

**JULY 6, 1994**

**OLYMPIA, WASHINGTON**

**ISSUE 94-13**



## **IN THIS ISSUE**

Accountancy, Board of  
Agriculture, Department of  
Attorney General, Office of the  
Bellingham Technical College  
Benton Franklin Counties Clean Air Authority  
Building Code Council  
Central Washington University  
Community, Trade and Economic  
Development, Department of  
Convention and Trade Center  
County Road Administration Board  
Credit Unions, Division of  
Deaf, Washington State School for the  
Dental Examiners, Board of  
Eastern Washington University  
Ecology, Department of  
Education, State Board of  
Financial Institutions, Department of  
Financial Management, Office of  
Fish and Wildlife, Department of  
Forest Practices Board  
Gambling Commission  
Governor, Office of the  
Hardwoods Commission  
Health, Department of  
Health Services Commission  
Highline Community College  
Human Rights Commission  
Insurance Commissioner, Office of the  
Library, Washington State  
Licensing, Department of  
Liquor Control Board  
Marine Oversight Board  
Massage, Board of  
Natural Resources, Department of  
Noxious Weed Control Board  
Outdoor Recreation, Interagency  
Committee for  
Parks and Recreation Commission  
Personnel Appeals Board  
Personnel Resources Board  
Pharmacy, Board of  
Public Disclosure Commission  
Public Employees Benefits Board  
Public Instruction, Superintendent of  
Public Works Board  
Retirement Systems, Department of  
Revenue, Department of  
Seattle Community Colleges  
Sex Offender Treatment Providers  
Skagit Valley College  
Social and Health Services, Department of  
South Puget Sound Community College  
Spokane, Community Colleges of  
Spokane County Air Pollution Control  
Authority  
Transportation Commission  
Transportation Improvement Board  
Utilities and Transportation Commission  
Washington State Patrol  
Washington State University  
Wheat Commission  
Workforce Training and Education  
Coordinating Board

(Subject/Agency index at back of issue)  
This issue contains documents officially  
filed not later than June 22, 1994

## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

## REPUBLICATION OF OFFICIAL DOCUMENTS

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## CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of July 1994 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

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# WASHINGTON STATE REGISTER

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Intent that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

### 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) underlined material is new material;
  - (ii) deleted material is (~~lined out between double parentheses~~);
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

### 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

### 4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

### 5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

**1993 - 1994**  
**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
93-16	Jul 7	Jul 21	Aug 4	Aug 18	Sep 7
93-17	Jul 21	Aug 4	Aug 18	Sep 1	Sep 21
93-18	Aug 4	Aug 18	Sep 1	Sep 15	Oct 5
93-19	Aug 25	Sep 8	Sep 22	Oct 6	Oct 26
93-20	Sep 8	Sep 22	Oct 6	Oct 20	Nov 9
93-21	Sep 22	Oct 6	Oct 20	Nov 3	Nov 23
93-22	Oct 6	Oct 20	Nov 3	Nov 17	Dec 7
93-23	Oct 20	Nov 3	Nov 17	Dec 1	Dec 21
93-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1994
94-01	Nov 24	Dec 8	Dec 22, 1993	Jan 5, 1994	Jan 25
94-02	Dec 8	Dec 22, 1993	Jan 5, 1994	Jan 19	Feb 8
94-03	Dec 22, 1993	Jan 5, 1994	Jan 19	Feb 2	Feb 22
94-04	Jan 5	Jan 19	Feb 2	Feb 16	Mar 8
94-05	Jan 19	Feb 2	Feb 16	Mar 2	Mar 22
94-06	Feb 2	Feb 16	Mar 2	Mar 16	Apr 5
94-07	Feb 23	Mar 9	Mar 23	Apr 6	Apr 26
94-08	Mar 9	Mar 23	Apr 6	Apr 20	May 10
94-09	Mar 23	Apr 6	Apr 20	May 4	May 24
94-10	Apr 6	Apr 20	May 4	May 18	Jun 7
94-11	Apr 20	May 4	May 18	Jun 1	Jun 21
94-12	May 4	May 18	Jun 1	Jun 15	Jul 5
94-13	May 25	Jun 8	Jun 22	Jul 6	Jul 26
94-14	Jun 8	Jun 22	Jul 6	Jul 20	Aug 9
94-15	Jun 22	Jul 6	Jul 20	Aug 3	Aug 23
94-16	Jul 6	Jul 20	Aug 3	Aug 17	Sep 6
94-17	Jul 27	Aug 10	Aug 24	Sep 7	Sep 27
94-18	Aug 10	Aug 24	Sep 7	Sep 21	Oct 11
94-19	Aug 24	Sep 7	Sep 21	Oct 5	Oct 25
94-20	Sep 7	Sep 21	Oct 5	Oct 19	Nov 8
94-21	Sep 21	Oct 5	Oct 19	Nov 2	Nov 22
94-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
94-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
94-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1995

<sup>1</sup>All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

<sup>2</sup>A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

<sup>3</sup>At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

**WSR 94-13-004**  
**PREPROPOSAL COMMENTS**  
**DEPARTMENT OF HEALTH**  
 (State Board of Health)  
 [Filed June 2, 1994, 10:19 a.m.]

May 25, 1994  
 Susan Shoblom  
 Executive Director

DRAFT - TEMPORARY PRACTICE PERMIT RULES

Subject of Possible Rule Making: Chapter 246-390 WAC, Drinking water certification rules, to update the established state drinking water program, chapter 246-390 WAC, for the certification of laboratories conducting analytical measurement of drinking water contaminants pursuant to the requirements of the state primacy agreement between EPA and the state. Required by 40 CFR 142.10, July 1, 1993, and Public Law 99-339 the Federal Safe Drinking Water Act.

Persons may Comment on this Subject in the Following Ways: A summary of all revisions to be sent out to all 50 laboratories affected in the state. The proposed draft of all the revisions will be sent on request. Two public information workshops to be conducted. Public information workshops will be held in Seattle and Spokane. Both public information workshops will be held in mid-July 1994.

Other Information or Comments by Agency at this Time, if any: This rule implements the Federal Drinking Water Act requirements. Laboratories will be certified for analysis of parameters selected by the laboratory to comply with requirements set forth in the EPA *Manual for Certification of Laboratories Analyzing Drinking Water, EPA/570/9-90/008, 4/90*. Approximately 50 laboratories in the state will be affected by the certification program.

June 2, 1994  
 Sylvia Beck  
 Executive Director

**WSR 94-13-005**  
**PREPROPOSAL COMMENTS**  
**DEPARTMENT OF HEALTH**  
 (Board of Dental Examiners)  
 [Filed June 2, 1994, 10:21 a.m.]

Subject of Possible Rule Making: Rules to implement the issuance of temporary practice permits for dentists who are seeking licensure in Washington state. The permit would be issued to allow practice prior to the completion of the full application process. There will be specific requirements outlined for eligibility for the temporary practice permit. RCW 18.130.075, Uniform Disciplinary Act, provides that the licensing authority shall issue a temporary permit to individuals licensed in another state, that has licensing standards substantially equivalent to Washington state standards.

Persons may comment on this subject in writing to Lisa R. Anderson, Program Manager, Washington State Board of Dental Examiners, 1112 S.E. Quince Street, P.O. Box 47867, Olympia, WA 98504-7867, no later than July 15, 1994, (anticipated rules hearing date August/September 1994).

Other Information or Comments by Agency at this Time, if any: The Board and [of] Dental Examiners will cease to exist and a new Dental Health Care Quality Assurance Commission will commence July 1, 1994. A rules hearing will be scheduled at a later date.

NEW SECTION

**WAC 246-818- Temporary practice permits - Eligibility** (1) A temporary practice permit, as defined in RCW 18.130.075, shall be issued at the written request of an applicant:

(a) licensed in another state, with licensing standards substantially equivalent to Washington, who applies for the dental examination and meets the eligibility criteria for the examination as outlined in WAC 246-818-020; or

(b) currently licensed and practicing clinical dentistry in another state, who applies for dental licensure without examination and meets the eligibility criteria for the licensure without examination program as outlined in WAC 246-818-120 (1-7).

(2) In addition to the requirements outlined in (1)(a) and (b) above, the conditions of WAC 246-818-090 shall also be met for applicants who are graduates of dental schools or colleges not accredited by the American Dental Association Commission on Accreditation.

NEW SECTION

**WAC 246-818- Temporary practice permits - Issuance and duration.** (1) Unless there is a basis for denial of the license or for issuance of a conditional license, the applicant shall be issued a temporary practice permit by the Commission, upon:

(a) receipt of a completed application form on which a request for a temporary practice permit is indicated;

(b) payment of the applicable application fee;

(c) receipt of written verification of all dental licenses, whether active or not, attesting that the applicant has a dental license in good standing and is not the subject of any disciplinary action for unprofessional conduct or impairment;

(d) receipt of disciplinary data bank reports

(2) The temporary practice permit shall expire:

(a) immediately upon issuance of a full, unrestricted dental license by the Commission;

(b) upon notice of failure of the dental examination;

(c) upon issuance of a Statement of Intent to Deny; or

(d) within a maximum of 120 days.

(3) A temporary practice permit shall not be renewed, reissued or extended.

**WSR 94-13-066**  
**PREPROPOSAL STATEMENT OF INTENT**  
**FOREST PRACTICES BOARD**  
 [Filed June 9, 1994, 2:25 p.m.]

Specific Statutory Authority for New Rule: Forest Practices Act, chapter 76.09 RCW; Administrative Procedure Act, chapter 34.05 RCW; and State Environmental Policy Act, chapter 43.21C RCW.

Reasons Why the New Rule is Needed: To provide protection for federal and/or state threatened and endangered

species. The northern spotted owl was listed by the Washington Wildlife Commission in January 1988 and by the USF&WS in October of 1990. The marbled murrelet was listed by the USF&WS in November 1992 and by the Wildlife Commission in October 1993.

Goals of New Rule: The goal of these rules is to capture all forest practices that have a potential for a substantial adverse impact on the environment. This could be any forest practice that damages the long-term viability of populations of northern spotted owl or marbled murrelet.

Process for Developing New Rule: The Forest Practices Board anticipates filing its rule proposal in August 1994. Its preliminary proposal is being sent to the Department of Fish and Wildlife, counties, tribes, TFW Liaisons, the USF&WS and the public. Comments received will be reviewed prior to filing the proposal with the code reviser.

How Interested Parties can Participate in Formulation of the New Rule: Direct requests for information as well as written comments to Judith Holter, Forest Practices Board Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (206) 902-1412, FAX (206) 902-1784. The Forest Practices Board will take public comment at future meetings, which will be held at the Natural Resources Building, 1111 Washington Street S.E., Olympia. Written comments should be received by July 25, 1994.

June 8, 1994  
Jennifer M. Belcher  
Commissioner of Public Lands

**WSR 94-13-078**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE PATROL**  
[Filed June 13, 1994, 8:26 a.m.]

Specific Statutory Authority for New Rule: RCW 46.37.005, 46.55.050.

Reasons Why the New Rule is Needed: Update equipment requirements for tow trucks under WAC 204-91A-170 to ensure safety on the public roadways. This rule outlines the standards tow businesses must follow to become registered tow operators in the state for impounding vehicles.

Goals of New Rule: Replace "ESR" (equipment and standards review section) with "patrol" and/or "designated section." Update equipment standards for tow trucks.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties should send comments to Lt. M. A. O'Brien, VIN Headquarters, 4242 Martin Way, Olympia, WA 98504, (206) 459-6413, FAX (206) 493-9417.

June 13, 1994  
Roger W. Bruett  
Chief

**WSR 94-13-079**

**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE PATROL**  
[Filed June 13, 1994, 8:28 a.m.]

Specific Statutory Authority for New Rule: RCW 46.37.005.

Reasons Why the New Rule is Needed: Amendment is necessary to warn motorists of search and rescue vehicles parked on the roadways or other locations.

Goals of New Rule: Provide warning to the motoring public of parked vehicles responding to emergency situations.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties should send comments to Lt. Lonnie Brackins, Commercial Vehicle Division, 515 15th, Olympia, WA 98504, (206) 753-0347, FAX (206) 493-9417.

June 13, 1994  
Roger W. Bruett  
Chief

**WSR 94-13-094**

**PREPROPOSAL STATEMENT OF INTENT**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed June 15, 1994, 10:50 a.m.]

Specific Statutory Authority for New Rule: RCW 28A.150.290.

Reasons Why the New Rule is Needed: To implement RCW 28A.150.275.

Goals of New Rule: To establish the process for providing basic education funding directly to technical colleges.

Process for Developing New Rule: Meetings were held with staff of State Board of Community and Technical Colleges and representatives of technical colleges.

How Interested Parties can Participate in Formulation of the New Rule: Submit written comments to Richard M. Wilson, P.O. Box 47200, Olympia, WA 98504-7200.

June 14, 1994  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 94-13-096**

**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF REVENUE**  
[Filed June 15, 1994, 11:45 a.m.]

Subject of Possible Rule Making: Amending chapter 458-30 WAC, Open Space Taxation Act rules, WAC 458-30-200 Definitions, 458-30-205 Department of Revenue—Duties, 458-30-210 Classified lands, 458-30-215 Application process, 458-30-220 Application fee, 458-30-225 Assessor to respond to farm and agricultural classification applications, 458-30-230 Legislative authority to act on open space and

timber land applications, 458-30-240 Agreement execution, 458-30-245 Recording of documents, 458-30-250 Denial and appeal, 458-30-255 Determination of value, 458-30-260 Valuation procedures and standards, 458-30-265 Valuation cycle, 458-30-270 Income and expense data, 458-30-275 Continuing classification—Sale or transfer of ownership of classified land, 458-30-280 Notice to withdraw from classification, 458-30-285 Withdrawal from classification, 458-30-295 Removal of classification, 458-30-300 Additional tax—Removal, 458-30-305 Additional tax—Date due, 458-30-310 County recording authority—Duties, 458-30-315 County financial authority—Duties, 458-30-320 Assessment and tax rolls, 458-30-325 Transfers between classifications, 458-30-330 Rating system, 458-30-335 Rating system—Establishment, 458-30-340 Rating system—Loss of qualification, 458-30-345 Advisory committee, 458-30-350 Reclassification, 458-30-355 Agreement may be abrogated by legislature, 458-30-500 Definitions, 458-30-510 Creation of district—Protest—Final assessment roll, 458-30-520 Notification of district—Certification by assessor—Estimate by district, 458-30-530 Notification of owner, 458-30-540 Waiver, 458-30-550 Exemption—Removal, 458-30-560 Partial assessment—Computation, 458-30-570 Connection subsequent to final assessment roll—Interest—Connection charge and 458-30-580 Rate of inflation—When published—Calculation; new sections WAC 458-30-232 Application for farm and agricultural conservation land classification, 458-30-267 Valuation procedures for open space and timber land and 458-30-317 Principal residence of operator or housing for employees on farm and agricultural land; and repealing WAC 458-30-235 Granting authority response and 458-30-290 Additional tax—Withdrawal.

Persons may Comment on this Subject in Writing or by Attending one of the Public Meetings Scheduled at: Westside (Olympia only), General Administration Building, 1st Floor, Auditorium, 11th and Columbia Streets, Olympia, Washington, on Monday, August 1, 1994, at 10:00 a.m.; Eastside (Spokane), Spokane Community College, Building 6, The Lair, Littlefoot Room #124, North 1810 Green Street, Spokane, WA, on Wednesday, August 3, 1994, at 10:00 a.m.; and Pasco, Columbia Basin College, Library Building, Room 102, 2600 North 20th Avenue, Pasco, WA, on Thursday, August 4, 1994, at 10:00 a.m. Written comments should be submitted by August 4, 1994, to assure full consideration, but will be accepted up to the date of adoption. Address comments to: Kim M. Qually, Counsel, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467.

Other Information or Comments by Agency at this Time, if any: Chapter 458-30 WAC is being amended and supplemented to comply with recent statutory changes. A copy of the draft rules is available upon request. Contact: Property Tax Division, (206) 753-1382.

June 15, 1994  
Claire Hesselholt  
Acting Assistant Director

**WSR 94-13-102**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed June 15, 1994, 4:40 p.m.]

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: Reflect increased income standards up to 200% of the federal poverty level for children up to age 19, WAC 388-503-0310, 388-509-0910, 388-509-0920, and 388-509-0960.

Goals of New Rule: Expand medical eligibility population.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Contact Joanie Scotson, Medical Assistance Administration, P.O. Box 45530, Olympia, WA 98512, phone 753-7462 (SCAN 234), or FAX 753-7315 (SCAN 234).

June 15, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-103**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed June 15, 1994, 4:41 p.m.]

