within ((thirty)) twenty-one days of the date ((the penalty notice is received)) of receipt by the local government or applicant of the department's decision.

(c) ~~((A petition for review by any person aggrieved by the department's decision to approve, reject or modify a proposed or final shoreline master program, or program amendment, by a local government that is not planning under the Growth Management Act, RCW 36.70A.300,))~~ When a local government simultaneously transmits to the department its decision on a shoreline substantial development with its approval of a shoreline conditional use permit and/or variance, a petition for review of the shoreline substantial development decision must be filed ((with the board within thirty)) no later than twenty-one days ((of)) from the date of ((the department's written notice of its decision to the local government)) receipt by the local government or applicant of the department's decision on the conditional use or variance permit.

(d) A petition for review by ~~((any))~~ a person ((aggrieved by any rules, regulations or guidelines adopted or approved by the department pursuant to chapter 90.58 RCW)) who has incurred a penalty assessment must be filed with the board within thirty days of the date of ((adoption or approval)) receipt of the penalty.

(e) A petition for review by any person aggrieved by the department's final decision to approve, or reject a proposed master program, or master program amendment, by a local government that is not planning under the Growth Management Act, RCW 36.70A.040, must be filed with the board within thirty days of the date of the department's written notice to the local government of its final decision.

(f) A petition for review of any rules, regulations, or guidelines adopted or approved by the department pursuant to chapter 90.58 RCW must be filed with the board within thirty days of the date of adoption or approval.

AMENDATORY SECTION (Amending WSR 96-15-002, filed 7/3/96, effective 8/3/96)

WAC 461-08-345 Deadline for filing petition for review of permitting decisions by the department or attorney general. The department or the attorney general may, pursuant to RCW 90.58.180(2), obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition for review with the board and the appropriate local government within twenty-one days from the date of receipt of the final decision ~~((was filed))~~ as provided in RCW 90.58.140(6).

AMENDATORY SECTION (Amending WSR 96-15-002, filed 7/3/96, effective 8/3/96)

WAC 461-08-415 Mediation. ~~((The board may, on occasion, recommend that the parties to an appeal engage in mediation. One or more parties may also recommend to the other parties or the presiding officer that a mediation occur. Subject to availability, an administrative appeals judge from the environmental hearings office may serve as the mediator~~

~~for the board. In the event that the mediation proves unsuccessful and the case proceeds to hearing, any administrative appeals judge who served as a mediator will neither preside over the hearing nor have any contact with the board members regarding the case other than to inform them that the mediation did not result in a settlement.)) In all appeals, upon request of one or more parties and with the consent of all parties, the board may assign a mediator. The mediator must be an administrative appeals judge or other duly authorized agent of the board who has received training in dispute resolution techniques or has a demonstrated history of successfully resolving disputes, as determined by the board. A person who mediates in a particular appeal may not participate in a hearing on that appeal and may not write the decision and order in the appeal. The mediator may not communicate with board members regarding the mediation other than to inform them of the pendency of the mediation and whether the case settled. Mediation provided by the pollution control hearings board or shoreline hearings board must be conducted pursuant to the provisions of the Uniform Mediation Act, chapter 7.07 RCW.~~

AMENDATORY SECTION (Amending WSR 96-15-002, filed 7/3/96, effective 8/3/96)

WAC 461-08-420 Subpoenas. (1) **Issuance.** Subpoenas may be issued by any member of the board, the presiding officer assigned to the case or by the attorney of record, as provided in the Administrative Procedure Act. Each subpoena shall be subscribed with the signature of the issuing person. Parties desiring subpoenas to be signed by the presiding officer or a board member shall make a showing of general relevance and reasonable scope of the testimony or evidence sought, shall prepare the subpoenas for issuance, shall send them to the board's office for signature at least ten days before the hearing, and, upon return, shall make arrangements for service.

(2) **Form.** Every subpoena shall name the shorelines hearings board and the title of the proceedings, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under that person's control at a specified time and place.

(3) **Service.** Service of subpoenas to a witness who is not party to the case shall be made by personally serving a copy of the subpoena to such person, in accordance with civil rule 45, and tendering on demand, where entitled to make such a demand, the fees for one day's attendance and the mileage allowed by law. All costs shall be paid by the party seeking the attendance of the witness.

(4) **Proof of service.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the board or presiding officer of the case. Failure to make proof of service does not affect the validity of the service.

(5) **Quashing.** Upon motion made promptly (at or before the time specified in the subpoena for compliance) by the person subpoenaed and upon notice to the party for whom the subpoena was issued, the board or its presiding officer may:

(a) Quash; or

(b) Modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or

(c) Condition denial of the motion upon just and reasonable conditions.

(6) **Geographical scope.** Attendance of witnesses and production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

AMENDATORY SECTION (Amending WSR 97-19-063, filed 9/15/97, effective 10/16/97)

WAC 461-08-570 Time for filing petitions for review to superior court. An appeal of a final board order is called a petition for review. A petition for review must be filed with superior court within thirty days of the date that the board ((issues)) serves its final order or decision. The petitioner shall file a copy of the petition for review to superior court with the board and all parties of record. All appeals must first be filed in superior court even if direct review to the court of appeals will be sought.

WSR 10-13-176

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed June 23, 2010, 9:52 a.m.]

Supplemental Notice to WSR 10-08-040.

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

Title of Rule and Other Identifying Information: WAC 246-282-990(4), geoduck PSP fees.

Hearing Location(s): Department of Health, Town Center 2, Room 139, 111 Israel Road S.E., Olympia, WA 98501, on July 27, 2010, at 1:30 p.m.

Date of Intended Adoption: July 28, 2010.

Submit Written Comments to: Brandy Brush, Department of Health, 111 Israel Road S.E., P.O. Box 47824, Olympia, WA 98504-7824, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2257, by July 27, 2010.