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: WAC 388-506-0610, this proposed rule is to provide that *Sneede v. Kizer* rules are changed to allow an eligibility determination for family member(s) based on family income prior to establishing separate MAUs.

Goals of New Rule: Simplify processing and to ensure a child with all or most of the family income is not adversely affected by the *Sneede v. Kizer* process.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Contact Joanie Scotson, Medical Assistance Administration, P.O. Box 45530, Olympia, WA 98512, phone 753-7462, or FAX 753-7315.

June 15, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-104**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed June 15, 1994, 4:50 p.m.]

Specific Statutory Authority for New Rule: RCW 74.08.090, this state law gives the department authority to establish rules to administer their programs.

Reasons Why the New Rule is Needed: This is a proposal for amending WAC 388-527-2710 to implement Omnibus Budget Reconciliation Act of 1993 (OBRA) provisions for the state agency to establish procedures for recovering medical care costs from a client's estate. Washington state legislature passed HB 2492 to bring the state laws into compliance with the OBRA with an effective date of July 1, 1994.

Goals of New Rule: This new rule is to establish procedures for recovering costs of medical institutional care and related services. The rule also changes the age of clients affected from 65 to 55.

Process for Developing New Rule: Negotiated rule making, this rule is a federal requirement for the state to receive financial participation. The amendment was delayed to allow the health and human services secretary to provide a "undue hardship" definition. Specific language has not been received. Language to be used in the proposal is based on federal guidelines of intent. Based on the July 1, 1994, effective date, the state agency is required to adopt rules. The population of current and potential clients are the most affected by these changes.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may contact Bobbe Andersen, Program Manager, Medical Assistance Administration, P.O. Box 45530, Olympia, WA 98512, phone (206) 753-0529, or FAX (206) 753-7315. TDD or the hearing impaired.

June 15, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-105**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed June 15, 1994, 4:51 p.m.]

Specific Statutory Authority for New Rule: RCW 74.08.090 gives the agency the authority to promulgate rules to administer the medical program.

Reasons Why the New Rule is Needed: WAC 388-86-082, a new rule is needed to establish methodology for providing infusion, enteral and parenteral therapy to Medicaid clients.

Goals of New Rule: The new rule is to simplify billing for payment for these services.

Process for Developing New Rule: Agency study. MAA did a six month pilot project prior to purposing this rule.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may contact Bobbe Andersen, Program Manager, Medical Assistance Administration, P.O. Box 45530, Olympia, WA 98512, phone (206) 753-0529, or FAX (206) 753-7315. TDD or the hearing impaired.

June 15, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-108**  
**PREPROPOSAL STATEMENT OF INTENT**  
**GAMBLING COMMISSION**

[Filed June 16, 1994, 3:33 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: To amend rule to be consistent with HB 2382. Amendment allows card-room operators to raise fee which maybe charged to card players from \$2.00 per half hour to \$3.00 per half hour.

Goals of New Rule: To be consistent with HB 2382 and increase fee charged to card players from \$2.00 per half hour to \$3.00 per half hour.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Shanna R. Lingel, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (206) 438-7654 x. 305, FAX (206) 438-8608.

June 15, 1994  
Shanna R. Lingel  
Rules Coordinator

**WSR 94-13-109**  
**PREPROPOSAL STATEMENT OF INTENT**  
**GAMBLING COMMISSION**

[Filed June 16, 1994, 3:35 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Petitioner is requesting to raise the limit on the cost of prizes purchased by commercial amusement game operators from \$100 to \$200.

Goals of New Rule: Increased limit on cost of prizes will enable operator to purchase larger prizes.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Shanna R. Lingel, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (206) 438-7654 x. 305, FAX (206) 438-8608.

June 15, 1994  
Shanna R. Lingel  
Rules Coordinator

**WSR 94-13-110****PREPROPOSAL STATEMENT OF INTENT  
GAMBLING COMMISSION**

[Filed June 16, 1994, 3:36 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Amendment clarifies the requirement for punchboard/pull tab operators to permanently delete reference to prizes from the flare upon determination of a winner and prior to award of the prize.

Goals of New Rule: To stipulate that an indelible ink marking pen be used to delete the prize, labels or stickers may not be used.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Shanna R. Lingel, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (206) 438-7654 x. 305, FAX (206) 438-8608.

June 15, 1994  
Shanna R. Lingel  
Rules Coordinator

**WSR 94-13-111****PREPROPOSAL STATEMENT OF INTENT  
GAMBLING COMMISSION**

[Filed June 16, 1994, 3:37 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Amendment allows bingo licensees to place symbols and/or numbers not relevant to a game on the flashboard for viewing without calling the symbols and/or numbers to the participants. half hour.

Goals of New Rule: Eliminate distraction to the players by allowing only relevant symbols and/or numbers be called during a game.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Shanna R. Lingel, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (206) 438-7654 x. 305, FAX (206) 438-8608.

June 15, 1994  
Shanna R. Lingel  
Rules Coordinator

**WSR 94-13-114****PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed June 17, 1994, 10:32 a.m.]

Specific Statutory Authority for New Rule: RCW 74.04.510.

Reasons Why the New Rule is Needed: WAC 388-49-460 Unearned income, to incorporate language from the Code of Federal Regulations (CFR).

Goals of New Rule: To clarify CFR rule intent regarding when to count and when to exclude repayments from various income sources.

Process for Developing New Rule: Examination of current WAC and CFR language. Drafting of WAC sections.

How Interested Parties can Participate in Formulation of the New Rule: Call Dan Ohlson, (206) 438-8326 or FAX (206) 438-8258, Division of Income Assistance, Mailstop 45400, Olympia, Washington 98504.

June 17, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-116****PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed June 17, 1994, 2:35 p.m.]

Specific Statutory Authority for New Rule: WAC 388-49-190, RCW 74.04.050.

Reasons Why the New Rule is Needed: Public Law 103-66 Mickey Leland Childhood Hunger Relief Act.

Goals of New Rule: Allows adult children living with their parents and adult siblings living together to be separate households for food stamps when they purchase and prepare meals separately.

Process for Developing New Rule: Internal (management) and external (field staff) review process, whereby, draft material is distributed for review and comment [and] all comments are taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Wendy Forslin, Program Manager, P.O. Box 45400, Olympia, WA 98504-5400, phone (SCAN 585) 438-8323, FAX (SCAN 585) 438-8258.

June 17, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-117****PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed June 17, 1994, 2:37 p.m.]

Specific Statutory Authority for New Rule: RCW 74.04.050, WAC 388-49-210 Alcohol and drug treatment centers.

Reasons Why the New Rule is Needed: Mickey Leland Childhood Hunger Relief Act made changes to federal regulations under Public Law 103-66.

Goals of New Rule: Gives instructions to eligibility staff to allow children who reside in a drug and alcohol treatment facility with a parent to be included in the food stamp household with the parent when the parent is otherwise eligible for food stamps.

Process for Developing New Rule: Internal (management) and external (field staff) review process, whereby, draft material is distributed for review and comment and all comments are taken into consideration before the final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Wendy Forslin, Program Manager, P.O. Box 45400, Olympia, WA 98504-5400, phone 438-8323, SCAN 585-8323, FAX 438-8258, SCAN 585-8258.

June 17, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-118**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed June 17, 1994, 2:39 p.m.]

Specific Statutory Authority for New Rule: RCW 74.04.050.

Reasons Why the New Rule is Needed: Allows persons coming out of institutionalization into a halfway house to be considered a homeless individual for food stamp purposes, WAC 388-49-020 Definitions.

Goals of New Rule: Allows persons the opportunity to receive food stamps in a halfway house.

Process for Developing New Rule: Internal (management) and external (field staff) review process, whereby, draft material is distributed for review and comment and all comments are taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Wendy Forslin, Program Manager, P.O. Box 45400, Olympia, WA 98504-5400, phone 438-8323, SCAN 585-8323, FAX 438-8258, SCAN 585-8258.

June 17, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-119**  
**PREPROPOSAL STATEMENT OF INTENT**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed June 17, 1994, 4:15 p.m.]

Specific Statutory Authority for New Rule: RCW 28A.150.290.

Reasons Why the New Rule is Needed: To implement section 502(10), chapter 6, Laws of 1994 sp. sess.

Goals of New Rule: To prescribe application process, allowable expenditures, and funding process.

Process for Developing New Rule: Proposed rules have been posted to the statewide school district computer network electronic bulletin board since May 16, 1994, for purposes of receiving comments.

How Interested Parties can Participate in Formulation of the New Rule: Thomas J. Case, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, (206) 753-6708, FAX (206) 586-3946.

June 17, 1994  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 94-13-120**  
**PREPROPOSAL STATEMENT OF INTENT**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed June 17, 1994, 4:17 p.m.]

Specific Statutory Authority for New Rule: RCW 28A.150.290.

Reasons Why the New Rule is Needed: To provide clarification for claiming of basic education funding.

Goals of New Rule: To clarify enrollment counting that forms the basis for claiming state funding for basic education.

Process for Developing New Rule: Draft proposal and post to electronic bulletin board on statewide school district computer network. Take input and revise rules as necessary.

How Interested Parties can Participate in Formulation of the New Rule: Thomas J. Case, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, (206) 753-6708, FAX (206) 586-3946.

June 17, 1994  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 94-13-122**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
[Filed June 17, 1994, 4:55 p.m.]

Specific Statutory Authority for New Rule: RCW 41.50.050, 41.40.020.

Reasons Why the New Rule is Needed: To clarify what constitutes compensation earnable under RCW 41.40.010(8) when an employee is paid for time not actually worked.

Goals of New Rule: To propose guidance to employers and employees in determining when payment for time not actually worked is considered compensation earnable.

Process for Developing New Rule: Met with state employer representatives and with employee representatives in drafting language implementing 1994 amendments to RCW 41.40.010(8).

How Interested Parties can Participate in Formulation of the New Rule: Contact Paul Neal, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380,

phone (206) 586-3368, SCAN 321-3368, FAX (206) 753-3166.

June 17, 1994  
Paul Neal  
Rules Coordinator

**WSR 94-13-124**  
**PREPROPOSAL STATEMENT OF INTENT**  
**LIQUOR CONTROL BOARD**  
[Filed June 20, 1994, 10:55 a.m.]

Specific Statutory Authority for New Rule: RCW 66.08.030, 66.08.010, protection of the welfare, health, peace, morals and safety of the people of the state.

Reasons Why the New Rule is Needed: Consuming certain amounts of alcoholic beverages during pregnancy has been shown to cause fetal damage in some women. Warnings at the retail point of sale level would raise awareness of the possible risks of drinking during pregnancy.

Goals of New Rule: To place an advisory sign where alcohol is sold and served which will warn men and women of possible birth defects associated with alcohol misuse. Ultimate goal is to help prevent alcohol related birth defects.

Process for Developing New Rule: Ad-hoc committee will meet and make proposal to board, public meetings, public hearing.

How Interested Parties can Participate in Formulation of the New Rule: Washington State Liquor Control Board, P.O. Box 43080, Mailstop 3080, Olympia, WA 98504-3080, M. Carter Mitchell, Public Information Office, (206) 753-6276, Jennifer McDougall, Alcohol Awareness Program, (206) 664-9657, FAX (206) 664-9689. Ad-hoc committee input, public hearing testimony. Written comments must be received by noon, July 18, 1994.

June 20, 1994  
Joseph McGavick  
Chairman

**WSR 94-13-129**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed June 20, 1994, 11:28 a.m.]

Specific Statutory Authority for New Rule: Public Law 102-237, Section 1727, RCW 74.04.050.

Reasons Why the New Rule is Needed: Current WAC is unclear on the issue of student eligibility for those who are parents of a child above age five but under age twelve for whom adequate child care is not available, WAC 388-49-330 Student.

Goals of New Rule: To clarify that eligible student status shall be granted to students who are parents of a child above age five but under age twelve for whom adequate child care is not available, to enable the student to attend class and satisfy the 20-hour work requirement or participate in a state or federally-financed work study program.

Process for Developing New Rule: Internal (management) and external (field staff) review process, whereby draft material is distributed for review and comment. All comments are taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Diane Arnaud, Program Manager, Food Stamp Program Section, Division of Income Assistance, Mailstop 45400, phone (SCAN 585) 438-8318, FAX (SCAN 585) 438-8258.

June 20, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-139**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**  
[Filed June 21, 1994, 10:01 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.095, 28B.30.125, 28B.30.150.

Reasons Why the New Rule is Needed: As an educational institution, Washington State University is committed to academic integrity. The problem of academic dishonesty must be addressed to foster a positive learning environment. In the opinion of Washington State University personnel, the existing rules addressing academic dishonesty do not adequately define the issues nor do they provide an adequate mechanism for dealing with incidents of academic dishonesty. The proposed rules will attempt to address these inadequacies.

Goals of New Rule: Clearly define academic dishonesty so that students understand the parameters of acceptable behavior; and provide a disciplinary process that discourages academic dishonesty and appropriately responds to incidents of academic dishonesty.

Process for Developing New Rule: Initially, members of the faculty and representative of the student body drafted a policy statement proposing academic integrity standards and procedures for violation of these standards. Representatives of the Office of the Attorney General drafted some possible rules intended to implement this policy statement. Representatives of the offices of the provost, student affairs, the student body, and the attorney general revised the draft several times prior to circulation.

These draft rules were circulated to a variety of campus community groups. The Academic Affairs Committee, Graduate Studies Committee, Extended University Affairs Committee and Faculty Affairs Committee all reviewed the draft and submitted comments to it. The Associated Students of Washington State University also provided comments on the policy. The comments from these groups were submitted to a committee comprised of Faculty, student affairs, and student representatives. This committee reviewed the comments, and revised the draft based on these comments.

Additional suggestions will be considered in any future drafts of the rules.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may submit suggestions to Gus Kravas, Vice Provost for Student Affairs, Washington

State University, 332 French Administration Building,  
Pullman, WA 99164-1032.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

#### WSR 94-13-140

##### PREPROPOSAL STATEMENT OF INTENT WASHINGTON STATE UNIVERSITY

[Filed June 21, 1994, 10:02 a.m.]

Subject of Possible Rule Making: Policies and regulations for student living groups.

Specific Statutory Authority for New Rule: RCW 28B.30.095, 28B.30.125, 28B.30.150.

Reasons Why the New Rule is Needed: Existing rules governing student living groups are in need of updating and clarification. The existing rules also do not clearly address alcohol policies as they relate to the student living groups.

Goals of New Rule: Clarify student living group discipline jurisdictions; and explicitly state university alcohol policies as they relate to student living groups.

Process for Developing New Rule: Student affairs professionals have made recommendations based on experience working with student living groups. Assistant attorneys general advising Washington State University have incorporated these recommendations in draft rules.

Additional suggestions will be considered for future drafts of the rules.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may submit comments and ideas to Gus Kravas, Vice Provost for Student Affairs, Washington State University, 332 French Administration Building, Pullman, WA 99164-1032.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

#### WSR 94-13-141

##### PREPROPOSAL STATEMENT OF INTENT WASHINGTON STATE UNIVERSITY

[Filed June 21, 1994, 10:03 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.095, 28B.30.125, 28B.30.150.

Reasons Why the New Rule is Needed: The student conduct regulations, chapter 504-25 WAC, Part I, need to be updated and clarified to reflect legal and university policy changes.

Goals of New Rule: Clarify the inclusion of living groups as subject to the conduct regulations; and clarify for students the types of behaviors that may subject them to disciplinary action. The specific conduct regulations the university intends to clarify are those addressing sexual offenses, hazing, alcohol use, drug use, firearms and weapons, forgery and misrepresentation, public indecency, failure to comply with a proper order, and misuse of student identifications.

Process for Developing New Rule: Student affairs professionals have made recommendations based on changes

in university policy since the implementation of existing rules. In addition, recommendations were made based on experience with student discipline cases in which the current language created confusion or did not adequately cover a behavior detrimental to the university community. Assistant attorneys general advising Washington State University have incorporated these recommendations in draft rules. Additional suggestions will be considered for future drafts of these rules.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties can submit comments and ideas to Gus Kravas, Vice Provost for Student Affairs, Washington State University, 332 French Administration Building, Pullman, WA 99164-1032.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

#### WSR 94-13-142

##### PREPROPOSAL STATEMENT OF INTENT WASHINGTON STATE UNIVERSITY

[Filed June 21, 1994, 10:04 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.095, 28B.30.125, 28B.30.150, 28B.10.902.

Reasons Why the New Rule is Needed: The student conduct disciplinary process and procedures rules chapter 504-25 WAC, Part II, need to be updated to reflect changes in the law and changes in university practice. In addition, experience with the existing rules suggests some changes are needed to facilitate the fairness of student disciplinary hearings.

Goals of New Rule: To more accurately state the participants and roles of those participants in student disciplinary cases; clarify sanctions that a student organization may face if it loses its recognition or charter; clearly state the statutorily required sanctions that shall be imposed when a student and/or a student organization is found responsible for hazing; clarify and expand the rights of the university administrative hearing officer on appeal of an initial disciplinary decision; and update, in accord with the law, who may have access to disciplinary records.

Process for Developing New Rule: Student affairs professionals and attorneys advising Washington State University have made recommendations based on experiences with the student disciplinary process. These recommendations have been incorporated in a draft set of rules. Additional suggestions will be considered for future drafts of the proposed rules.

How Interested Parties can Participate in Formulation of the New Rule: Comments and ideas can be submitted to Gus Kravas, Vice Provost for Student Affairs, Washington State University, 332 French Administration Building, Pullman, WA 99164-1032.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

**WSR 94-13-143**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**

[Filed June 21, 1994, 10:05 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 34.05.220, 28B.30.095, 28B.30.125, 34.05.250, 34.05.482.

Reasons Why the New Rule is Needed: The current rule describing when the university uses brief adjudicative hearings does not include all the types of hearings the university intends to conduct in this manner.

Goals of New Rule: Accurately state when the university uses brief adjudicative hearings.

Process for Developing New Rule: University officials have identified areas in which brief adjudicative hearings would serve the university's interests and provide a fair forum for complainants.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties can address comments and ideas to Robert R. Hoon, Executive Assistant, Business Affairs, Washington State University, 432 French Administration Building, Pullman, WA 99164-1045.

June 17, 1994  
 Lou Ann Pasquan  
 Rules Coordinator

**WSR 94-13-144**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**

[Filed June 21, 1994, 10:06 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.095, 28B.30.125, 28B.30.150, 28B.10.029.

Reasons Why the New Rule is Needed: Prior to the adoption of RCW 28B.10.029, the university did not independently exercise the right to handle bid protests that arose from the competitive bid process for the purchase of goods and services. Therefore, it was not necessary for the university to promulgate its own rules with regard to these bid protests. The university must put bidders on notice as to how the university will handle bid protests now that the university has independent authority to handle its own bid protests that arise as the result of competitive processes used for purchases.

Goals of New Rule: Put bidders on notice as to the administrative procedure for handling a bid protest on a contract for goods or services.

Process for Developing New Rule: Prior to the adoption of RCW 28B.10.029, general administration delegated to the university authority to handle bid protests. During this time, the university modeled the administrative level of a bid protest in accord with general administration's rules. Now that Washington State University exercises the power to handle bid protests independently, the university anticipates that the administrative process will be substantially similar to the process used formerly. Therefore, the university has modeled draft rules on the process used by general administration for bid protests. Additional suggestions will be considered for future drafts of these rules.

How Interested Parties can Participate in Formulation of the New Rule: Comments and ideas may be submitted to Lou Ann Pasquan, Interim Procurement Officer, Washington State University, 220 French Administration, Pullman, WA 99164-1020.

June 17, 1994  
 Lou Ann Pasquan  
 Rules Coordinator

**WSR 94-13-145**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**

[Filed June 21, 1994, 10:07 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 28B.30.125.

Reasons Why the New Rule is Needed: The parking rules governing Washington State University's Center for Nursing Education are out of date and no longer meet the parking needs of the center.

Goals of New Rule: To implement rules that reflect the parking needs of the center.

Process for Developing New Rule: Administrators of the center suggested revisions to the rules based on an experience with parking and parking violations at the center.

How Interested Parties can Participate in Formulation of the New Rule: Ideas and comments can be submitted to Bill Middlebrook, ICNE College Finance Officer, Washington State University, West 2917 Fort George Wright Drive, Spokane, WA 99204-5291.

June 17, 1994  
 Lou Ann Pasquan  
 Rules Coordinator

**WSR 94-13-146**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**

[Filed June 21, 1994, 10:08 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 20 U.S.C. 1232g.

Reasons Why the New Rule is Needed: Washington State University's existing rules governing student education records need to be updated to reflect changes in federal law. In addition, some of the existing language has proved to be problematic.

Goals of New Rule: Revise rules to reflect governing federal law; and revise language to better address needs of students and the university.

Process for Developing New Rule: Rules have been revised to reflect the federal law. Professionals from the registrar's office have made suggestions based on experience with administration of the law.

How Interested Parties can Participate in Formulation of the New Rule: Comments and ideas can be submitted to Richard Backes, Assistant Registrar, Washington State University, 346 French Administration Building, Pullman, WA 99164-1035.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

Washington State University, 432 French Administration  
Building, Pullman, WA 99164-1045.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

**WSR 94-13-147**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**  
[Filed June 21, 1994, 10:09 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 28B.30.095, 28B.30.125.

Reasons Why the New Rule is Needed: The rule governing all student organizations needs to be updated to reflect current university practices, policies, and facilities.

Goals of New Rule: Clarify the significance of recognition of student organizations; clarify the policies that govern the right to recognition and the activities of student organizations; and reorganize locations of some policies that apply to the university community at large, and not just student organizations.

Process for Developing New Rule: A committee including representatives from a wide range of university groups and offices met to make suggestions on revisions to policies governing use of new facilities which are not currently addressed in Washington State University's rules. In addition, professionals who work with student organizations made recommendations on other issues based on their experience working with students. Additional suggestions will be considered for future drafts of the rules.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may submit comments to Timothy McCarty, Compton Union Building Director, Washington State University, CUB 143, Pullman, WA 99164-7204.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

**WSR 94-13-148**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**  
[Filed June 21, 1994, 10:10 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 28B.30.095, 28B.30.125.

Reasons Why the New Rule is Needed: The rule governing use of the Terrell Mall needs to be updated to include rules to govern use of the Library Plaza, a new open area on the Washington State University - Pullman campus.

Goals of New Rule: To state rules governing the use of the Library Plaza.

Process for Developing New Rule: A committee including representatives from a wide-range of university groups and offices met to make suggestions on revisions to policies governing use of the new Library Plaza. Additional suggestions shall be considered for future drafts of the rules.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may submit comments to Robert R. Hoon, Executive Assistant, Business Affairs,

**WSR 94-13-149**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**  
[Filed June 21, 1994, 10:11 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 28B.30.095, 28B.30.125.

Reasons Why the New Rule is Needed: The rule governing use of the Terrell Mall needs to be updated to include rules to govern use of the Library Plaza, a new open area on the Washington State University - Pullman campus.

Goals of New Rule: To state rules governing the use of the Library Plaza.

Process for Developing New Rule: A committee including representatives from a wide-range of university groups and offices met to make suggestions on revisions to policies governing use of the new Library Plaza. Additional suggestions shall be considered for future drafts of the rules.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may submit comments to Robert R. Hoon, Executive Assistant, Business Affairs, Washington State University, 432 French Administration Building, Pullman, WA 99164-1045.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

**WSR 94-13-150**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**  
[Filed June 21, 1994, 10:12 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 28B.30.095, 28B.30.125.

Reasons Why the New Rule is Needed: The health and safety regulations need to be updated to reflect university policy.

Goals of New Rule: To implement a smoking regulation consistent with state and university policy; and to state accurately the rules regarding control of pets on campus.

Process for Developing New Rule: A smoking regulation reflecting state policy on smoking in public buildings has been drafted. A number of people have suggested the need to update the rules regarding pets as the current rules do not accurately reflect situations in which pets are allowed in university buildings, such as situations when pets are required for a disabled individual.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may submit comments to Robert R. Hoon, Executive Assistant, Business Affairs, Washington State University, 432 French Administration Building, Pullman, WA 99164-1045.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

**WSR 94-13-151**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**  
[Filed June 21, 1994, 10:13 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 28B.30.095, 28B.30.125.

Reasons Why the New Rule is Needed: The rules governing the use of the library need to be updated to reflect changes in practices and procedures.

Goals of New Rule: To notify users of the Washington State University libraries of practices and procedures used by the library.

Process for Developing New Rule: A committee of library personnel revised existing rules based on experiences with the practices and procedures of the library. Two campus library advisory committees reviewed this draft. Their suggestions were reflected in the final draft. Additional suggestions will be considered for future drafts of the rules.

How Interested Parties can Participate in Formulation of the New Rule: Comments and ideas may be submitted to Nancy Baker, Director of Libraries, Washington State University, Library Administrative Office, Pullman, Washington 99164-5610.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

**WSR 94-13-152**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**  
[Filed June 21, 1994, 10:14 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.150, 28B.30.095, 28B.30.125.

Reasons Why the New Rule is Needed: University personnel determined that there existed a need for a mechanism for students to appeal a residency determination by the Office of Admissions. Currently, students may appeal to a committee for reconsideration of a residency determination.

Goals of New Rule: To state the process by which a student may file an appeal of a residency determination.

Process for Developing New Rule: Rules were drafted based on the committee process currently used. Additional ideas and comments will be considered in future drafts of these rules.

How Interested Parties can Participate in Formulation of the New Rule: Comments and ideas may be submitted to Steve Burkett, Assistant Dean of the Graduate School, Washington State University, 324 French Administration Building, Pullman, WA 99164-1030.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

**WSR 94-13-153**  
**PREPROPOSAL STATEMENT OF INTENT**  
**WASHINGTON STATE UNIVERSITY**  
[Filed June 21, 1994, 10:15 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.30.125, 28B.30.150, 28B.30.095.

Reasons Why the New Rule is Needed: The existing Washington State University parking regulations are out of date.

Goals of New Rule: To state accurately parking regulations; and to put the public on notice as to new parking regulations.

Process for Developing New Rule: During the next year, a committee of campus representatives will review the existing rules and make suggestions for revisions.

How Interested Parties can Participate in Formulation of the New Rule: Comments and ideas may be submitted to John Shaheen, Assistant Director, Department of Public Safety, Washington State University, Safety Building, Pullman, Washington 99164-7300.

June 17, 1994  
Lou Ann Pasquan  
Rules Coordinator

**WSR 94-13-155**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF ECOLOGY**  
[Filed June 21, 1994, 10:20 a.m.]

Specific Statutory Authority for New Rule: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Reasons Why the New Rule is Needed: This rule amendment has been requested by the city of Shelton to update the Shelton shoreline master program.

Goals of New Rule: To assure protection of the unique character of the city of Shelton by implementing policies and regulations for land use along the shorelines that are consistent with the Shoreline Management Act of 1971. These provisions should ensure that the overall design of land use patterns will locate activities and development in areas of the shoreline that will be compatible with adjacent land uses and will not needlessly diminish the quality of the shoreline environment.

Process for Developing New Rule: Rule development process, this rule has been reviewed by the Planning Advisory Committee and the Shoreline Advisory Groups at public meetings.

How Interested Parties can Participate in Formulation of the New Rule: The next public hearing will be held in Shelton by the city council. It will be held in late June or in July. Contact Mr. Joe Williams at (206) 459-9731 for the date and location of Shelton's hearing. Notice of ecology's hearing will be published in the state Register. Contact Linda Whitcher, Ecology, P.O. Box 47775, Olympia, WA 98504-7775, to be placed on the mailing list to be sent notice of the hearing.

June 16, 1994  
Linda Crerar  
Water and Shorelands  
Assistant Director

Floor, Tacoma Municipal Building, 747 Market Street,  
Tacoma.

How Interested Parties can Participate in Formulation of the New Rule: The city council will hold a hearing on these amendments in July 1994. For more information call Molly Marciano or Peter Katich at (206) 591-5363. Ecology will hold a public hearing in Tacoma. Notice of this hearing will be published in the state Register. Contact Linda Whitcher, (206) 407-6523, to be placed on the notification list for this hearing.

June 16, 1994  
Linda Crerar  
Water and Shorelands  
Assistant Director

**WSR 94-13-156**

**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF ECOLOGY**

[Filed June 21, 1994, 10:21 a.m.]

Specific Statutory Authority for New Rule: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Reasons Why the New Rule is Needed: The city of Seattle has requested this rule to allow amendment of the Seattle shoreline master program.

Goals of New Rule: To allow limited nonwater-dependent commercial uses on historic vessels moored in the urban maritime shoreline environment. The amendment is intended to offer similar provision in the urban maritime (UM) environment for historic vessels as found in the urban stable (US) environment. This would increase the moorage opportunities for historic vessels whose livelihood is dependent on nonwater-related commercial uses.

Process for Developing New Rule: The rule has been reviewed by the Seattle shoreline coalition and has gone through interdepartment review at the city level. The Land Use Committee of the Seattle city council held a public hearing on this amendment on July [June] 5, 1994.

How Interested Parties can Participate in Formulation of the New Rule: The next public hearing will be held in Seattle by ecology. Notice of ecology's hearing will be published in the state register. Contact Alice Schisel or Ray Hellwig at (206) 649-7096, Ecology, 3190 160th Avenue S.E., Bellevue, WA 98008-5452, to be placed on the mailing list to be sent notice of the hearing.

June 16, 1994  
Linda Crerar  
Water and Shorelands  
Assistant Director

**WSR 94-13-158**  
**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF ECOLOGY**

[Filed June 21, 1994, 10:23 a.m.]

Specific Statutory Authority for New Rule: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Reasons Why the New Rule is Needed: The city of Orting has requested this rule amendment to rewrite the Orting shoreline master program.

Goals of New Rule: To establish environmental designations, policies, regulations and administrative procedures for the shorelines of the Puyallup and Carbon rivers within Orting's city limits.

Process for Developing New Rule: This rule has been reviewed by the Orting Planning Commission and city council at public meetings and public hearings.

How Interested Parties can Participate in Formulation of the New Rule: The next public hearing will be held by ecology, tentatively in the summer of 1994. Contact Linda Whitcher, Department of Ecology, P.O. Box 47775, Olympia, WA 98504-7775 for a copy of the rule (206) 407-6523 or to be placed on the mailing list to be sent notice of the hearing.

June 16, 1994  
Linda Crerar  
Water and Shorelands  
Assistant Director

**WSR 94-13-157**

**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF ECOLOGY**

[Filed June 21, 1994, 10:22 a.m.]

Specific Statutory Authority for New Rule: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Reasons Why the New Rule is Needed: This amendment has been requested by the city of Tacoma to update the Tacoma shoreline master program.

Goals of New Rule: To reflect the unique shoreline conditions and development requirements which exist and are projected in the city of Tacoma. The master program was developed to be general, comprehensive, and long-range in order to be applicable to the entire city shoreline for a reasonable length of time under changing conditions.

Process for Developing New Rule: This rule has been reviewed at a public hearing by the Tacoma Planning Commission. Copies of the draft amendments are available for review at the Tacoma Public Works Department, Third

Preproposal

**WSR 94-13-159**  
**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF ECOLOGY**

[Filed June 21, 1994, 10:24 a.m.]

Specific Statutory Authority for New Rule: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Reasons Why the New Rule is Needed: The city of Renton has requested this rule amendment to update the Renton shoreline master program.

Goals of New Rule: Designate Springbrook Creek between Grady Way and S.W. 43rd Street, as a shoreline of the city; designate portions of Springbrook Creek as conservancy or urban; modify the definition of "wetlands" or "wetland areas"; remove the 100 year floodplains from the

definition of wetland/wetland areas; and clarify the appeal procedure.

This rule has been reviewed by the Renton City Planning Commission, Environmental Review Committee and city council at public meetings and hearings.

**How Interested Parties can Participate in Formulation of the New Rule:** The next public hearing will be held by ecology, tentatively in August 1994. Contact Barry Wenger, Department of Ecology, 3190 160th Avenue S.E., Bellevue, WA 98008-5452 for a copy of the rule (206) 649-7244 or to be placed on the mailing list to be sent notice of the hearing.

June 16, 1994

Linda Crerar  
Water and Shorelands  
Assistant Director

### WSR 94-13-160

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF ECOLOGY

[Filed June 21, 1994, 10:25 a.m.]

**Specific Statutory Authority for New Rule:** Chapter 90.58 RCW, Shoreline Management Act of 1971.

**Reasons Why the New Rule is Needed:** The city of Port Angeles has requested this rule amendment to update the Port Angeles shoreline master program.

**Goals of New Rule:** To establish and implement policies and regulations for shoreline use within Port Angeles consistent with the Shoreline Management Act of 1971; and to insure that proposed shoreline uses are located and developed in such a manner as to retain or improve the quality of the environment, and to insure that proposed shoreline uses are located and developed in such a manner as to retain or improve the quality of the environment.

**Process for Developing New Rule:** This rule has been reviewed by the Citizen Advisory Committee and the Planning Commission at public meetings.