Assistance for Persons with Disabilities: Contact Brandy Brush by July 20, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to equitably assess the costs associated with commercial geoduck paralytic shellfish poison (PSP) testing. The cost assessment will follow the annual redistribution formula which is based on the number of tests done in the previous year. This testing is essential to public health as it is the only means available to determine if dangerous levels of PSP exist in commercial geoduck, and ensure toxic shellfish do not reach consumers. The supplemental filing is to provide adequate time for comment on the proposed rule.

Reasons Supporting Proposal: The proposal will redistribute geoduck PSP fees based on the 2009 total cost of service for the entities that submitted geoduck tests and the number of tests done for each entity.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Brandy Brush, 111 Israel Road S.E., Tumwater, WA, (360) 236-3342; Implementation and Enforcement: Maryanne Guichard, 111 Israel Road S.E., Tumwater, WA, (360) 236-3391.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(f), a small business economic impact statement is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

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)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

June 22, 2010
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 09-19-067, filed 9/14/09, effective 10/15/09)

WAC 246-282-990 Fees. (1) Annual shellfish operation license fees are:

Type of Operation	Annual Fee
Harvester	\$263
Shellstock Shipper	
0 - 49 Acres	\$297
50 or greater Acres	\$476
Scallop Shellstock Shipper	\$297
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$542
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$656
Plants with floor space > 5000 sq. ft.	\$1,210

(2) The fee for each export certificate is \$10.30.

(3) Annual PSP testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

Fee Category	Type of Operation	Number of Harvest Sites	Fee
	Harvester	≤ 2	\$173
	Harvester	3 or more	\$259
	Shellstock Shipper	≤ 2	\$195
	0 - 49 acres		
	Shellstock Shipper	3 or more	\$292
	0 - 49 acres		
	Shellstock Shipper	N/A	\$468
	50 or greater acres		

Fee Category	Type of Operation	Number of Harvest Sites	Fee
	Shucker-Packer (plants < 2000 ft ²)	≤ 2	\$354
	Shucker-Packer (plants < 2000 ft ²)	3 or more	\$533
	Shucker-Packer (plants 2000 - 5000 ft ²)	≤ 2	\$429
	Shucker-Packer (plants 2000 - 5000 ft ²)	3 or more	\$644
	Shucker-Packer (plants > 5000 ft ²)	N/A	\$1,189

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

- (i) At the time of first licensure; or
- (ii) January 1 of each year for companies licensed as harvesters; or
- (iii) July 1 of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(4) Annual PSP testing fees for companies harvesting geoduck are as follows:

Harvester	Fee
Deep Blue Seafood	\$464
Department of natural resources (quota tracts harvested by DNR contract holders)	\$(10,452)) 8,507
Jamestown S'Klallam Tribe	\$(2,503)) 1,237
Lower (Elwha) Elwha Klallam Tribe	\$(2,208)) 4,485
Lummi Nation	\$(147)) 155
Nisqually Indian Tribe	\$(3,091)) 2,011
Port Gamble S'Klallam Tribe	\$(4,416)) 4,021
Puyallup Tribe of Indians	\$(8,244)) 8,971
Skokomish Indian Tribe	\$(1,619)) 155
Squaxin Island Tribe	\$(1,767)) 618
Suquamish Tribe	\$(21,198)) 21,189
Swinomish Tribe	\$(589)) 619
Tulalip Tribe	\$(1,619)) 5,568

Harvester	Fee
((Washington Shell Fish, Inc.	(\$147))

(5) PSP fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(6) Refunds for PSP fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

**WSR 10-13-178
PROPOSED RULES
LIQUOR CONTROL BOARD**

[Filed June 23, 2010, 10:29 a.m.]

Supplemental Notice to WSR 10-11-047.

Preproposal statement of inquiry was filed as WSR 10-07-088.

Title of Rule and Other Identifying Information: WAC 314-13-030 What method of payment can a retailer use to purchase spirituous liquor from the board?

Hearing Location(s): Washington State Liquor Control Board, 3000 Pacific Avenue S.E., Olympia, WA 98504, on July 28, 2010, at 10:00 a.m.

Date of Intended Adoption: August 4, 2010.

Submit Written Comments to: Karen McCall, 3000 Pacific Avenue S.E., Olympia, WA 98504, e-mail rules@liq.wa.gov, fax (360) 664-9689, by July 28, 2010.

Assistance for Persons with Disabilities: Contact Karen McCall by July 28, 2010, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the revision to WAC 314-13-030 is to implement RCW 66.16.041 in relation to the liquor control board accepting bank credit and debit cards for purchases of liquor. Also amended to reflect current practice for accepting checks.

Reasons Supporting Proposal: The revisions to this rule encompass current law and practice.

Statutory Authority for Adoption: RCW 66.16.041, 66.08.030.

Statute Being Implemented: RCW 66.16.041.

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

Name of Proponent: Washington state liquor control board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation and Enforcement: John Redal, Retail Services, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1712.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal does not change the impact on liquor licensees.

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

June 23, 2010
Sharon Foster
Chairman

AMENDATORY SECTION (Amending WSR 01-06-015, filed 2/26/01, effective 3/29/01)

WAC 314-13-030 What method of payment can a retailer use to purchase spirituous liquor from the board?

(1) Per RCW 66.16.040, retailers ~~((must))~~ may pay ~~((cash))~~ for spirituous liquor purchased from the board with any of the following:

- (a) Cash;
- (b) Establishment owner's personal or business check as long as checks are honored by the bank when presented and are not used as a device for obtaining or extending credit;
- (c) Corporate credit card; or
- (d) Licensee or establishment owner's bank debit card.

(2) ~~((For the purposes of this section, a check will be considered cash as long as the check is immediately made good when presented and is not used as a device for obtaining or extending credit. Therefore, state-run liquor stores will take certified checks from retailers for the purchase of spirituous liquor, and will take personal or company checks under the following conditions:~~

~~((a) Persons or entities that have held a liquor license for less than two years must supply the board a letter of credit from the bank in which the account is held;~~

~~((b) Persons or entities that have held a liquor license for two years or longer must either:~~

~~((i) Apply and be approved for a check acceptance agreement with the board, on a form provided by the board; or~~

~~((ii) Supply the board a letter of credit from the bank in which the account is held;~~

~~((3) Contract liquor stores may adopt the check acceptance policy outlined in this rule))~~ State liquor stores will accept corporate credit cards or licensee or establishment owner's bank debit cards under the following conditions:

(a) Licensees will provide the store with a current list of employees who have signature rights on a corporate credit card purchase. It is the licensee's responsibility to ensure the list is current.

(b) The credit card sales draft must be signed by a person on the signature rights list.

(c) The signature on the sales draft must match the signature on the signature rights list. If the signature does not match, photo identification will be requested. If the identity of the cardholder cannot be verified, the sale cannot be made unless another form of payment is used.

(d) The credit card sales draft must be signed in the liquor store.

**WSR 10-13-179
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed June 23, 2010, 11:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-10-050 on April 29, 2010.

Title of Rule and Other Identifying Information: Appeals of the issuance, denial, conditioning, or modification

of hydraulic project approvals (HPAs), includes WAC 220-110-030, 220-110-340, and 220-110-350.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on August 6-7, 2010, at 8:30 a.m.

Date of Intended Adoption: August 6, 2010.

Submit Written Comments to: Lisa Wood, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail lisa.wood@dfw.wa.gov, fax (360) 902-2946, by July 27, 2010.

Assistance for Persons with Disabilities: Contact Susan Yeager by July 27, 2010, at TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 2935 eliminates the hydraulic appeals board and replaces it with the pollution control hearings board created in chapter 43.21B RCW. All formal appeals of HPA decisions and orders imposing civil penalties formerly heard by the hydraulic appeals board or an administrative law judge through the office of administrative hearings will now be heard by the pollution control hearings board. SHB 2935 also allows appeals of issued, denied, conditioned, or modified HPAs, as well as orders imposing civil penalties for violations of chapter 77.55 RCW, to be informally made to the Washington department of fish and wildlife (WDFW). WDFW must amend its HPA rules to be consistent with SHB 2935. In addition, technological advances enable appeal requests to be submitted in ways not currently allowed by rule. The proposed rules accommodate these additional methods of submitting appeal requests. The proposed rules also clarify various administrative procedures associated with appealing HPA decisions and orders imposing civil penalties.

Reasons Supporting Proposal: SHB 2935 and the need for additional filing methods mandate these changes.

Statutory Authority for Adoption: RCW 77.12.047 and 77.55.021 as amended by SHB 2935.

Statute Being Implemented: RCW 77.12.047 and 77.55.021 as amended by SHB 2935.

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: Lisa Wood and Pat Chapman, 1111 Washington Street, Olympia, (360) 902-2260 and (360) 902-2571; Implementation: Lisa Veneroso, 1111 Washington Street, Olympia, (360) 902-2416; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Washington department of fish and wildlife has determined that the rules will not significantly impact businesses required to follow the rules.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Lisa Wood, 600 Capitol Way North,

Olympia, WA 98501-1091, phone (360) 902-2260, fax (360) 902-2946, e-mail lisa.wood@dfw.wa.gov.

June 23, 2010

Lori Preuss

Rules Coordinator

AMENDATORY SECTION (Amending Order 08-318, filed 12/29/08, effective 4/3/09)

WAC 220-110-030 Hydraulic project approvals—Procedures. (1) A person shall obtain an HPA before conducting a hydraulic project.

(2) Receipt by the department of any one of the following documents constitutes an application for a written HPA:

(a) A joint aquatic resources permit application (JARPA) submitted to the department;

(b) A forest practice application submitted to the department of natural resources, if the hydraulic project is part of a forest practice as defined in WAC 222-16-010; or

(c) A section 10 or 404 public notice circulated by the United States Army Corps of Engineers or United States Coast Guard.

(3) You shall request a written HPA by submitting a complete written application to the department. You shall request a pamphlet HPA by following the procedures in WAC 220-110-031. Your application for a written HPA shall contain general plans for the overall project, complete plans and specifications for the proposed construction or work waterward of the MHHW line in salt water, or waterward of the OHWL in fresh water, complete plans and specifications for the proper protection of fish life, and notice of compliance with any applicable requirements of the State Environmental Policy Act, chapter 43.21C RCW, unless otherwise provided for in chapter 77.55 RCW. You and your authorized agent, if one is acting for you, must sign and date the application.

(4) The department shall grant or deny approval within forty-five calendar days of the receipt of a complete written application. The department shall strive to issue HPAs in less than thirty days. The forty-five day requirement shall be suspended if:

(a) The site is physically inaccessible for inspection;

(b) You or your authorized agent, if one is acting for you, remains unavailable or unable to arrange for a timely field evaluation of the proposed project after ten working days of the department's receipt of the application;

(c) You or your authorized agent, if one is acting for you, requests a delay;

(d) The department is issuing a permit for a storm water discharge and is complying with the requirements of RCW 77.55.161 (3)(b); or

(e) The department is reviewing the application as part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(5) Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(6) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it

determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property.

(7) The department may issue an expedited written HPA in those instances where normal processing would result in significant hardship for the applicant, or unacceptable environmental damage would occur.

(8) Expedited HPA requests require a complete written application and shall take precedence over other non-emergency applications. These will be issued within fifteen calendar days of receipt of a complete written application. The provisions of the State Environmental Policy Act, chapter 43.21C RCW, are not required for expedited written HPAs.

(9) The county legislative authority or the department may declare an emergency or continue an existing declaration of an emergency where there is an immediate threat to life, the public, property, or of environmental degradation. Upon the declaration of an emergency, the department shall grant verbal approval immediately upon request for a stream crossing, or work to remove any obstructions, repair existing obstructions, restore streambanks, protect fish life, or protect property threatened by the stream or a change in the stream flow. The verbal approval shall be obtained prior to commencing emergency work and the department must issue a written HPA reflecting the conditions of the verbal approval within thirty days. The provisions of the State Environmental Policy Act, chapter 43.21C RCW, are not required for emergency HPAs.