**How Interested Parties can Participate in Formulation of the New Rule:** The Port Angeles city council will hold a public hearing on this master program in August or September 1994. Contact Mr. Joe Jimerson, AICP, Associate Planner, City of Port Angeles Planning, P.O. Box 1150, Port Angeles, WA 98362, (206) 457-0411 ext. 176, for additional information. Notice of ecology's hearing will be published in the state register. Contact Linda Whitcher, Ecology, P.O. Box 47775, Olympia, WA 98504-7775, to be placed on the mailing list to be sent notice of ecology's hearing.

June 16, 1994

Linda Crerar  
Waste and Shorelands  
Assistant Director

### WSR 94-13-161

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF ECOLOGY

[Filed June 21, 1994, 10:26 a.m.]

**Specific Statutory Authority for New Rule:** The legal basis for the marine finfish rearing facilities sediment criteria

rule (an amendment to sediment management standards, chapter 173-204 WAC) is contained in SHB 1169 which was signed into law and codified as RCW 90.48.220. The bill modifies the Water Pollution Control Act, chapter 90.48 RCW and mandates ecology to develop the following: Not later than October 31, 1994, ecology shall adopt criteria under chapter 34.05 RCW for allowable sediment impacts from organic enrichment due to marine finfish rearing facilities (i.e., aquaculture of fish in floating net-pens).

**Reasons Why the New Rule is Needed:** The purpose of this sediment management standards (SMS) rule amendment is for ecology to develop and adopt sediment quality standards (SQS) that will establish chemical and/or biological sediment criteria for the allowable sediment impacts from net-pens. Once the net-pen sediment criteria are adopted, they will become permit compliance requirements for national pollutant discharge elimination system (NPDES) permits for net-pen facilities.

**Goals of New Rule:** The net-pen chemical and/or biological sediment criteria (e.g., benthic abundance standards) are intended to prevent adverse impacts of contaminated sediment on the marine environment. The net-pen SQS, which are being developed to apply to Puget Sound sediments, will be consistent with the existing construct of the SMS rule. In conjunction with a companion NPDES rule, the SQS will also provide regulatory certainty for net-pen facility operations and a definitive basis for local permitting of net-pen facilities.

**Process for Developing New Rule:** Ecology's sediment management unit (SMU) staff has formed three advisory committees. First, the net pen advisory workgroup (NPAW) consists of stakeholders from the net-pen industry (commercial and enhancement), local, state, and federal agencies, environmental groups, and tribal governments. This committee meets on a regular basis and due to their technical and background expertise are essential in ecology's development of the technical language of the net-pen rule. Second, the SMS Implementation Committee, a SMS policy rule/implementation advisory committee, is also actively involved in the net-pen rule development process by reviewing and commenting on key policy issues of the draft SMS net-pen rule. Third, an Interagency Rules Committee will be formed of members from local, state and federal agencies, and a representative from the Canadian government. This committee's primary focus is to ensure that the net-pens sediment criteria rule amendment does not conflict, duplicate and overlap other state and federal laws or rules. Finally, ecology will develop the technical sections of the net-pen rule (e.g., the net-pen SQS) by reviewing background information, incorporating recommendations from interagency memorandums, and conducting the necessary technical research.

**How Interested Parties can Participate in Formulation of the New Rule:** The rule development process information will be conveyed through the three advisory committees and by a public workshop. Public notification of intent to develop the marine finfish rearing facilities sediment criteria rule will be by: Focus sheets, direct mailings to affiliations that represent the industry, paid newspaper advertisements, ecology newsletters, environmental newsletters, informational committees, workshop, hearing, and meetings, and outreach to interested parties by ecology's SMU. The preliminary

draft rules will be distributed to all interested and concerned parties or anyone requesting information. A responsiveness summary will be prepared to address public comments on the draft rule. The summary will emphasize those comments/recommendations/issues that were incorporated into the final rule. For further information on the net-pen rule activities or to be placed on a distribution list please contact: Pamela Sparks-McConkey, Environmental Review/SMU, Department of Ecology, P.O. Box 47703, Olympia, WA 98504-7703, phone (206) 407-6491, FAX (206) 407-6904.

June 17, 1994

D. J. Patin

Assistant Director

### WSR 94-13-162

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF ECOLOGY

[Filed June 21, 1994, 10:27 a.m.]

Specific Statutory Authority for New Rule: State water code, RCW 90.03.290; Water Resources Act of 1971, RCW 90.54.050; instream resources protection program for the main stem Columbia River in Washington state, WAC 173-563-090.

Reasons Why the New Rule is Needed: In 1992 ecology adopted rules establishing a moratorium on new water rights from the Snake River and the Columbia River above Bonneville Dam. The rules included an expiration date of June 30, 1994, by which date ecology expected to answer key questions related to water availability. Due to the increasingly complex circumstances associated with water availability in the Columbia Basin, those questions have not been definitely answered and it is necessary to extend the moratorium.

Goals of New Rule: These rules will provide ecology the additional time needed to monitor the impact of various activities which may affect water availability in the Columbia Basin, and to benefit from new studies on the relationship between flows and fish survival.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Thom Lufkin, Water Resources Program, (206) 407-6631, FAX (206) 407-7162; Renee Guillierie, Public Information, (206) 407-6159. Direct written inquires or comments to: Thom Lufkin, Water Resources Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600. There will be a public hearing in each of the eighteen counties which the Columbia or Snake rivers pass through or border. Information about the hearings will be published in a later state Register and in local newspapers.

June 20, 1994

Linda G. Crerar  
Assistant Director

### WSR 94-13-165

#### PREPROPOSAL STATEMENT OF INTENT HEALTH SERVICES COMMISSION

[Filed June 21, 1994, 11:30 a.m.]

Specific Statutory Authority for New Rule: Employer participation, RCW 43.72.220(5); general rulemaking authority from RCW 43.72.040(3) related the provisions included in conscience or religion, RCW 43.72.200 and individual participation, RCW 43.72.210.

Reasons Why the New Rule is Needed: Beginning July 1, 1995, on a phased-in basis, Washington health plans, providers, individuals, and employers will be required to participate in the uniform benefits package. For some the imposition of this participation requirement may constitute a violation of the freedom of religion provisions set forth in the U.S. Constitution or Article I, Section 11, of the state Constitution. The commission needs to adopt rules that accommodate people who decline to participate in the uniform benefits package for reasons of conscience or religion.

Goals of New Rule: The goal of the new rule is to define the appropriate methods of permitting individuals, providers, certified health plans, and employers to waive participation in coverage under a uniform benefits package based on conscience or religion.

Process for Developing New Rule: The commission is seeking written comments from health plans, consumers, providers, and others on the questions presented in the preproposal statement of intent shown below. Waivers for Reasons of Conscience or Religion. In submitting your written comments to the commission, please refer to this title: "**Waivers for Reasons of Conscience or Religion.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking comments from health plans, consumers, employers, providers, and others about how best to accommodate people who decline to participate in the provision of any benefit included in the uniform benefits package or approved supplementals, or refuse to purchase or obtain health insurance coverage for reasons of conscience or religion. These comments will assist the commission in understanding the impacts and practical consequences of implementing RCW 43.72.200 (conscience or religion), 43.72.210 (individual participation), and 43.72.220(5) (employer participation) of the Washington Health Services Act of 1993.

#### **Provisions related to certified health plans and providers**

In recognizing instances of certified health plan or provider refusal to participate based on conscience or religion, the legislature instructed the commission to implement the following provisions of the act:

(1) Certified health plans, facilities, and providers shall be exempted from participating in provisions of the Act or contracts if they object to doing so for reasons of conscience or religion. As a result, a plan or provider may refuse to provide specific services included in the uniform benefits package or approved supplementals.

(2) Certified health plans, provider groups, or facilities are prohibited from discriminating against any person in employment or professional privileges because they refuse for reasons of conscience or religion to participate in the provision of any health services.

(3) Enrollee shall be guaranteed timely access to any service included in the uniform benefits package or approved supplementals that is not covered by their certified health plan. Plans are required to provide written notice of the exclusion(s) to enrollee upon enrollment with the plan and upon enrollee request thereafter. The notice must include a listing, by facility or provider, of all health services that any facility or provider refuses to perform for reasons of conscience or religion.

(4) Certified health plans must offer written information to enrollees describing how an enrollee may directly access, in an expeditious manner, services that a provider refuses to perform or a plan refuses to cover.

#### **Provisions related to individuals**

In recognizing instances of individual refusal to participate based on conscience or religion, the legislature instructed the commission to implement the following provision of the act:

(1) The requirement to purchase the uniform benefits package shall be waived if the imposition of this requirement would constitute a violation of the freedom of religion provisions set forth in the First Amendment to the U.S. Constitution or Article I, Section 11, of the state Constitution.

#### **Provisions related to employers**

In recognizing instances of employer refusal to participate based on conscience or religion, the legislature instructed the commission to implement the following provisions of the act:

(1) The requirement to contribute to the purchase of the uniform benefits package shall be waived if the imposition of this requirement would constitute a violation of the freedom of religion provision of the U.S. Constitution or Article I, Section 11, of the state Constitution; and

(2) Pursuant to guidelines adopted by the commission, employers who refuse to participate for reasons of conscience or religion would be required to set aside an amount equal to the applicable employer contribution in a manner that would permit his or her employee to purchase the uniform benefits package in compliance with the requirements of the act.

The act intends for individuals, providers, plans, and employers to be able to avoid participating in provisions of the act to which they object. The commission is particularly interested in receiving comments in response to the following questions regarding the conscience and religion provisions of the act:

(1) How will certified health plans that do not provide certain health services for reasons of conscience or religion notify enrollees of their refusal to provide these services and subsequently refer enrollees to appropriate providers?

(2) Should certified health plans be required to allow individuals to disenroll if the enrollee learns that their plan does not provide desired health services?

(3) What provision should the state make to allow enrollees in certified health plans that exclude specific services access to their coverage for these services? For

example, should the Health Care Authority be required to withhold and manage a portion of the premium equivalent to the value of the benefit(s) plus a share of the administrative component of the premium?

(4) Should individuals who invoke the conscience or religion provisions be responsible for the costs of any subsequent health services they receive?

(5) Should employers be required to provide an employee who refuses to participate in health insurance coverage with another benefit or compensation of an amount equal to the contribution that would have been made for a health benefit?

(6) Should employers who refuse to offer a certified health plan that includes coverage for specified services be required to pay their contribution to the employee's health coverage to a health insurance purchasing cooperative so the employee may choose coverage which includes these services?

(7) Can an employer invoke the conscience or religion provisions as a basis for offering less than three certified health plans to employees?

(8) Are the provisions of the act adequate to assure that individuals, plans, providers, and employers are not required to participate in provisions of the act they object to for reasons of conscience or religion?

(9) Should certified health plans, providers, individuals, and employers be required to declare or in some manner demonstrate their basis for invoking the conscience or religion provision of the act?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington State Health Services Commission, P.O. Box 41197, Olympia, WA 98504-1197, FAX (206) 407-0069. Questions about the Preproposal: Call Nancy Long, Policy Analyst, at (206) 407-0154.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

### **WSR 94-13-166 PREPROPOSAL STATEMENT OF INTENT HEALTH SERVICES COMMISSION**

[Filed June 21, 1994, 11:31 a.m.]

Specific Statutory Authority for New Rule: PSHB 2443 (amending chapter 43.72 RCW).

Reasons Why the New Rule is Needed: PSHB 2443 extends coverage to seasonal employees. Rules are required to establish definitions.

Goals of New Rule: Define "seasonal employee" and identify additional industry classifications, if any, in the definition of seasonal employer.

Process for Developing New Rule: The commission is seeking written comments from employers, employees, health plans, consumers, providers, and others. In addition, citizen advice will be provided through a Seasonal Employment Advisory Committee.

**Seasonal Employment.** In submitting your written comments to the commission, please refer to this title:

**"Seasonal Employment."** If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking comments from employers, employees, health plans, consumers, providers, and others as to the implementation of PSHB 2443 extending the provisions of chapter 43.72 RCW (the Washington Health Services Act of 1993) to seasonal employees and their employers.

The act, as amended by PSHB 2443, requires the commission, in consultation with the Seasonal Employment Advisory Committee, to:

- (1) Define "seasonal employee;"
- (2) Conduct an analysis of the financial impact of health insurance coverage on seasonal employees and their employers;
- (3) Determine the extent to which coverage mechanisms should be modified, if at all, to meet the unique characteristics and needs of seasonal employees and their employers; and
- (4) Develop a mechanism to determine the date upon which an employer's participation under RCW 43.72.220 begins.

In addition, the act gives the commission discretion to add industry classifications to those listed in PSHB 2443(1) for seasonal employers.

**Current ideas under consideration**

Prior to including seasonal employees, the act defined "seasonal employee" as any person who works:

- (1) For one or more employers during the calendar year;
- (2) For six months or less per year; and
- (3) For at least half-time per month, during a designated season, within the same industry sector designated by the commission.

Now that seasonal employees are covered by the act, it is unclear as to the need to define "seasonal employee" unless the coverage mechanism is somehow different than for other employees.

The coverage mechanism of PSHB 2443 (2)(c)(ii) proposes a minimum hourly rate, calculated on the basis of a 120-hour month, paid by employers on the first 30 hours of each week worked by a seasonal employee. This differs from the method of prorating premiums outlined in RCW 43.72.220 (3)(b) for part-time employees, which is also based on a 120-hour month, but with no restriction on contributions beyond 30 hours worked in a week. In fact, RCW 43.72.010(20) defines "qualified employee" as an employee who is employed at least 30 hours in a week or 120 hours during a calendar month. Therefore, technically, once a worker exceeds 30 hours in any week, the employer may be obligated to pay at least 50 percent of the premium of the lowest-cost certified health plan.

The act (RCW 43.72.220) phases in employer participation by size of employer, based on the number of qualified employees. For employers with a large seasonal work force, a mechanism is needed to count employees. Also, the application of the definition of qualified employee to seasonal employees who work more than 30 hours in a week would affect the employee count.

The act requires an analysis of the financial impact on seasonal employees and employers, a consideration of available subsidies, and the feasibility of establishing a centralized depository. The commission is considering expanding the impact study underway for the Small Business Advisory Committee to include a greater number of seasonal employers. This involves a telephone survey focused on work force, payroll, and health benefit issues. The Health Care Authority is developing a depository for part-time employees. The commission is required by the act to consider the appropriateness of using the part-time depository for seasonal employees.

Comments are encouraged to address any aspect of seasonal employee coverage. The commission is particularly interested in comments responding to the following questions:

- (1) What, if anything, is unique about seasonal employees (with regard to health insurance coverage) that might require a different contribution formula or coverage mechanism than for other part-time employees?
- (2) How might the term "seasonal employee" be defined to capture the unique characteristics identified above?
- (3) If a seasonal employee works 30 hours in a week, should he/she be considered a qualified employee?
- (4) What criteria might the commission use to include other industry classifications in the definition of seasonal employer (SHB 2443(1))?
- (5) What industry classifications, if any, should the commission consider adding to the definition of seasonal employer (SHB 2443(1))?
- (6) What mechanism might the commission use to count employees for the purposes of determining the employer participation date?
- (7) What questions are important to ask in the telephone survey of seasonal employers?
- (8) What data should the commission consider to assess financial impacts on seasonal employers?
- (9) What data should the commission consider to assess financial impacts on seasonal employees?
- (10) What are the potential advantages/disadvantages of using a centralized (part-time) depository for the receipt and distribution of health insurance premiums to certified health plans?
- (11) What health services access and delivery issues are unique to seasonal employees?

**How Interested Parties can Participate in Formulation of the New Rule:** Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41196, Olympia, WA 98504-1196, FAX (206) 407-0069. Questions about the Preproposal: Call Tom Ansart, Policy Analyst, at (206) 407-0210.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-13-167**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**  
 [Filed June 21, 1994, 11:32 a.m.]

Specific Statutory Authority for New Rule: RCW 43.72.040(22) Cross border employees and employers; 43.72.210 Individual participation; 43.72.220 Employer participation.

Reasons Why the New Rule is Needed: Rules are needed to assure that persons who work in Washington state but do not live in the state or persons who live in the state but work out of state receive coverage comparable to those who both live and work the state. Rules may also be needed to address: Inequities between Washington state employers and employers from other states; and address potential inequities between Washington state employees and employees from other states.

Goals of New Rule: The new rules will assure that businesses and residents are not unfairly disadvantaged or jeopardized by health reform; and all Washington residents have access to appropriate and effective health services.

Process for Developing New Rule: The commission is seeking written comments from health plans, employers, employees, consumers, and other affected parties on cross state border issues. An issue investigation group has provided recommendations, and the commission has interviewed numerous people currently involved in health plans and service delivery systems that cross state borders.