(10) The department may accept written or verbal requests for time extensions, renewals, or alterations of an existing HPA. The request must be processed within forty-five calendar days of receipt of the request. Approvals of such requests shall be in writing. Transfer of an HPA to a new permittee requires written request by the original permittee or their authorized agent, if one is acting for the permittee, and such request shall include the HPA number. This written request shall be in a form acceptable to the department and shall include a statement that the new permittee agrees to be bound by the conditions in the HPA. The new permittee shall not conduct any project activities until the department has issued approval.

(11) Each HPA is usually specific to a watercourse, stating the exact location of the project site, and usually consists of general, technical, and special provisions.

(12) The written HPA, or clear reproduction, shall be on the project site when work is being conducted and shall be immediately available for inspection.

(13) The department may grant HPAs for a period of up to five years. Permittees shall demonstrate substantial progress on construction of that portion of the project relating to the HPA within two years of the date of issuance. The following types of HPAs issued under RCW 77.55.021 shall remain in effect without the need for periodic renewal, provided the permittee notifies the department before commencing work each year:

(a) Work of a seasonal nature that diverts water for irrigation or stock watering purposes; and

(b) Stream-bank stabilization projects if the problem causing the erosion occurs on an annual or more frequent basis as demonstrated by the applicant. Evidence of erosion may include, but is not limited to, history of permit application, approval, or photographs. Periodic floodwaters by themselves do not constitute a problem that requires an HPA.

(14) An HPA shall be denied when, in the judgment of the department, the project will result in direct or indirect harm to fish life, unless adequate mitigation can be assured by conditioning the HPA or modifying the proposal. If approval is denied, the department shall provide the applicant, in writing, a statement of the specific reason(s) why and how the proposed project would adversely affect fish life.

(15) Protection of fish life shall be the only grounds upon which the department may deny or condition an HPA.

(16) The department may place specific time limitations on project activities in HPAs to protect fish life.

(17) HPAs do not exempt the applicant from obtaining other appropriate permits and following the rules or regulations of local, federal, and other Washington state agencies.

(18) The department shall administer this chapter in compliance with SEPA, chapter 43.21C RCW, and chapters 197-11(;) and 220-100(, and 232-19) WAC.

(19) The department may, after consultation with the permittee, modify an HPA due to changed conditions. The modification becomes effective unless appealed (~~to the department or the hydraulic appeals board~~) as specified in RCW 77.55.021(4)(, 77.55.301(5),) and WAC 220-110-340 and 220-110-350.

AMENDATORY SECTION (Amending Order 08-318, filed 12/29/08, effective 4/3/09)

WAC 220-110-340 Informal appeal of ~~(adverse)~~ administrative ~~(decisions)~~ actions. ~~(It is recommended)~~ The department recommends that ~~(a)~~ a party aggrieved ~~(party)~~ by the issuance, denial, conditioning, or modification of an HPA contact the ~~(local habitat biologist)~~ department employee responsible for ~~(granting or denying)~~ making the decision on the HPA ~~(prior to)~~ before initiating an informal ~~(or formal)~~ appeal. Discussion of concerns with the ~~(habitat biologist)~~ department employee often results in a resolution of the problem without the need for an informal ~~(or formal)~~ appeal. ~~(The habitat biologist may request review of your concerns by his or her supervisor.~~

~~All)~~ The department encourages aggrieved parties ~~(are encouraged)~~ to take advantage of the informal appeal process ~~(prior to)~~ before initiating a formal appeal. However, the informal appeal process is not mandatory, and a person may proceed directly to a formal appeal under WAC 220-110-350.

~~(1) (The following procedures shall govern informal appeals of department actions taken under RCW 77.55.021, 77.55.141, 77.55.151, 77.55.161(2), 77.55.181, and 77.55.291.) This rule does not apply to ~~(the department's decisions regarding whether hydraulic projects qualify for processing under RCW 77.55.181, governing certain fish habitat enhancement projects. This rule also does not apply to)~~ any provisions or conditions in pamphlet HPAs or supplemental approvals as defined in WAC 220-110-020 ~~((53)(c) and~~~~

~~(96))~~ A person who disagrees with a provision or condition in a pamphlet HPA or its supplemental approval may apply for an individual, written HPA. ~~((A person who is aggrieved or adversely affected by the following department actions may request an informal appeal:))~~

(2) Any person with standing may request an informal appeal of the following department actions:

(a) The issuance, denial, conditioning, or ((issuance of an HPA, or the conditions or provisions made part)) modification of an HPA; or

(b) An order imposing civil penalties.

~~((2))~~ (3) A request for an informal appeal shall be in writing and shall be received by the department within thirty days ((of the denial or issuance of an HPA or receipt of an order imposing civil penalties. The thirty-day time requirement may be stayed by the department if negotiations are occurring between the aggrieved party and the habitat biologist and/or their supervisor. Requests for informal appeal shall be mailed to HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, 600 Capitol Way, N., Olympia, Washington 98501-1091, or hand delivered to 1111 Washington Street, S.E., Habitat Program, Fifth floor.

~~(3))~~ from the date of receipt of the decision or order. "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The ((written request)) date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(4) Requests for ((an)) informal appeal shall be mailed to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, 600 Capitol Way N., Olympia, Washington 98501-1091; e-mailed to HPAapplications@dfw.wa.gov; faxed to 360-902-2946; or hand-delivered to the Natural Resources Building, 1111 Washington Street S.E., Habitat Program, Fifth floor.

(5) The request shall be plainly labeled as "Request for Informal Appeal" and shall ((contain)) include the following:

(a) The appellant's name, address, e-mail address (if available), and phone number ((of the person requesting the appeal));

(b) The specific ((agency)) department action that the ((person)) appellant contests((, such as denial of an HPA, a particular condition in));

(c) The date the department issued, denied, conditioned, or modified an HPA, or ((an)) the date the department issued the order imposing civil penalties;

((e)) (d) The log number or a copy of the HPA, or a copy of the order imposing civil penalties;

(e) A short and plain statement explaining why the appellant considers the department action or order to provide inadequate protection of fish life or to be otherwise unlawful;

(f) A clear and concise statement of facts to explain the appellant's grounds for appeal;

(g) Whether the ((person)) appellant is the permittee, HPA applicant, landowner, resident, or ((other basis for the

person's)) another person with an interest in the ((agency)) department action in question;

~~((d))~~ The date of denial, issuance, or condition of an HPA, or date the department issued the notice of civil penalty;

~~((e))~~ (h) The specific relief requested; ((and

~~((f))~~ (i) The attorney's name, address, e-mail address (if available) and phone number, if the person is represented by legal counsel; and

(j) The signature of the appellant or his or her attorney.

~~((4))~~ (6) Upon receipt of a ((written)) valid request for an informal appeal, the department ((shall)) may initiate a review of the ((agency decision)) department action. If ((agreed to by)) the appellant agrees, and the appellant applied for the HPA, resolution of the appeal may be facilitated through an informal conference. The informal conference is an optional part of the informal appeal and is normally a discussion between the appellant ((and the area habitat biologist mediated by)), the ((biologist's)) department employee responsible for the decision, and a supervisor. The time period for the department to issue a decision on an informal appeal is suspended during the informal conference process.

(7) If a resolution is not reached through the informal conference((s)) process, or the appellant is not the person who applied for the HPA, or the appeal involves an order imposing civil penalties, an informal appeal hearing shall be conducted by the HPA appeals coordinator or designee. Upon completion of the informal appeal hearing, the HPA appeals coordinator, or designee shall recommend a decision to the director or the director's designee. This recommended decision shall be approved or disapproved by the director or the director's designee within sixty days of the date the informal appeal was received by the department, unless an extension of time is agreed to by the appellant. The department shall notify the appellant in writing of the decision of the director or the director's designee.

~~((5))~~ (8) If((s)) the department declines to initiate an informal review of its action after receipt of a valid request, or the appellant still wishes to contest the department action following ((this)) completion of the informal appeal process, the appellant ((still wishes to contest the agency action,)) may initiate a formal appeal ((may be initiated)) under WAC 220-110-350. Formal review must be requested within the time periods specified in WAC 220-110-350.

AMENDATORY SECTION (Amending Order 08-318, filed 12/29/08, effective 4/3/09)

WAC 220-110-350 Formal appeal of administrative ((decisions)) actions. ((+)) The ((following procedures shall govern formal appeals of)) department ((actions taken under RCW 77.55.021, except as indicated in RCW 77.55-301(5)(a), 77.55.151, 77.55.161(2),)) recommends that a party aggrieved by the issuance, denial, conditioning, or ((77.55.291. Subsection (2) of this section addresses appeals)) modification of an HPA contact the department employee responsible for making the decision on the HPA before ((the hydraulic appeals board,)) initiating a formal appeal. Discussion of concerns with the department

employee often results in a resolution of the problem without the need for a formal appeal.

The department encourages aggrieved parties to take advantage of the informal appeal process under WAC 220-110-340 before initiating a formal appeal. However, the informal appeal process is not mandatory, and a person may proceed directly to a formal appeal.

(1) This rule does not apply to any provisions or conditions in ~~((pamphlets,)) pamphlet HPAs~~ or supplemental approvals as defined in WAC 220-110-020 ~~((53)(e) and (96))~~. A person who disagrees with a provision or condition in a pamphlet HPA or its supplemental approval may apply for an individual, written HPA.

~~((a-A))~~ (2) Any person (who is aggrieved or adversely affected by) with standing may request a formal appeal of the following department actions (may request a formal appeal):

~~((i))~~ (a) The (denial of) issuance (of an HPA, or the conditions or provisions made part), denial, conditioning, or modification of an HPA; or

~~((ii))~~ (b) An order imposing civil penalties(, or

~~(iii) Any other agency action by the department's habitat program for which an adjudicative proceeding is required under the Administrative Procedure Act, chapter 34.05 RCW).~~

~~((b))~~ (3) As required by the Administrative Procedure Act, chapter 34.05 RCW, the department shall inform the HPA permittee(, HPA) or applicant, or person subject to civil penalty order of the department, of the opportunity for appeal, the time within which to file a written request for an appeal, and the place to file it.

~~((e))~~ (4) A request for (an) a formal appeal shall be in writing and shall be (received during office hours by) filed with the clerk of the pollution control hearings board (PCHB) and served on the department within thirty days (of the) from the date of receipt of the decision or order. "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency (action that is being challenged. Requests for appeal), shall constitute sufficient evidence of actual receipt. The date of actual receipt; however, may not exceed forty-five days from the date of mailing.

(5) Service on the department shall be mailed to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, 600 Capitol Way N., Olympia, Washington 98501-1091(,); e-mailed to HPAapplications@dfw.wa.gov; faxed to 360-902-2946; or hand-delivered to the Natural Resources Building, 1111 Washington Street S.E., Habitat Program, Fifth floor. (If there is no timely request for an appeal, the agency action shall be final and unappealable.

~~((d))~~ (6) The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within thirty days ((of) from the date of receipt of the department's written decision in response to the informal appeal.

~~((e))~~ (7) The (written) request for ((an)) formal appeal ((shall be plainly labeled as "Request for Formal Appeal" and)) shall contain the ((following):

(i) The name, address, e-mail address (if available) and phone number of the person requesting the appeal;

(ii) The specific agency action that the person contests, such as denial of an HPA, a particular condition in an HPA, an order imposing civil penalties, etc.;

(iii) Whether the person is the permittee, HPA applicant, landowner, resident, or other basis for the person's interest in the agency action in question;

(iv) The date of denial, issuance, or condition of an HPA, if the person is contesting denial, issuance, or conditioning of an HPA;

(v) Specific relief requested; and

(vi) The attorney's name, address, e-mail address (if available) and phone number, if the person is represented by legal counsel.