**Border Individual/Employer Participation.** In submitting your written comments to the commission, please refer to this title: "**Border Individual/Employer Participation.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** RCW 43.72.040(22) of the Washington Health Services Act of 1993 directs the Washington Health Services Commission to "develop rules for implementation of individual and employer participation under RCW 43.72.210 and 43.72.220 specifically applicable to persons who work in this state but do not live in the state or persons who live in this state but work outside the state. The rules shall be designed so that these persons receive coverage and financial requirements that are comparable to that received by persons who both live and work in the state."

RCW 43.72.210 states that "all residents of the state of Washington are required to purchase a uniform benefits package from a certified health plan no later than July 1, 1999. Residents of the state of Washington who work in another state for an out-of-state employer shall be deemed to have satisfied the requirements of this section if they receive health insurance coverage through such employer."

RCW 43.72.220 mandates employers to offer a choice of three available certified health plans, one of which will be the lowest-cost package within the geographic region, to "all qualified employees." The employer is required to pay no less than fifty percent of the premium cost of the lowest-cost available package for qualified employees and employees' dependents.

A qualified employee is defined as "an employee who is employed at least thirty hours during a week or one hundred and twenty hours during a calendar month." RCW 43.72.010(20).

Under current law, Washington state employers are required to offer the uniform benefits package only to Washington residents. A Washington resident is defined in the act as "a person who intends to reside in the state permanently or indefinitely and who did not move to Washington for the primary purpose of securing health services . . . and . . . people and their accompanying family members who are residing in the state for the purpose of engaging in employment for at least one month, who did not enter the state for the primary purpose of obtaining health services." (RCW 43.72.010(25)).

Employee is defined in the act as a resident who is in the employment of an employer. In determining whether a person will be considered within the employment of an employer, the act incorporates chapter 50.04 RCW. This states that employment consists of an individual's service performed in or out of the state if the services provided by the person are "localized in" Washington state. Services are considered "localized in" Washington if they are performed entirely within the state, or include isolated transactions in other states of a temporary or transitory nature.

Employer is defined expressly to include any entity, whether domestic or foreign. It is important to note that the location of the employer is not relevant to the determination of whether or not an individual is an "employee" within Washington state.

The following table illustrates the conditions under which the employer mandate (RCW 43.72.220) and the individual mandate (RCW 43.72.210) apply under the act. Note that the location of the employer does not affect either mandate.

Location of Employer	Employee's Residency	Location of Employment	Mandates
1. Other state	Other state	Washington	No mandates
2. Other state	Washington	Washington	Individual/ employer mandate
3. Other state	Washington	Other state	Individual mandate
4. Washington	Other state	Washington	No mandates
5. Washington	Washington	Other state	Individual mandate
6. Washington	Other state	Other state	No mandates

When combined with other statutory definitions and laws, the act indicates that the only conditions under which the commission has the authority to establish rules under RCW 43.72.220 is when the employee is (1) a resident of Washington state; and (2) the place of employment is also Washington state. Both conditions must be present before the employer mandate applies. If both conditions are present, it is irrelevant whether the employer is located in Washington state or other states.

The commission has the authority to establish rules under RCW 43.72.210 only if the individual is a resident of the state of Washington. Thus, the commission does not

have the statutory authority to develop rules for individual and employer participation for persons who work in Washington state.

With the foregoing in mind, the commission is seeking comments from employers, employees, health plans, consumers, and others concerning the following issues:

(1) Current law prohibits the commission from enforcing the employer mandate on Washington employers for their employees who are residents of other states. This may place prospective employees who are Washington residents at a hiring disadvantage compared to residents of other states. The issue investigation group on border issues recommends the commission pursue interstate compacts to resolve these potential inequities. The commission is interested in other types of processes or mechanisms as solutions to address such issues. What types of processes or mechanisms should the commission consider to equalize this potential inequity?

(2) In some instances, the employer mandate may place Washington employers at a market disadvantage with employers from other states who do business in Washington state but employ out-of-state residents. Under these conditions, neither the employer mandate nor the individual mandate applies to employers and their employees from other states. The issue investigation group on border issues recommends the commission pursue interstate compacts to resolve these inequities. The commission is interested in other types of processes or mechanisms as solutions to this potential problem. What other alternatives should the commission examine? What is the potential magnitude of this problem? Are particular types of businesses more likely impacted than others? If so, which ones?

(3) Certified health plans will be allowed to contract with providers on either side of Washington state's borders, as long as other standards for certification are met. This will assist residents, employees, and employers on both sides of the border who are affected by the employer mandate and/or the individual mandate. The commission is interested in comments regarding the implications of the act on health plans operating in border areas. What are the administrative burdens of operating in multiple states? Are there any mitigating strategies the commission should consider to minimize these administrative impacts?

(4) For Washington residents employed in other states who receive health benefits from their out-of-state employers, what is the best mechanism to:

(a) Assure their coverage is comparable to the uniform benefits package;

(b) Assure their dependents are covered; and

(c) Obtain information on cost, health status, and quality for monitoring purposes?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41195, Olympia, WA 98504-1195, FAX (206) 407-0069. Questions about the Preproposal: Call Michelle Vest, Policy Analyst, at (206) 407-0153.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

## WSR 94-13-168

### PREPROPOSAL STATEMENT OF INTENT HEALTH SERVICES COMMISSION

[Filed June 21, 1994, 11:33 a.m.]

Specific Statutory Authority for New Rule: RCW 43.72.080 Health insurance purchasing cooperatives.

Reasons Why the New Rule is Needed: Rules must be developed which implement the health insurance purchasing cooperatives and establish the rules governing the charter and bylaw provisions of purchasing cooperatives. The commission must also establish the boundaries of the regions served by the cooperatives.

Goals of New Rule: The new rule will define the operations of health insurance purchasing cooperatives in a way that clarifies the functions of these organizations; specify that all available certified health plans will be offered to anyone who wants to join the purchasing cooperative; facilitate the sale and purchase of supplemental policies and health service programs; develop, encourage, and provide incentives for employee wellness programs; and establish cooperatives as an ombudsman for the members to resolve inquiries, complaints, and other concerns. An additional goal of the rule is to establish the geographic boundaries for the cooperative regions.

Process for Developing New Rule: The commission is seeking written comments from health plans, consumers, providers and others on the questions presented in the Preproposal Statement of Intent shown below. Preparation of this preproposal was assisted by responses to an earlier discussion paper presented to the Stakeholder and Small Business Advisory Committees and circulated to interested parties.

**Health Insurance Purchasing Cooperatives.** In submitting your written comments to the commission, please refer to this title: "**Health Insurance Purchasing Cooperatives.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking comments from employers, health plans, consumers, providers, and others about how best to implement the health insurance purchasing cooperatives authorized by the Washington Health Services Act of 1993. Purchasing cooperatives would be member owned and governed nonprofit organizations. The Office of the Insurance Commissioner is authorized to select a purchasing cooperative to serve an area.

The purchasing cooperatives would not perform the same role as current cooperatives or trusts and would be quite different from the alliances being proposed as a part of national reform. Since the act requires community-rated premiums, purchasing cooperatives would not be able to pool small groups and individuals in order to aggregate purchasing power. They would be noncompeting voluntary organizations intended to reduce administrative costs to purchasers while enhancing consumer choice and improving continuity of coverage. The roles assigned to purchasing cooperatives in the act are as follows:

(1) Offer all available certified health plans to anyone who wants to join the purchasing cooperative;

(2) Reduce administrative costs of employers by coordinating enrollment and collecting and distributing premiums;

(3) Provide consumers with a rating system or other mechanism for evaluating the plans available to them;

(4) Facilitate the sale and purchase of supplemental policies and health service programs;

(5) Serve as an ombudsman for the members to resolve inquiries, complaints, or other concerns; and

(6) Develop, encourage, and provide incentives for employee wellness programs.

Purchasing cooperatives would accept premium contributions from employers and bill individuals for their share of the premium, if there is employee participation, or they could provide the employer with a bill that would identify the employee's share of the premium cost as well as the employer's contribution. The employee's share of the cost would then be collected through a payroll deduction. The purchasing cooperative would then advise employees on their choice among all certified health plans available in the region and distribute the premiums to the appropriate plan.

The commission is considering a premium rating structure that would allow employers who can identify the potential for duplicated coverage to coordinate their premium contributions directly or through a purchasing cooperative in order to reduce the premium costs to employers and employees. The purchasing cooperatives would also be able to assist member employers in identifying the lowest-cost plan in the area that must be offered by all employers.

The commission is seeking general comments regarding development of the purchasing cooperatives, as well as responses to the following questions:

(1) What criteria should be used to select the purchasing cooperatives?

(2) Should individual employees be able to choose to have their employer's contribution to a health insurance premium paid to the purchasing cooperative in order to increase choice and facilitate family enrollment in one plan?

(3) Should the employee pay the purchasing cooperative's fee if the employee requests that their premium be paid to a cooperative?

(4) Should the statewide enrollment system that is being developed be made available directly to employers as well as through purchasing cooperatives so employers can coordinate the eligibility of spouses and dependents? (This system would allow employers and employees to eliminate excess premium payments.)

(5) Since all purchasing cooperatives will be required to develop compatible enrollment systems, should a cooperative be allowed to convey employer premiums to another cooperative if the employer has employees in multiple regions?

(6) Should the assessment charged by purchasing cooperatives be limited? At what level should it be set? Should it be calculated as a percentage of the premium or as a fixed dollar amount per employee or per subscriber (member)?

(7) What kind of employee wellness programs should purchasing cooperatives promote or make available? How should wellness programs be funded?

(8) Should purchasing cooperatives be able to provide health education, demand management services such as

consulting nurses and self-care training, and consumer referral services as a part of their services?

(9) When should purchasing cooperatives be available?

(10) What factors should be used to determine the four geographic regions required by the act? In general, what geographic boundaries would be appropriate?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41194, Olympia, WA 98504-1194, FAX (206) 407-0069. Questions about the Preproposal: Call Nancy Long, Policy Analyst, at (206) 407-0154.

June 21, 1994

Bernadene Dochnahl  
Commission Chair

### WSR 94-13-169

#### PREPROPOSAL STATEMENT OF INTENT HEALTH SERVICES COMMISSION

[Filed June 21, 1994, 11:34 a.m.]

Specific Statutory Authority for New Rule: RCW 43.72.130(5) and 43.72.220 (4)(c), Coordination of benefits and premium payments.

Reasons Why the New Rule is Needed: Rules on the coordination of benefits and premium payments are needed to increase the ability of consumers to choose their certified health plans; allow families to enroll in the same plan; avoid excess premium payments and multiple coverages; and coordinate multiple coverages of premium payments, including state subsidies.

Goals of New Rule: The goals of the new rules are to enhance the ability of certified health plans to coordinate care for those benefits included in the uniform benefits package, as well as the supplemental benefits; eradicate the possibility of individuals coordinating coverage under two uniform benefits packages in order to eliminate point of service cost sharing requirements; minimize incentives to discriminate in hiring decisions against individuals with a particular family structure; and treat employers of all sizes fairly.

Process for Developing New Rule: The commission is seeking written comments from health plans, consumers, providers, and others on the questions presented in the Preproposal Statement of Intent shown below. In addition, the commission has established in issue investigation group to study these matters.

**Coordination of Benefits and Premium Payments.** In submitting your written comments to the commission, please refer to this title: "**Coordination of Benefits and Premium Payments.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking comments from employers, health plans, consumers, providers, and others about how best to coordinate benefits and premium payments under the reformed health system. The following preliminary goals, recommended to the commission by the issue

investigation group on coordination of benefits, are guiding the development of rules related to such coordination:

(1) The ability of certified health plans to coordinate care for those benefits included in the uniform benefits package, as well as supplemental benefits, should be enhanced;

(2) The ability of consumers to choose a certified health plan different than the plans offered by their employers should be increased;

(3) Families should have the option to enroll in the same plan;

(4) Excess premium payments and multiple coverages for the same benefits should be minimized;

(5) Multiple sources of premium payments, including state subsidies, should be coordinated;

(6) Individuals should not be able to coordinate coverage under two uniform benefits packages in order to eliminate point of service cost-sharing requirements;

(7) Incentives to discriminate in hiring decisions against individuals with a particular family structure should be minimized; and

(8) Employers of all sizes who provide health coverage should be treated fairly.

Please comment on the foregoing preliminary goals. What additional goals, if any, would you recommend?

The commission believes that development of a uniform benefits package will reduce the need for consumers to have multiple coverages. As a result, an effort should be made to avoid duplicate premium payments. This issue is critical to employers who are going to be asked to contribute to dependent coverage, even if the dependent has other coverage available. Developing mechanisms, including health insurance purchasing cooperatives, to coordinate coverage will also reduce the amount employees have to pay when they are paying a portion of the premium. Consumers should experience greater predictability of coverage and have a greater opportunity to choose the certified health plan and providers that are best for them. Employers who provide health care coverage will be treated more fairly and should be able to reduce payments for dependents who already have health coverage. As the specific requirements that apply to employers, employees, and individuals are developed, the commission would like comments on coordination of benefits, coordination of premium payments, and use of health insurance purchasing cooperatives.

#### **Coordination of benefits**

The commission recognizes that many health benefit programs are not included in the reformed health system initially. As a result, some consumers will be coordinating benefits between the uniform benefits package and federal programs (such as federal employee benefits or CHAMPUS) or self-insured employer plans. In these cases, there may be some value to consumers coordinating different benefit designs. The commission would appreciate comments related to coordination of benefits between the uniform benefits package and other forms of coverage.

#### **Coordination of premium payments**

Since the benefits available through certified health plans will be uniform, consumers obtain little value from having access to multiple uniform benefits packages. Since all employers are eventually required to provide coverage for employees and dependents, the amount of excess coverage

could increase greatly over time. If premium payment systems are designed so that consumers will not have multiple coverage, consumers' care may be better coordinated through one plan, and employer costs would be reduced. Avoiding duplication of coverage will also reduce the billing costs of plans and providers.

The premium structure used by the commission will impact the opportunities to coordinate coverage and avoid multiple premium payments. The commission is considering a multiple tier rating structure that expands the traditional four tier rating structure to include a fifth tier. The fifth tier would allow employers and consumers to pay a rate calculated on the basis of the employee and one-half the cost of dependent children. Where both parents work and have health care coverage, this would allow two employers to coordinate coverage so that one family rate is being paid. This reduces the cost to the employer and to the family and eliminates all excess premium payments. Employers could coordinate their premium contributions directly or work through a purchasing cooperative to reduce the premium costs. Please comment on the advantages and disadvantages of using this type of tiered rating structure. Please also respond to the following questions:

(1) Should the rules governing employer contributions and coordination of premium payments prevent individuals from being covered under multiple uniform benefits packages?

(2) Should rules be written and systems designed that would allow individuals and their employers to avoid making excess premium payments?

(3) Should families with two working spouses have the option to enroll in the same plan?

#### **Health Insurance Purchasing Cooperatives**

The Washington Health Services Act of 1993 authorizes the establishment of health insurance purchasing cooperatives that would accept premium contributions from employers; bill individuals for their share of the premium, if there is employee participation; advise employees of their choice among all certified health plans available in the cooperative's region; and distribute premiums to the appropriate plan. Please respond to the following questions:

(1) Should individuals be able to request that their employer convey the employer's contribution to the premium to the purchasing cooperative so the individual may choose from all certified health plans in the area?

(2) Should the enrollment systems of purchasing cooperatives be established so that employers can access information on the coverage of employee spouses to avoid excess payments?

(3) Should employees pay the purchasing cooperative's fee if the employees request that their premium be paid to a cooperative?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41193, Olympia, WA 98504-1193, FAX (206) 407-0069. Questions about the Preproposal: Call Nancy Long, Policy Analyst, at (206) 407-0154.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-13-170**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**

[Filed June 21, 1994, 11:35 a.m.]

Specific Statutory Authority for New Rule: RCW 43.72.040(23) Experimental and investigative services.

Reasons Why the New Rule is Needed: Rules on experimental and investigative services are needed to provide a uniform definition of experimental or investigative services; establish a uniform process for deciding whether a service is experimental or investigative; and determine the cost-effectiveness of these services.

Goals of New Rule: The goal of the new rule is to define the investigative or experimental state of health services in a way that clarifies coverage for certified health plans, consumers, and the general public; contributes to a rational use of resources; contributes to consumer safety; enhances consumer and provider information; and improves the health outcomes of individuals and the community.

Process for Developing New Rule: The commission is seeking written comments from health plans, consumers, providers and others on the questions presented in the Preproposal Statement of Intent shown below. The enclosed goals and questions were developed by citizen volunteers working with the issue investigation group on experimental and investigative services.