(f) The appeal may be conducted by the director, the director's designee, or by an administrative law judge (ALJ) appointed by the office of administrative hearings. If conducted by an ALJ, the ALJ shall issue an initial order under RCW 34.05.461. The director or the director's designee shall review the initial order and enter a final order as provided by RCW 34.05.464.

(g) All hearings conducted by the director, the director's designee, or an ALJ under subsection (6) of this section, shall comply with the Administrative Procedure Act and the model rules of procedure, chapter 10-08 WAC.

(2) The hydraulic appeals board hears appeals of the following permits:

(a) Under RCW 77.55.021 for the diversion of water for agricultural irrigation or stock watering purposes or when associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020;

(b) Under RCW 77.55.241 for offsite mitigation proposals;

(c) Under RCW 77.55.141 for single family marine bulkheads or rockwalls;

(d) Under RCW 77.55.181 for fish habitat enhancement project HPA conditions or denials.

The appeal procedures for the board are found in WAC 259-04-060 and chapter 371-08 WAC)) information required by WAC 371-08-340.

(8) The department in its discretion may stay the effectiveness of any decision or order that has been appealed to the PCHB. The department will use the standards in WAC 371-08-415(4) to make a decision on any stay request. At any time during the appeal to the PCHB, the appellant may apply to the PCHB for a stay of the decision or order, or removal of a stay imposed by the department.

(9) If there is no timely request for an appeal, the department action shall be final and unappealable.

WSR 10-13-180
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed June 23, 2010, 11:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-10-128 on May 5, 2010, and WSR 09-18-054 on August 27, 2009.

Title of Rule and Other Identifying Information: Waterfowl regulations, baiting of game birds, licensed trapper requirements, and importation and retention of dead nonresident wildlife.

Hearing Location(s): Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2515, on August 6-7, 2010, at 8:00 a.m.

Date of Intended Adoption: August 6-7, 2010.

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 July 16, 2010.

Assistance for Persons with Disabilities: Contact Susan Yeager by July 26, 2010, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

WAC 232-12-021 Importation and retention of dead nonresident wildlife, the purpose of the proposed WAC is to establish restrictions on the importation of deer, elk, and moose from states known to harbor chronic wasting disease in wild populations.

WAC 232-12-134 Report required of licensed trappers, the purpose of the proposed WAC is to require all licensed trappers to report their trapping activity, whether they trapped or not. The proposed WAC changes the report deadline from April 10 to April 20. Failure to report trapping activity is an infraction. The proposed WAC also removes the requirement that trappers must report their trapping activity prior to being issued a trapping license for the next year.

WAC 232-12-264 Baiting of game birds—Unlawful, this amendment is intended to clarify the existing rule on baiting of game birds and align the rule with current federal regulations on baiting of migratory game birds.

WAC 232-28-434 2010-11 Migratory waterfowl seasons and regulations, the new WAC specifies legal season dates, bag limits, and open areas to hunt waterfowl, coot, and snipe for the 2010-11 hunting season.

Reasons Supporting Proposal:

WAC 232-12-021, to reduce the disease risk for native deer, elk, and moose populations in Washington.

WAC 232-12-134, the reason for changing the report deadline from April 10 to April 20 is for consistency with the report deadline for wildlife control operators authorized by WAC 232-36-065. The reason for removing the requirement that trappers must report prior to being issued a trapping license for the next year is because noncompliance is already dealt with via infraction. Also, wildlife damage by furbearing animals begins to increase in mid-April. Delays in licensing wildlife control operators due to noncompliance tracking

delays the department's ability to deal with nuisance complaints in a timely manner.

WAC 232-12-264, this amendment was requested by the Washington fish and wildlife commission, subsequent to a commission presentation in September 2009, to facilitate consistent enforcement of state and federal baiting rules by the department and the United States Fish and Wildlife Service.

WAC 232-28-434, waterfowl seasons and regulations are developed based on cooperative management programs among the 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 77.04.012, 77.04.020, 77.04.055, 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047.

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

Name of Proponent: Washington fish and wildlife commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2373.

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

Small Business Economic Impact Statement
 For WAC 232-12-134

1. Description of the Reporting, Record-Keeping, and Other Compliance Requirements of the Proposed Rule: Currently, trappers are required to report their trapping activity prior to being issued a new trapping license. The proposed rule would still require trappers to report their activity; however, they would not be required to submit trapping activity if they miss the reporting deadline (April 20). According to existing rule, an infraction is issued for noncompliance. The end result of the proposed rule change is a decreased burden on trappers who miss the reporting deadline and a decrease in delays in issuing licenses to trappers who help the agency deal with nuisance complaints.

2. Kinds of Professional Services That a Small Business Is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: Businesses would incur no additional costs due to the proposed rule change.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No. The new rule reduces a burden on businesses and allows for shorter lag time for relicensing.

5. Cost of Compliance for the Ten Percent 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: Cost per employee, cost per hour

of labor, or cost per one hundred dollars of sales. The proposed rule should not result in increased costs to businesses, and in fact, may reduce costs.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The proposed rule should reduce costs for small businesses as they will not be required to spend time submitting reports if they miss the reporting deadline in order to be relicensed.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The proposed rule was sent to over 50,000 citizens who have expressed an interest in hunting/trapping rule-making issues. In addition, the proposed rule was placed on the Washington department of fish and wildlife web site. The department is accepting comments through July 16, 2010.

8. A list of industries that will be required to comply with the rule.

*Trappers.

*Wildlife control operators.

A copy of the statement may be obtained by contacting Wildlife Program Customer Service, WDFW, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2515, fax (360) 902-2162, e-mail Wildthing@dfw.wa.gov.

No statement was prepared for WAC 232-12-021, 232-12-264, and 232-28-434, as these rules regulate recreational hunters and do not directly regulate small business.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are not related to hydraulics regulations.

June 23, 2010

Lori Preuss
Rules Coordinator

AMENDATORY SECTION (Amending Order 07-62, filed 5/3/07, effective 6/3/07)

WAC 232-12-021 Importation and retention of dead nonresident wildlife. It is unlawful:

(1) To import or possess dead wildlife, taken in another state or country, into Washington unless such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts. Violation of this subsection is punishable under RCW 77.15.290.

(2) For a person who imports a dead mountain sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within ten days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being stored and general information describing where and how the wildlife was obtained. Violation of this subsection is punishable under RCW 77.15.290.

(3) To import or possess deer, elk, or moose, or parts thereof, harvested in Colorado, Wyoming, Utah, New Mexico, Wisconsin, Illinois, South Dakota, Nebraska, Kansas, New York, West Virginia, Virginia, North Dakota, Alberta, and Saskatchewan with the following exceptions:

(a) Meat that has been deboned in the state or province where it was harvested and is imported as boned out meat;

(b) Skulls and antlers, antlers attached to the skull plate, or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

(c) Hides or capes without heads attached;

(d) Tissue imported for use by a diagnostic or research laboratory;

(e) Finished taxidermy mounts.

Violation of this subsection is punishable under RCW 77.15.290.

(4) To fail to notify the department within twenty-four hours if an importer or receiver of deer or elk is notified by a state or province that a harvested animal has tested positive for chronic wasting disease. Violation of this subsection is an infraction punishable under RCW 77.15.160.

AMENDATORY SECTION (Amending Order 06-196, filed 8/15/06, effective 9/15/06)

WAC 232-12-134 Report required of licensed trappers. All trappers purchasing a trapping license must report their trapping activity, regardless of trapping success or whether they trapped or not.

(1) Trappers must report trapping activity by April ((+0)) 20.

(2) Reports must be made using the department's designated Trapper's Report of Catch form or internet trapper reporting system.

(3) If a trapper chooses to report using the Trapper's Report of Catch form, it is the responsibility of the licensed trapper to obtain a form and ensure the form is received by Washington Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091.

(4) Any trapper not reporting by April ((+0)) 20 will be in noncompliance of reporting requirements.

(5) False reports will be considered the same as noncompliance.

(6) Failure to report trapping activity is an infraction, punishable under RCW 77.15.160.

~~((7) Noncompliant trappers who have paid their penalty under subsection (6) of this section must report their trapping activity prior to being issued a trapping license.))~~

AMENDATORY SECTION (Amending Order 99-118, filed 8/11/99, effective 9/11/99)

WAC 232-12-264 Baiting of game birds—Unlawful. It is unlawful to hunt game birds by the aid of baiting, ~~((or in a))~~ on or over any baited area, or on or over any area posted as an upland bird feeding site, where a person knows or reasonably should know that the area is or has been baited. As used in this section, the following definitions apply:

"Baited area" means any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or other feed could serve as a lure or attraction for game birds to, on, or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such salt, grain, or other feed.

"Baiting" (~~((or "baited area"))~~) means the direct or indirect placing, exposing, depositing, distributing or scattering of ((corn, wheat or other)) salt, grain, or other feed ((so as to constitute for such birds)) that could serve as a lure or attraction for game birds to, on, or over areas where hunters are attempting to take them. ((Any such area will remain a baited area for ten days following the complete removal of all such grain or other feed-))

"Manipulation" means the alteration of natural vegetation or agricultural crops by activities that include, but are not limited to, mowing, shredding, discing, rolling, chopping, trampling, flattening, burning, or herbicide treatments. The term manipulation does not include the distributing or scattering of grain, seed, or other feed after removal from or storage on the field where grown.

"Natural vegetation" means any nonagricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or other propagules. The term natural vegetation does not include planted millet. However, planted millet that grows on its own in subsequent years after the year of planting is considered natural vegetation.

"Normal agricultural operation" means a normal agricultural planting, harvesting, post-harvest manipulation, or agricultural practice, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

"Normal agricultural planting, harvesting, or post-harvest manipulation" means a planting or harvesting undertaken for the purpose of producing and gathering a crop, or manipulation after such harvest and removal of grain, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

"Normal soil stabilization practice" means a planting for agricultural soil erosion control or post-mining land reclamation conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture for agricultural soil erosion control.

Nothing in this section shall ((not)) prohibit hunting of game birds((-)) on or over the following lands or areas that are not otherwise baited areas:

(1) Standing crops, or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested crop lands((~~-~~ grain crops properly harvested on the field where grown)); or lands or areas where seeds or grains ((found)) have been scattered as solely as the result of normal agricultural planting ((not)), harvesting, post-harvest manipulation, or normal soil stabilization practice;

(2) From a blind or other place of concealment camouflaged with natural vegetation;

(3) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed, or

(4) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

NEW SECTION

WAC 232-28-434 2010-11 Migratory waterfowl seasons and regulations.

DUCKS

Statewide

Oct. 16-20, 2010 and Oct. 23, 2010 - Jan. 30, 2011; except scaup season closed Oct. 16 - Nov. 5.

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. 25-26, 2010.

Daily bag limit: 7 ducks, to include not more than 2 hen mallard, 2 pintail, 3 scaup, 1 canvasback, and 2 redhead; and in Western Washington only, also to include not more than 1 harlequin, 2 scoter, 2 long-tailed duck, and 2 goldeneye.

Possession limit: 14 ducks, to include not more than 4 hen mallard, 4 pintail, 6 scaup, 2 canvasback, and 4 redhead; and in Western Washington only, also to include not more than 1 harlequin, 4 scoter, 4 long-tailed duck, and 4 goldeneye.

Season limit: 1 harlequin in Western Washington.

AUTHORIZATION REQUIRED TO HUNT SEA DUCKS

When hunting sea ducks (harlequin, scoter, long-tailed duck, goldeneye) in Western Washington, all persons are required to possess a sea duck hunting authorization and harvest record card. Hunters who did not possess a 2009-10 authorization must submit an application form to WDFW (forms available on-line and 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 record card. Hunters must report harvest information by February 15, 2011. Hunters failing to comply with reporting requirements will be ineligible to participate in the 2011-12 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.