**Experimental and Investigative Services.** In submitting your written comments to the commission, please refer to this title: "**Experimental and Investigative Services.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Act of 1993 establishes the powers and duties of the Washington Health Services Commission, including the authority to "adopt rules that must be used by certified health plans, disability insurers, health care service contractors, and health maintenance organizations to determine whether a procedure, treatment, drug, or other health service is no longer experimental or investigative." (RCW 43.72.040(23)) The Health Services Effectiveness Advisory Committee is responsible for recommending to the commission rules for determining whether a health service is experimental or investigative.

Rules regarding experimental and investigative health services will need to consider a number of ethical, social, medical, and economic factors. Given that over time an experimental or investigative service may prove to be not only efficacious but also may become the standard of care, a clear process for determining the status of a service is essential. Approaches to determining whether experimental services are covered by certified health plans vary widely. The process may include the following entities: Government agencies, health indemnity insurers, managed care organizations, health service contractors, professional societies, and the courts.

The Health Services Effectiveness Advisory Committee has convened two independent issue investigation groups to aid in defining: (1) experimental and investigative services and (2) the role of the state and the commission in determin-

ing not only whether services are investigative or experimental, but more generally whether services are effective. Based on a review of options presented by the issue investigation group, the committee will prepare recommendations to the commission on a process for determining experimental or investigative status.

The committee's recommendations will be guided by the following goals:

- (1) Clarify coverage for certified health plans, providers, consumers, and the public-at-large;
- (2) Maintain or improve the effectiveness of health services and the health outcomes of individuals and the community;
- (3) Assure the affordability of health services;
- (4) Assure access to health services;
- (5) Contribute to consumer safety; and
- (6) Enhance consumer and provider information.

Comments are encouraged to address any aspect of rules on experimental and investigative services. The commission is particularly interested in receiving comments in response to the following questions:

- (1) What is the definition of "experimental and investigative services?"
- (2) Who should be the decision-making body on whether a service is experimental or investigative? In particular, what are the respective roles of:
  - (a) The commission?
  - (b) The individual certified health plans?
  - (c) An external or other agency?
  - (d) The courts?
- (3) Is a review process necessary for all health services or should it be limited in scope to selective criteria such as high cost health services, high risk or high community benefit, high public interest, or high conflict between professional societies, plans, consumer groups, and manufacturers?
- (4) How frequently should health services be reviewed to determine whether they are still experimental or investigative?
- (5) What are the possible financing mechanisms for the costs of these services, including options outside of the uniform benefits package premium?
- (6) What role will certified health plans play in new investigative and experimental studies?
- (7) What is the link or relationship between practice indicators and the definition of experimental services?
- (8) What will experimental and investigative services require of the Health Services Information System?
- (9) What liability issues need to be addressed?
- (10) Should certified health plans be *prohibited* from delivering health services determined to be experimental or investigative unless they are offered as part of a clinical study?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41192, Olympia, WA 98504-1192, FAX (206) 407-0069. Questions about the Preproposal: Call Carla Epps, Policy Analyst, at (206) 407-0155.

June 21, 1994  
 Bernadene Dochnahl  
 Commission Chair

**WSR 94-13-171**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**

[Filed June 21, 1994, 11:36 a.m.]

Specific Statutory Authority for New Rule: Medical risk adjustment, RCW 43.72.040(7).

Reasons Why the New Rule is Needed: Medical risk adjustment mechanisms are needed to minimize financial incentives for certified health plans to enroll individuals who present lower health risks and avoid enrolling individuals who present higher health risks, and also to minimize financial incentives for employer hiring practices that discriminate against individuals who present higher health risks.

Goals of New Rule: Balance the benefits of price competition with the need to protect certified health plans from any unsustainable negative effects of adverse selection; develop a system that creates a risk profile of each plan's enrollee population; use the risk profiles to make financial contributions from plans that enjoy a low-risk enrollee population to plans that have a high-risk enrollee population; and prevent an adjustment of the premium charged for the uniform benefits package or supplemental coverage based upon either receipt or contribution of risk adjustment assessments.

Process for Developing New Rule: The commission is seeking written comments from employers, health plans, consumers, providers and others about how best to implement workable risk adjustment mechanisms. The commission's initial thinking on the medical risk adjustment mechanisms is summarized in the Preproposal Statement of Intent shown below. Comments received will be used to help draft proposed rules for this subject at a future date.

**Medical Risk Adjustment Mechanisms.** In submitting your written comments to the Commission, please refer to this title: "**Medical Risk Adjustment Mechanisms.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking written comments from health plans, consumers, employers, providers, and others about how best to implement workable risk adjustment mechanisms that reduce or eliminate the negative financial incentives that a certified health plan may face in enrolling a sicker than average population. These comments will assist the commission in understanding the impacts and practical consequences of implementing section 406(7) of the Health Services Act of 1993 (now codified as RCW 43.72.040(7)).

In the design of medical risk distribution mechanisms, the legislature instructed the commission to:

- (1) Determine the need for medical risk adjustments;
- (2) Balance the benefits of price competition with the need to protect certified health plans from any unsustainable negative effects of adverse selection;

(3) Consider the development of a system that creates a risk profile of each certified health plan's total enrollee population that: (a) Does not create disincentives for a plan to control benefit utilization; (b) requires contributions from plans that enjoy a low-risk enrollee population to plans that

have a high-risk enrollee population; and (c) does not permit an adjustment of the premium charged for the uniform benefits package or supplemental coverage based upon either receipt or contribution of assessments; and

(4) Consider whether registered employer health plans should be included in any medical risk adjustment mechanism.

**Current Ideas Under Consideration**

The commission staff, in close cooperation with the Office of the Insurance Commissioner, have held discussions with state actuaries, industry representatives, and other experts on medical risk adjustment. There appears to be strong consensus that some form of medical risk adjustment mechanism will be required to help avoid adverse risk among certified health plans, and that this mechanism will need to be in place concurrent with the implementation of the uniform benefits package on July 1, 1995.

The current state of the art in prospective medical risk adjustment is still quite rudimentary, but considerable research is underway locally and nationally into improved methods of risk adjustment. Therefore, it is the commission's current thinking that, whatever risk adjustment mechanism is adopted initially in 1995, the mechanism must have the flexibility to be enhanced and improved as better risk adjustment methods and better morbidity, demographic, and other data sources become available in the future. This is especially true with regard to the integration of long-term care into the uniform benefits package by 1999, where significantly improved methods of risk adjustment are likely to be required to prevent certified health plans from avoiding high risk enrollees.

Current thinking about an initial risk adjustment mechanism is that the mechanism could have four basic components, as follows:

(1) All certified health plans in a geographic region would set their own premiums on a community-rated basis, with the expectation that their enrollees would reflect the average risk distribution of the overall community. There would be no subsequent adjustment to these premiums based on contributions to or payments from the risk adjustment mechanism.

(2) As a condition of being certified to offer the uniform benefits package, each certified health plan would be required to contribute a fixed monthly per capita amount to a state-managed risk pool. The amount of the per capita contribution would be actuarially determined, in close cooperation with insurers, to create two risk pools sufficient to cover the expected costs of potential adverse selection for those populations enrolled in plans. Timing of the contribution would be linked to the expected payments from the risk pools in order to minimize cash flow problems for plans.

(3) An enrollment risk profile (profile A) would be constructed for each certified health plan, based on enrollment demographics (age, gender) and other traditional underwriting factors (for example, industry type) that can be calculated from enrollment information. One risk pool (risk pool A) would be allocated retrospectively among plans based on each plan's risk A profile. The allocation would be done as soon after enrollment as possible, given the need to assemble and verify the data used to construct the risk profile. Over time, as better data on morbidity become

available, risk profile A would be enhanced to reflect improved measures of expected risk.

(4) A catastrophic risk profile (profile B) would also be constructed retrospectively for each certified health plan, based on the number of individual catastrophic cases treated by the plan during the year, each weighted by a relative resource use expectation for the catastrophic condition. Example catastrophic conditions under consideration by the commission for inclusion in risk pool B include persons with Level IV AIDS, extremely premature newborns, persons receiving certain types of organ transplants, severe trauma and burn cases, severe congenital defects, and persons who are ventilator dependent. The second risk pool (risk pool B) would be allocated retrospectively among certified health plans based on each plan's risk B profile. The allocation would be done as soon after the end of each year as possible, recognizing the need to assemble and verify the data used to construct the risk profile. Over time, as better data on unavoidable catastrophic cases becomes available, the conditions included in risk profile B would be modified to reflect improved measures of expected risk.

The above description reflects only the initial thinking of the commission and may change significantly prior to final drafting of the proposed rules. These changes may be in the form of revisions to the approach described above, or the commission may adopt a totally different approach, based on comments and suggestions received in response to this Preproposal Statement of Intent.

Written comments are encouraged to address any aspect of the need for or the development of medical risk adjustment mechanisms. The commission is particularly interested in receiving responses to the following questions:

#### **Overall Risk Adjustment Approach**

(1) Is the approach outlined above generally acceptable, given the current state of the art in medical risk adjustment? If so, what improvements in the approach do you suggest? If not, what are the features of a better approach?

(2) What other methods exist for making financial contributions from certified health plans that enjoy a low-risk enrollee population to plans that have a high-risk enrollee population?

(3) What rules or mechanisms are needed to ensure the risk adjustment mechanisms do not allow certified health plans to make adjustments to the premium charged for the uniform benefits package or supplemental coverage based upon either receipt or contribution of assessments?

(4) How should the state best manage the risk pools? What are the issues to be addressed in managing the risk pools? What should be the governance structure of the risk pool management? What is a reasonable level of administrative cost to expect for this management function?

(5) Should registered employer health plans be required to contribute to any medical risk adjustment mechanism? What are the advantages and disadvantages of such inclusion, including issues of equity and administrative burden?

(6) How should the amount of the risk pool contributions be determined? Can you provide any information on the expected distribution of potential adverse selection between enrollment factors and catastrophic cases?

#### **Risk Pool/Profile A (Enrollment Risk Pool)**

(7) What demographic and other enrollment factors should be considered in developing risk profile A? What are

the data sources for each factor, and how difficult will it be for certified health plans to obtain the necessary data?

(8) What is the most efficient and effective manner of verifying the certified health plan's data for developing risk profile A?

(9) How often should risk profile A be measured (for example, annually, quarterly, or monthly)? How should enrollment changes during the period be handled?

(10) How often should risk pool A funds be distributed to certified health plans?

#### **Risk Pool/Profile B (Catastrophic Case Risk Pool)**

(11) Is risk pool B needed? Some experts have argued that the randomness of catastrophic case distribution is what insurance and reinsurance are for, and that a separate risk adjustment for these cases is unnecessary. Does risk pool B merely represent the normal underwriting risk that insurance covers?

(12) What conditions should be included in risk profile B? How should such cases be identified and verified?

(13) How should risk profile B be structured to avoid disincentives for a certified health plan to manage care and control utilization? For example, if extremely premature newborns are one category of cases in risk profile B, how can the state ensure that effective screening, detection, and treatment for high risk pregnancies occurs at the plan?

(14) What are sources of data to determine the relative average expense of cases for conditions included in risk profile B? How often does the expense data need to be updated?

(15) How often should risk pool B funds be distributed to certified health plans?

(16) Is risk pool B needed indefinitely, or just for the first several years of health reform implementation until the initial market shifts have stabilized? What are the advantages and disadvantages to a permanent risk pool B?

#### **Other Risk Adjustment Issues**

(17) In the event that the state does not obtain an amendment to the federal Employee Retirement Income Security Act (ERISA), what mechanisms or approaches could possibly deal with the potential adverse selection from the self-insured market into the insured market?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41191, Olympia, WA 98504-1191, FAX (206) 407-0069. Questions about the Preproposal: Call Lance Heineccius, Assistant Director, at (206) 407-0049.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-13-172**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**

[Filed June 21, 1994, 11:37 a.m.]

Specific Statutory Authority for New Rule: Community-rated maximum premium, RCW 43.72.040(6) and 43.72.100(1).

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**Reasons Why the New Rule is Needed:** The Health Services Commission will establish a community-rated maximum premium for the uniform benefits package that will operate to control overall health system costs. In setting the maximum premium for 1995, the commission will consider the actuarial costs of providing the uniform benefits package and other cost impacts to certified health plans. Plans will be required to provide the benefits included in the package to enrolled Washington residents for a prepaid per capita community-rated premium not to exceed the maximum premium established by the commission.

**Goals of New Rule:** The goals of the rule are to establish a community-rated maximum premium for the uniform benefits package.

**Process for Developing New Rule:** The commission has encouraged public participation in establishing the community-rated maximum premium through the work of the Health Services Effectiveness Advisory Committee and numerous public meetings. The commission is seeking written comments from employers, health plans, consumers, providers, and others on the questions presented in the Preproposal Statement of Intent shown below. Comments received will be used to help draft proposed rules for this subject at a future date.

**Community-Rated Maximum Premium.** In submitting your written comments to the commission, please refer to this title: "**Community-Rated Maximum Premium.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking comments from employers, health plans, consumers, providers, and others about how best to establish a community-rated maximum premium for the uniform benefits package. These comments will assist the commission in understanding the impacts and practical consequences of establishing the maximum premium.

The maximum premium cost of the uniform benefits package in the base year 1995 shall be established based upon an actuarial determination of the costs of providing the uniform benefits package and such other cost impacts as may be deemed relevant by the commission. The commission will review various methods for establishing the community-rated maximum premium and shall recommend appropriate methods to the legislature by December 1, 1994.

The community-rated maximum premium will probably be set higher than the actuarial cost of providing the uniform benefits package to the enrolled population. While the commission is particularly interested in receiving comments providing information on the pros and cons of using various "cost impacts" to establish the maximum premium in 1995, comments can address any aspect of developing the maximum premium.

**How Interested Parties can Participate in Formulation of the New Rule:** Please respond in writing by July 20, 1994, to Randy Reville, Director, Washington Health Services Commission, P.O. Box 41190, Olympia, WA 98504-1190, FAX (206) 407-0069. Questions about the Preproposal: Call Kirsten Iverson, Policy Analyst, at (206) 407-0211.

**WSR 94-13-173**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**

[Filed June 21, 1994, 11:38 a.m.]

**Specific Statutory Authority for New Rule:** Supplemental benefits, RCW 43.72.010(22), 43.72.090, 43.72.100(2), 43.72.100(3), 43.72.120(3), 43.72.170, and 43.72.190.

**Reasons Why the New Rule is Needed:** To comply with the Health Services Act of 1993 provision that certified health plans offer supplemental benefits to their enrollees, the Health Services Commission will be establishing rules and guidelines for these benefits. The commission's goal is to address supplemental benefits in a simple way that will minimize the negative effects of adverse selection. Beginning July 1, 1995, Washington certified health plans will begin to offer the uniform benefits package and supplemental benefits.

**Goals of New Rule:** The goals of the rule are to develop a framework for certified health plans to offer supplemental benefits to enrolled Washington residents for a prepaid per capita community-rated premium. Further, supplemental benefits must be provided through managed care in accordance with rules adopted by the commission.

**Process for Developing New Rule:** The commission has encouraged public participation in defining supplemental benefits through the work of the Health Services Effectiveness Advisory Committee, numerous public hearings, and the contributions of several issue investigation groups. The commission is seeking written comments from employers, health plans, consumers, providers, and others on the questions presented in the Preproposal Statement of Intent shown below. Comments received will be used to help draft proposed rules for this subject at a future date.

**Supplemental Benefits.** In submitting your written comments to the Commission, please refer to this title: "**Supplemental Benefits.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking comments from employers, health plans, consumers, providers, and others about how best to define and develop guidelines for supplemental benefits. These comments will assist the commission in understanding the impacts and practical consequences of defining these benefits.

The Washington Health Services Act of 1993 directs the commission to address the certified health plans' offering of supplemental benefits to enrolled Washington residents for a prepaid, per capita, community-rated premium. Further, supplemental benefits must be provided through managed care in accordance with rules adopted by the commission.

One concept of supplemental benefits is that they are those "appropriate and effective" health services that would be included in the uniform benefits package were it afford-

able to do so. The commission is designing the package to include those health services that are effective and necessary on a societal basis for the maintenance of the health of residents of the state, weighed against the need to control health services expenditures. The challenge related to supplemental benefits is how to structure those benefits in such a way that they can be made available and affordable to the largest number of state residents.

The commission has identified the following key principles to apply to the structure of supplemental benefits:

- (1) Maximize simplicity of design and administration;
- (2) Promote quality care through continuity of providers;
- (3) Minimize the disruptive effects of changes in the marketplace that may occur in 1995;
- (4) Minimize adverse selection;
- (5) Do not compromise the design of the uniform benefits package; and
- (6) Include services that make sense to community-rate and guarantee issue.

The commission is considering developing a small number of supplemental benefits that are optional for businesses and individuals to buy, but that must be offered by certified health plans. These supplemental benefits likely would include health services that extend the uniform benefits package coverage or that constitute commonly purchased supplemental coverage.

The commission is also considering establishing principles and guidelines that certified health plans must follow to offer other supplemental benefits that are not specifically included in the defined packages discussed above. A component of the commission's guidelines would be the requirement to offer these policies on a community-rated and guaranteed issue basis. The plans could then choose whether they want to offer other supplemental health coverage, and if so, what type of benefit design they want to use.

Comments can address any aspect of developing guidelines for supplemental benefits. The commission is particularly interested in receiving comments responding to the following questions. Anyone who has already submitted comments to the commission on one of the questions listed below need not resubmit their comments:

- (1) Should supplemental benefits consist of individual services, bundled packages, or both?
- (2) Should unrelated services be packaged together to reduce adverse selection?
- (3) If supplemental benefits are offered to a group, must the entire group participate?
- (4) Should individuals be permitted to purchase supplemental benefits through health insurance purchasing cooperatives?
- (5) Should an enrollee in one certified health plan be permitted to purchase a supplemental benefits package from a different plan?
- (6) What are the likely consequences of moving from today's experience-rating approach to community-rating supplemental benefits?

**How Interested Parties can Participate in Formulation of the New Rule:** Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41189, Olympia, WA 98504-1189,

FAX (206) 407-0069. Questions about the Preproposal: Call Kirsten Iverson, Policy Analyst, at (206) 407-0211.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

#### WSR 94-13-174

#### PREPROPOSAL STATEMENT OF INTENT HEALTH SERVICES COMMISSION

[Filed June 21, 1994, 11:39 a.m.]

**Specific Statutory Authority for New Rule:** RCW 70.170.100 Statewide health care data system.

**Reasons Why the New Rule is Needed:** Rules are needed to guide development and implementation of the statewide health services implementation system (HSIS).

**Goals of New Rule:** The new rules will frame the governance and finance structure for the HSIS, providing guidance to private health plans and providers as well as state and local agencies regarding their internal decisions about health information systems development.

**Process for Developing New Rule:** The commission is seeking written comments from health plans, providers, consumers, health information specialists, and other affected parties regarding various aspects of the proposed governance and finance structure. The proposed structure was developed by citizens serving on the Health Information Advisory Committee through a series of public meetings.

**Health Services Information System.** In submitting your written comments to the commission, please refer to this title: "**Health Services Information System.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Act of 1993 directs the Washington Health Services Commission to provide policy direction and oversight for development and implementation of a statewide Health Services Information System (HSIS). (RCW 70.170.100) The act also states that the "data elements, specifications, and other design features of this data system shall be consistent with criteria adopted by the Washington health services commission." (RCW 70.170.040)

The Health Information Advisory Committee has prepared a draft set of criteria that is currently under consideration by the commission. The criteria address the following critical design and implementation features, including criteria regarding a statewide HSIS: (1) Governance structure, (2) governing body, (3) finance strategies, (4) performance oversight and review activities, (5) data dissemination activities, and (6) data access activities. Confidentiality rules are being considered separately.

The commission is interested in gathering public comment on the committee's recommendations. Specifically, the commission is interested in the following areas:

- (1) The committee recommends a public-private partnership be established to govern and finance the HSIS. A public-private partnership will allow representatives from all sectors of the health industry affected by data systems to participate in decision-making about HSIS. The commission

is interested in the public's perspectives on organizational alternatives for accomplishing this objective. Options identified to date include: (a) Establish a permanent advisory committee to assist the Department of Health as it designs, implements, and maintains custody of HSIS; (b) contract with a private vendor to administer a centralized data clearinghouse, maintaining accountability within the department and policy direction within the commission; or (c) establish a different governing structure that includes participation of the department and has the authority and accountability to govern and oversee administration of the statewide health services information system (final policy approval and oversight remains with the commission). What are your perspectives on these alternatives? Are there other alternatives that should also be addressed?

(2) The committee recommends that the HSIS be a combination of decentralized and centralized information systems, where data sets are integrated and data are shared by those who collect it in support of their patient care, administrative, management, and regulatory activities. A centralized governing body will be responsible for establishing uniform data definitions and standardized data access and interface capabilities that will be used by all collectors and reporters of data. The governing body will also be responsible for overseeing a centralized database where a core set of data will be stored for use by multiple entities. Most data, however, will reside at the point of collection with access and transmission to other authorized users restricted by confidentiality and security measures. Is this concept of a combined decentralized and centralized information system feasible? If not, what is a better alternative?

(3) The committee recommends that a statewide data dictionary be developed to establish uniform data definitions and standardized reporting and transmission formats. The dictionary will be used by all public and private health care entities who collect and report health data. What are the implications of adapting to standardized data definitions and formats? How will your organization approach standardization if the data definitions and reporting and transmission formats are quite different from your current system? What are the implementation implications regarding a change in data collection processes, coding, software, and hardware?

(4) The committee recommends that the centralized governing structure include processes that assure data collection and acquisition requirements are cost effective, minimize redundancy, and protect providers from unnecessary administrative burdens required by external authorities. The recommended process is to provide a centralized forum through which entities that request data justify the need for the data prior to requesting it be collected. The governing body will be responsible for overseeing this process and making final decisions on data requests. Will this type of process protect providers from unnecessary burdens? Will it assist in coordinating data requests across multiple external authorities? Will it tend to limit innovation and creativity in the market place?

(5) The committee recommends that all data collectors be accountable for the accuracy, validity, and reliability of their data. To accomplish this, the committee further recommends that the centralized governing body develop and implement educational services that (a) provide training in data collection and coding, (b) assist in data interpretation

and application, and (c) provide technical assistance in HSIS implementation. Participation would be voluntary. Will these services be of interest to participants in HSIS or will organizations be inclined to provide these services internally?

(6) The committee recommends that the governing body monitor compliance with HSIS standards and impose sanctions when necessary. How should the governing body monitor compliance? What are appropriate sanctions for noncompliance?

(7) The committee recognizes that the statewide health services information system must be implemented incrementally over time, based on technological, medical, and financial feasibility. There are a variety of ways to accomplish this, including: (a) Establish an incremental phasing schedule that requires all entities to implement small pieces of the system at the same time; or (b) prioritize HSIS participation by fully implementing specific parts of the system prior to implementing other parts of the system. The first option allows collection and reporting of minimal data across all entities, while the latter option allows more data collected and reported from fewer entities. Which approach is most desirable?

(8) The committee recommends that the commission adopt the set of criteria and policy guidelines shown below. The commission is interested in your perspectives, comments, and suggestions on these critical elements of HSIS.

(9) The committee recommends that financing of the system be allocated according to defined roles, responsibilities, and authority of all entities participating in HSIS. In general, public funding through state appropriations and user fees will support centralized HSIS activities, and private funding through premium revenues will support decentralized activities. Is this an equitable method of allocating the implementation costs? What are the implications for health plans, providers, and provider networks to cooperatively develop and finance their decentralized activities? What are the impacts on state and local agencies to finance their decentralized activities?

#### CRITERIA AND POLICY GUIDELINES

**1. HSIS Governance Structure:** The HSIS will integrate decentralized data sets across providers and certified health plans through development of uniform data definitions, standardized data collection and reporting requirements, together with compatible data access and transmission capabilities. To accomplish this objective, a centralized governance structure should be established and authorized to develop and promote data standardization and uniformity across all health entities.

The centralized governance structure should be a collaboration between public and private health care entities, responsible and accountable for HSIS policies and procedures, finance, performance review and oversight, data access, and data dissemination activities. All other data activities should be delegated to those entities that collect and use the data for operational purposes. The centralized governing body should not micro-manage decentralized activities.

The governance structure should have the authority, responsibility, and accountability to carry out the following centralized activities:

- (a) Set statewide standards;

- (b) Define the uniform data dictionary;
  - (c) Develop standard formats for enrollment data, employer data, health plan data, provider data, and other data formats;
  - (d) Oversee audit and compliance activities;
  - (e) Monitor data analysis and dissemination activities to assure data are used accurately;
  - (f) Assure that data are disseminated to authorized users in a timely manner;
  - (g) Update, revise, and refine the data plan over time;
  - (h) Mediate disagreements about data definitions, data reporting requirements, financing responsibilities, and administrative burdens;
  - (i) Enforce compliance with standards and HSIS policies and procedures;
  - (j) Establish a balance between data needs and administrative burdens; and
  - (k) Develop and disseminate finished reports.
- Decentralized activities include:
- (a) Collect data;
  - (b) Merge, consolidate, and aggregate data;
  - (c) Transmit data;
  - (d) Finance decentralized information systems;
  - (e) Oversee internal data management;
  - (f) Develop proprietary information sets;
  - (g) Use data in support of on-going patient care and administrative activities; and
  - (h) Develop and disseminate enrollee marketing and education materials.

**2. HSIS Governing Body:** Membership within the governance structure should reflect the needs of all public and private entities affected by HSIS rules and standards. Membership will transition in concert with changes in the marketplace, assuring adaptability through term limits, staggered tenure, and sunseting procedures. In addition to promulgating policies and procedures for centralized and decentralized activities, it should be the responsibility of the governing body to:

- (a) Promote consistency, standardization, and overall accountability across all reporting entities;
- (b) Assure that data access and transmission, analysis, and dissemination satisfy statutory requirements for confidentiality and privacy;
- (c) Assure that data are regularly audited and verified, and that they accurately reflect the health system they are measuring;
- (d) Monitor and control release of data for research purposes through an institutional review board;
- (e) If indicated, take necessary steps to improve accuracy in data usage, continuously improving data quality, reliability, validity, and integrity of the HSIS. If any fraudulent data usage is identified, the governing body will report its findings to the commission, the Attorney General, and the Insurance Commissioner.
- (f) Provide oversight of any centralized repositories for accessing data common to multiple users;
- (g) Develop and oversee implementation of an education and training program for data collectors and coders;
- (h) Assure data integrity and quality through total quality management techniques;

- (i) Develop and oversee implementation of compliance rules that reflect a strong commitment toward minimizing data redundancy and HSIS administrative burdens;

- (j) Develop formal processes and procedures that govern additions, deletions, or modifications to reporting requirements and which allow competing interests to negotiate changes or exchanges in data elements to be included in the uniform data set;

- (k) Monitor and control equitable access to data across all appropriate users, assuring that access is not impeded by user fees, technology, or other artificial barriers;

- (l) Assure that the HSIS meets all federal mandates for data submittals and when appropriate collaborate with federal agencies regarding data submittals that are no longer useful under health system reform; and

- (m) Identify "best practices" in information technology and offer a process to disseminate knowledge and understanding of them.

**3. Finance:** Financing shall be allocated according to defined roles, responsibilities, and authority of all entities participating in HSIS. In general, public funding, through state appropriations and possibly a sliding fee scale, will support centralized HSIS activities. Private funding through premium revenues will support decentralized data activities of health plan operations, patient care, administration, and management. Other proposed elements of HSIS financing include:

- (a) HSIS decisions shall consider the collective affordability of those who must pay for the system, assuring the investment will provide them a collective return in value.

- (b) Financing strategies shall include a mechanism to provide private entities a return for collecting data that benefit the public good.

- (c) Public and private participation within the governance structure shall be linked equitably to HSIS financing responsibilities, control, and accountability.

- (d) Financial decisions regarding incremental construction of the system will consider:

- (i) The time it takes to implement change in order to participate in the system;

- (ii) Marginal cost above current information system expenditures that would have otherwise occurred in the absence of HSIS;

- (iii) Incentives that encourage investment in technologically advanced systems; and

- (iv) The capacity to achieve uniform content of medical data.

- (e) Decisions to finance the system will emphasize initiatives that are consistent with the commission's vision of health system reform.

- (f) Financial strategies considered by the governing body will create incentives for all health entities, both public and private, to be price, cost, and service oriented.

The HSIS governing body will establish and oversee all financing of centralized functions. In addition, the governing body will make recommendations to the commission regarding financial implications for private entities and public agencies as they implement the statewide HSIS.

Development of budgets and system-wide financial decisions by the HSIS governing body will include cost/benefit analyses, assuring that expenditures produce the intended benefits and support the public good. When

indicated, the commission will promulgate rules mandating public and private entities to implement the recommendations.

**4. Performance Oversight and Review:** The commission and the HSIS governing body will periodically measure implementation progress through inventories which measure the status of:

- (a) State-wide HSIS integration;
- (b) Progress in developing and using the data dictionary;
- (c) Expansion of electronic medical records;
- (d) Application of real-time system capabilities; and
- (e) Advancement of computer technology in health services information systems.

The HSIS governing body will monitor compliance with confidentiality and security measures through methods that may include routine testing for system failures resulting in breaches of confidentiality and security procedures. The HSIS governing body will monitor compliance with HSIS standards and impose sanctions when necessary.

The governance structure will assure appropriate public participation. While all users, including consumers, have access to HSIS policy and oversight issues through the commission, there shall also be reasonable public access to decision-making processes within the HSIS governing structure.

Specific oversight and performance review activities include monitoring how accurately and timely the HSIS is collecting and reporting data on:

- (a) Total health costs;
- (b) Community health status;
- (c) Treatment interventions;
- (d) Report card data;
- (e) Health services resource consumption; and
- (f) Outcome data.

**5. Data Dissemination:** The governing structure will include processes to disseminate clean data for analytical purposes and data incorporated within finished products for use in consumer education and other projects beneficial to the public good. The governing body will be responsible for setting standards for clean data, assuring data are validated for accuracy and meet minimum standards for reliability and completeness prior to dissemination.

Decisions to disseminate data will emphasize uses that support informed choices in health decisions. Dissemination of finished products and clean data sets will assure:

- (a) Data are presented in easily understood formats that meet customer needs;
- (b) Materials include appropriate narratives or discussions that explain the meaning and uses of the data; and
- (c) Multiple versions are prepared to accommodate diverse users and audiences.

The governing body will develop policies to allow reasonable opportunity for patients, providers, plans, and other affected parties to review and respond to data dissemination decisions that specifically identify them, taking into consideration all applicable public disclosure laws, freedom of information laws, right to privacy laws, and all confidentiality policies and procedures.

**6. Data Access:** Access to data will be governed by policies defining (a) who has access; (b) the level of access; (c) the location of access; and (d) the circumstances under

which access is warranted, given confidentiality and privacy restrictions.

Access to shared data in the centralized data set will be authorized only upon substantiation by the HSIS governing body that the data are accurate and reliable for certain uses. The governing body will also establish policies and methods by which decentralized data sets can be accessed and shared across certified health plans.

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Washington Health Services Commission, P.O. Box 41187, Olympia, WA 98504-1187, FAX (206) 407-0069. Questions about the Preproposal: Call Michelle Vest, Policy Analyst, at (206) 407-0153.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-13-175**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**

[Filed June 21, 1994, 11:40 a.m.]

Specific Statutory Authority for New Rule: Uniform benefits package, RCW 43.72.040(5), 43.72.090, 43.72.130, and 43.72.180.

Reasons Why the New Rule is Needed: By December 1, 1994, the Health Services Commission will submit the uniform benefits package to the legislature for review according to RCW 43.72.180. The commission will follow the requirements of RCW 43.72.130 in designing the package, including considering the recommendations of the Health Services Effectiveness Advisory Committee. Beginning July 1, 1995, Washington certified health plans will begin to offer the uniform benefits package.

Goals of New Rule: The goals of the rule are to define a uniform benefits package that includes those health services that are effective and necessary on a societal basis for the maintenance of the health of residents of the state, weighed against the need to control health services expenditures.

Process for Developing New Rule: The commission has encouraged extensive public participation through the work of the Health Services Effectiveness Advisory Committee, numerous public meetings, and a number of issue investigation groups. The commission is also seeking written comments from employers, health plans, consumers, providers, and others on the questions presented in the Preproposal Statement of Intent shown below. Comments received will be used to help draft proposed rules for this subject at a future date.

**Uniform Benefits Package.** In submitting your written comments to the commission, please refer to this title: "**Uniform Benefits Package.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking comments from

employers, health plans, consumers, providers, and others about how best to define the uniform benefits package. These comments will assist the commission in understanding the impacts and practical consequences of defining the package. *Anyone who has already provided comments to the Health Services Effectiveness Advisory Committee or the commission on one of the questions listed below need not resubmit their comments.*

The commission shall establish and modify, as necessary, the uniform benefits package that shall be offered to enrollees of a certified health plan. The Health Services Effectiveness Advisory Committee will submit alternatives and recommendations on the uniform benefits package to the commission. The commission shall recommend to the state legislature a uniform benefits package to include those health services that are effective and necessary on a societal basis for the maintenance of the health of residents of the state, weighed against the need to make the package affordable to consumers and employers.