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. 25-26, 2010, 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. 16, 2010 - Jan. 30, 2011 for snow, Ross', or blue geese.
Oct. 16-28, 2010 and Nov. 6, 2010 - Jan. 30, 2011 for other geese (except Brant).

Daily bag limit: 4 geese.
Possession limit: 8 geese.

AUTHORIZATION REQUIRED TO HUNT SNOW GEESE

When hunting snow geese in Goose Management Area 1, all persons are required to possess a snow goose hunting authorization and harvest record card. Hunters who did not possess a 2009-10 authorization must submit an application form to WDFW (forms available on-line and 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 record card. Hunters must report harvest information by February 15, 2011. Hunters failing to comply with reporting requirements will be ineligible to participate in the 2011-12 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, authorization will be invalidated for the remainder of the 2010-11 snow goose season and an authorization will not be issued for the 2011-12 snow goose season.

SNOW GOOSE QUALITY HUNTING PROGRAM IN GOOSE MANAGEMENT AREA 1

All hunters must hunt over decoys and obey posted signs regarding access restrictions. Quality hunt units are not available for commercial uses.

On each Saturday during the Goose Management Area 1 season, all units in the Snow Goose Quality Hunting program will be open only to hunters selected by random drawing prior to the season. Hunters must apply for special Saturday hunting authorizations by September 24, 2010, using the department's internet or mail application systems. Successful applicants will be assigned at random to units for each Saturday, and will be mailed a special Saturday hunting authorization listing their hunt date. When hunting snow geese on their assigned unit and hunt date, successful applicants are required to possess this special Saturday hunting authorization. No more than three individuals possessing snow goose authorizations can hunt with the successful applicant. Successful applicants must check in with the WDFW hunt coordinator at least one week prior to their scheduled hunting day to receive specific hunting unit information.

dinator at least one week prior to their scheduled hunting day to receive specific hunting unit information.

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. 13-28, 2010 and Dec. 8, 2010 - Jan. 30, 2011, except closed Dec. 25, 2010 and Jan. 1, 2011. Ridgefield NWR open from 8 a.m. to 4:00 p.m. Tuesdays, Thursdays, and Saturdays only, Nov. 13-27, 2010 and Dec. 9, 2010 - Jan. 29, 2011, except closed Nov. 25, 2010.

Bag limits for Goose Management Area 2A:

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose and 3 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose and 6 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. 16 - Dec. 22, 2010 and Jan. 5-15, 2011; Dec. 26 and 29, 2010, and Jan. 2, 2011.

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 3 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose, 2 Aleutian geese, and 6 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 goose season for Goose Management Areas 2A and 2B will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 40 geese. The fish and wildlife commission has authorized the director to implement emergency area closures in accordance with the following quotas: A total of 40 dusks, to be distributed 5 for Zone 1 (Ridgefield NWR); 5 for Zone 2 (Cowlitz County south of the Kalama River); 15 for Zone 3 (Clark County except Ridgefield NWR); 7 for Zone 4 (Cowlitz County north of the Kalama River and Wahkiakum County); and 8 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 authorization, available at any WDFW license vendor to hunters who have met requirements for participation. New hunters and those who did not maintain a valid 2009-10 authorization must review goose identification training materials and score a minimum of 80% on a goose identification test to receive authorization. Hunters who fail a test must wait 28 days before retesting, and will not be issued a reciprocal authorization until that time.

With authorization, hunters will receive a harvest record card. Hunters must carry the authorization card and harvest record card while hunting. Immediately after taking any goose into possession, hunters must record in ink the information required on the harvest record card. 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 record card, authorization will be invalidated and the hunter will not be able to hunt 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 2010-11 southwest Washington 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. 5 - Mar. 9, 2011.

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose and 3 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose and 6 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 45 for the regular and late seasons. All provisions listed above for Goose Management Area 2A regarding authorization, harvest reporting, and checking requirements also apply to the special late season; except hunters must confirm their partic-

ipation 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. 16-28, 2010 and Nov. 6, 2010 - Jan. 30, 2011.

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.

Saturdays, Sundays, and Wednesdays only during Oct. 16, 2010 - Jan. 23, 2011; Nov. 11, 25, and 26, 2010; Dec. 27, 28, 30, and 31, 2010; January 17, 2011; and every day Jan. 24-30, 2011.

Goose Management Area 5

Includes all parts of Eastern Washington not included in Goose Management Area 4.

Oct. 16-20, 2010, every day from Oct. 23, 2010 - Jan. 30, 2011.

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, 16, 19, 22, 23, 26, 29, and 30, 2011.

If the 2010-11 preseason 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. 15, 16, 18, 20, 22, 23, 25, 27, 29, and 30, 2011.

AUTHORIZATION REQUIRED TO HUNT BRANT

All persons hunting Brant in this season are required to possess a Brant hunting authorization and harvest record card. Hunters who did not possess a 2009-10 authorization must submit an application form to WDFW (forms available online and at Washington department of fish and wildlife, Olympia and regional offices).

Immediately after taking a Brant into possession, hunters must record in ink the information required on the harvest record card. Hunters must report harvest information by February 15, 2011. Hunters failing to comply with reporting

requirements will be ineligible to participate in the 2011-12 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. 16-20, 2010 and Oct. 23, 2010 - Jan. 30, 2010 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. 16, 2010 - Jan. 30, 2010 for snow, Ross', or blue geese. Oct. 16-28, 2010 and Nov. 6, 2010 - Jan. 30, 2010 for other geese.

Goose Management Area 2A: Saturdays, Sundays, and Wednesdays only, Nov. 13-28, 2010 and Dec. 8, 2010 - Jan. 30, 2010.

Goose Management Area 2B: Saturdays and Wednesdays only, Oct. 16, 2010 - Jan. 16, 2010.

Goose Management Areas 3, 4, and 5: Oct. 16-28, 2010 and Nov. 6, 2010 - Jan. 30, 2010.

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.