The commission must determine the specific schedule of health services offered as part of the uniform benefits package, including limitations on the scope and duration of coverage. The package shall be provided at no more than the community-rated maximum premium established pursuant to the Washington Health Services Act of 1993. The commission shall submit the uniform benefits package to the legislature by December 1, 1994.

The commission shall not modify the categories of services included in the package before January 1, 1999. The commission expects to modify specific services within the categories, based on advice from the committee, with the goal of developing, over time, a package that continues to consist of appropriate and effective health services. Information on appropriateness and cost effectiveness from various sources—such as providers, clinical trials, peer-reviewed journal articles, practice parameters, the Agency for Health Care Policy and Research, and the National Institute of Health consensus conferences—will be used to make decisions about the appropriateness and effectiveness of services. The commission expects to make additions and deletions to the uniform benefits package annually, based on a set of effectiveness criteria used in a public process that has yet to be developed.

Over the last six months, the committee has made considerable progress in defining the uniform benefits package. With advice from numerous advocacy and issue investigation groups, a working draft has been established, and work continues to define the final package. The committee has established working definitions of "appropriate," "effective," and "medically necessary" to be applied to health services under consideration, and has evaluated the process of defining services as "experimental or investigative."

Acknowledging the considerable work done by the committee, the commission is interested in receiving comments, especially from the general public, regarding the following questions:

- (1) How should "case-managed" be defined?
- (2) What benefits should be considered "core benefits" that must be included in the uniform benefits package, and why?

(3) How should the committee's and/or the commission's on-going public process to evaluate the costs, efficacy, and effectiveness of uniform benefits package services over time be developed and implemented?

(4) Given that the commission is not required to adopt the Insurance Commissioner's interim rules concerning waiting periods for preexisting conditions, what rules should the commission adopt to specify a preexisting condition waiting period designed to prevent residents from waiting until health services are needed before enrolling in a certified health plan (as required by RCW 43.72.130)?

(5) Should the uniform benefits package be designed to cover a large number of services with limited scope and duration, or a smaller number of services with more extensive coverage?

(6) Should the uniform benefits package include more services with higher cost sharing amounts, or fewer services with lower cost sharing levels? (Note that preventive services shall not have cost sharing applied, as required by RCW 43.72.130(4).)

(7) In designing the uniform benefits package, should benefits be defined in detail, emphasizing comparability between certified health plans, or more broadly, allowing plans greater flexibility and creativity in providing health services?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41188, Olympia, WA 98504-1188, FAX (206) 407-0069. Questions about the Preproposal: Call Kirsten Iverson, Policy Analyst, at (206) 407-0211.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-13-176**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**  
[Filed June 21, 1994, 11:41 a.m.]

Specific Statutory Authority for New Rule: Lowest-cost uniform benefits package in a geographic area, RCW 43.72.040(21), to implement RCW 43.72.220 (2)(a), (3)(a), and (4)(a).

Reasons Why the New Rule is Needed: Beginning July 1, 1995, on a phased-in basis, Washington employers will be required to offer a choice of the uniform benefits package as provided by at least three available certified health plans, one of which shall be the lowest-cost available package within their geographic region. The employer shall be required to pay at least fifty percent of the premium of the lowest-cost available package within their geographic region. The commission needs to adopt rules that define the terms "lowest-cost available package within their geographic region" in an operational manner.

Goals of New Rule: The goals of the rule are to implement a working definition of the "lowest-cost available package" that both preserves the goals of the Health Services Act of 1993 and ensures adequate treatment capacity at the

certified health plan(s) that are identified as having the lowest-cost available package.

**Process for Developing New Rule:** The commission is seeking comments from employers, health plans, consumers, providers and others on the questions presented in the Preproposal Statement of Intent shown below. Comments received will be used to help draft proposed rules for this subject at a future date.

**Lowest-Cost Available Package in a Geographic Region.** In submitting your written comments to the commission, please refer to this title: "**Lowest-Cost Available Package in a Geographic Region.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking written comments from employers, health plans, consumers, providers, and others about how best to implement a working definition of the lowest-cost uniform benefits package available to employers. The definition should preserve the goals of the Washington Health Services Act of 1993 and ensure adequate treatment capacity and high quality care at the health plan(s) that are identified as having the lowest-cost available package. These comments will assist the commission in understanding the impacts and practical consequences of implementing this definition.

The lowest-cost uniform benefits package in a geographic area must be offered by all employers in that geographic area, raising the possibility that there will be significantly expanded enrollment in a certified health plan as a result of its being identified as having the lowest-cost available package. Therefore, to ensure that the offer of enrollment can be fulfilled by an adequate provider capacity within the plan, the commission believes that it is necessary to take provider network capacity into consideration in some manner in defining the lowest-cost uniform benefits package available in a geographic region. It may also be necessary to define several plans in an area as having the "lowest-cost package" in order to address the concerns about adequate network capacity.

The act refers to the "lowest-cost package available within their geographic region," which the commission interprets as being the "cost to the employer." In this context, the premium price of the uniform benefits package is the measure of the employer's cost.

Comments can address any aspect of defining the lowest-cost uniform benefits package available in a geographic area. The commission is particularly interested in receiving comments in response to the following questions:

#### **Geographic Area Definition**

(1) How should a "geographic area"—as set forth in RCW 43.72.220 (2)(a), (3)(a), and (4)(a)—be defined and by whom?

(2) Is a "geographic area" the same as a health insurance purchasing cooperative region? What data are needed to define each?

(3) Must the "lowest-cost" certified health plan cover the entire geographic area?

(4) What happens at the boundaries of areas, with employers and employees potentially located in different areas?

(5) What happens if an enrollee's place of residence and place of employment differ significantly?

(6) To what extent should existing provider network areas or areas traditionally served by managed care organizations be taken into account in defining a geographic area?

(7) What are the advantages and disadvantages of defining geographic area boundaries by county or other civil jurisdiction?

#### **Cost of the Uniform Benefits Package**

(8) Should the commission undertake any analysis of certified health plan cost versus price in its determination of the lowest-cost package available to employers, beyond those rate review analyses conducted by the Office of the Insurance Commissioner in order to approve rate filings?

(9) How should "lowest-cost available package" be defined? Does it mean to the penny, the nearest dollar, the lowest quartile, or below some specified level?

(10) How is certified health plan capacity and growth potential taken into consideration in defining the lowest-cost available package?

(11) Who measures certified health plan capacity for expansion, and by what process?

(12) If a plan has a limited capacity to take on additional enrollment, should it be eligible to be identified as the lowest-cost plan?

(13) How should quality of care issues be taken into consideration in defining the lowest-cost available package?

(14) If a certified health plan offers multiple uniform benefits packages which differ only by the breadth of the network, how can cross-subsidization of these products be prevented?

#### **Administering the Employer Requirement to Offer the Lowest-Cost Package Available in their Geographic Region**

(15) At what point in time and by what process do certified health plans "announce" their community rate so the lowest-cost package can be determined?

(16) What do certified health plans announce, to whom, and by what process?

(17) What is the relationship of this announcement to the Insurance Commissioner's rate approval process? (To minimize confusion, the commission believes that the lowest-cost package should only be determined after approval by the Insurance Commissioner.)

(18) Must all certified health plans announce their rates at a single point in time, or for a defined period of time into the future?

(19) Who determines the "lowest-cost" package for each geographic area, and by what process?

(20) How long does the designation of being the lowest-cost package last?

(21) If the lowest-cost plan(s) reach enrollment capacity, does the next lowest-cost plan(s) become identified as the lowest available?

(22) Must employers offer the lowest-cost package each year? What if the certified health plan offering the lowest-cost package changes every year? If so, how does this employer requirement affect continuity of care?

(23) How can market volatility and large enrollment swings be reduced?

(24) Should a totally new insurer (a certified health plan with no previous enrollment) be able to be designated as the lowest-cost package for an area? Should we develop a process for validating a new plan's performance? If so, what should the process entail?

(25) If there is more than one "lowest-cost" certified health plan in an area, what are the employers' options? Can employees select any one of several lowest-cost packages to meet their statutory requirements?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41186, Olympia, WA 98504-1186, FAX (206) 407-0069. Questions about the Preproposal: Call Lance Heineccius, Assistant Director, at (206) 407-0049.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-13-177**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF HEALTH**

[Filed June 21, 1994, 1:22 p.m.]

Specific Statutory Authority for New Rule: Chapter 71.12 RCW and RCW 43.70.040.

Reasons Why the New Rule is Needed: The department is amending chapter 246-322 WAC, Private psychiatric and alcoholism hospitals, to include requirements specific to private psychiatric hospitals, and moving requirements for private alcoholism hospitals to new chapter 246-324 WAC. This is intended to clarify the requirements for each type of facility; reformatting existing regulations to improve clarity; updating requirements to meet current minimum health standards; and establishing requirements for criminal history background checks according to RCW 43.43.842.

Goals of New Rule: To clarify and update rules, and provide regulations to meet the intent of RCW 43.43.842 requiring criminal history background checks for persons having direct contact with vulnerable adults.

Process for Developing New Rule: Negotiated rule making; and this rule-making action is a result of public work sessions and negotiated rule making occurring during 1992 and 1993. The department would appreciate any additional written comments from the public.

How Interested Parties can Participate in Formulation of the New Rule: Submit written comments to Leslie Baldwin, Department of Health, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504; or FAX three or fewer pages to FAX (206) 705-6654. The department will send a copy of draft rules to licensed private psychiatric hospitals for comment prior to filing the proposed rule for adoption. It will also be sent to private alcoholism hospitals.

June 20, 1994  
Bruce Miyahara  
Secretary

**WSR 94-13-178**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF HEALTH**  
(Board of Massage)  
[Filed June 21, 1994, 1:25 p.m.]

Specific Statutory Authority for New Rule: RCW 18.108.025(1).

Reasons Why the New Rule is Needed: The Department of Health and the Office of the Attorney General have recently reviewed chapter 246-830 WAC and have determined that sections in the education portion which refer to bodywork/somatic education and national educational institutes exceed the authority granted in the massage statute and intent of the legislature. This language needs to be removed. Two other minor changes are housekeeping in nature: The first removes the word "residential" in WAC 246-830-230 and the second removes the word "reciprocity" from WAC 246-830-990 and replaces it with newly adopted language. These changes are important clarification to the chapter.

Goals of New Rule: To correct revisions made to the rules in 1992 which expanded the authority of the administrative code beyond the scope of the massage statutes. There are two housekeeping revisions to clarify existing rules.

Process for Developing New Rule: The department and the board will work together to bring rule language into compliance with statutory authority.

How Interested Parties can Participate in Formulation of the New Rule: There will be an open meeting for discussion of these proposed changes on July 25, 1994, from six to eight p.m. The meeting will be held at Firgrove Business Park, 2413 Pacific Avenue, Olympia, WA. A notice of this meeting and a copy of the proposed changes will be mailed to persons who have indicated their interest in receiving this information. The massage program's FAX number is (206) 586-7774. Program staff to contact for information are Janice K. Boden, Program Manager, Janet Morehead and Sharon Strachan, Program Representatives. They may be reached at (206) 586-6351. The mailing address for letters of concern or support is: Department of Health, Massage Program, P.O. Box 47869, Olympia, WA 98504-7869.

June 20, 1994  
Bruce Miyahara  
Secretary

**WSR 94-13-186**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-55—Filed June 21, 1994, 1:46 p.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: To correct an error in the wording of a permit hunt. The error could have resulted in excess harvest causing a significant decline in the local elk herd.

Goals of New Rule: To conserve and protect elk while providing public hunting recreation.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Submit comments to Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, Dave Ware, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728, FAX (206) 664-3290.

June 21, 1994  
Evan Jacoby  
Legal Counsel

**WSR 94-13-187**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-56—Filed June 21, 1994, 1:47 p.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: To amend the 1994-95 Deer and elk permit hunting seasons.

Goals of New Rule: To clarify requirements for participating in private lands wildlife management area hunts.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Submit comments to Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, Dave Ware, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728, FAX (206) 664-3290.

June 21, 1994  
Evan Jacoby  
Legal Counsel

**WSR 94-13-188**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-57—Filed June 21, 1994, 1:48 p.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: To establish a new muzzleloader area description to better allocate resources.

Goals of New Rule: To add Unit No. 940 Coal Creek to the WAC.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Submit comments to Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, Dave Ware, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728, FAX (206) 664-3290.

June 21, 1994  
Evan Jacoby  
Legal Counsel

**WSR 94-13-189**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-58—Filed June 21, 1994, 1:49 p.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: To establish requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat.

Goals of New Rule: To change regulations because lynx are no longer hunted or trapped in Washington.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Submit comments to Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, Dave Ware, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728, FAX (206) 664-3290.

June 21, 1994  
Evan Jacoby  
Legal Counsel

**WSR 94-13-190**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-59—Filed June 21, 1994, 1:50 p.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: To establish the 1994-95 and 1995-96 Trapping seasons and regulations.

Goals of New Rule: To conserve and protect furbearing animals while providing public trapping recreation.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Submit comments to Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, Dave Ware, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728, FAX (206) 664-3290.

June 21, 1994  
Evan Jacoby  
Legal Counsel

**WSR 94-13-191**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-60—Filed June 21, 1994, 1:51 p.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: To establish the 1994-95 Migratory waterfowl hunting seasons and regulations.

Goals of New Rule: To conserve and protect waterfowl while providing public hunting recreation.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Submit comments to Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, Dave Ware, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728, FAX (206) 664-3290.

June 21, 1994  
Evan Jacoby  
Legal Counsel

**WSR 94-13-194**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Filed June 21, 1994, 3:12 p.m.]

Specific Statutory Authority for New Rule: 7 CFR 273.9 (d)(6)(v) and (vi), RCW 74.04.050.

Reasons Why the New Rule is Needed: 7 CFR 273.9 (d)(6)(v) and (vi) require establishment and annual review and adjustment of a standard utility adjustment (SUA) and a telephone allowance, WAC 388-49-505 Utility allowances.

Goals of New Rule: Update standard utility allowance (SUA) and telephone allowance to reflect current costs. These allowances are income deductions used to determine eligibility and calculate food stamp benefits.

Process for Developing New Rule: Internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Contact Joan Wirth, Program Manager, Food Stamp Program Section, Division of Income Assistance, Mailstop 45400, phone (206) 438-8324 or (SCAN 585), FAX 438-8258 or (SCAN 585).

June 21, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-13-198**  
**PREPROPOSAL STATEMENT OF INTENT**  
**PERSONNEL APPEALS BOARD**

[Filed June 22, 1994, 8:20 a.m.]

Specific Statutory Authority for New Rule: RCW 41.64.060, 34.05.220 [(1)](a).

Reasons Why the New Rule is Needed: On May 1, 1994, the Personnel Appeals Board became a full-time board. This change in status was necessitated by a large backlog of appeals, caused in part by the addition of higher education appeals to the board's general government appeal workload. New procedures to address the board's full time status and to process appeals are needed to accommodate the increased workload and the appeal backlog.

Goals of New Rule: Efficient, fair, effective and timely resolution of appeals. The board is considering adopting new and amended rules to streamline and improve the process of handling appeals, including mediation, prehearing conferences, scheduling of hearings, mediators, hearings

examiners, appeal filing procedures, prehearing statements, summary motions, other procedural matters, and amendments to conform board rules to changes in legislation.

Process for Developing New Rule: Agency study; and the board intends to involve the parties that routinely appear before it, namely the general government agencies, higher education institutions, and employees principally through their unions, in developing the rules. This will be accomplished through joint meetings with interested parties, solicitation of ideas and comments, and study of alternative models for handling appeals.

How Interested Parties can Participate in Formulation of the New Rule: Kenneth J. Latsch, Executive Secretary, Personnel Appeals Board, 2828 Capitol Boulevard, P.O. Box 40911, Olympia, WA 98504-0911, (206) 586-1481, SCAN 321-1481, FAX (206) 753-0139, SCAN 234-0139.

June 20, 1994  
Charles Alexander  
Board Chairperson

**WSR 94-13-204**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**

[Filed June 22, 1994, 9:53 a.m.]

Specific Statutory Authority for New Rule: RCW 43.72.040(24) process for resident-enrollees to purchase uniform benefits package out-of-state.

Reasons Why the New Rule is Needed: Rules are needed to assure that resident-enrollees who are temporarily out-of-state have access to health services covered through the uniform benefits package.

Goals of New Rule: The rules will assure continuity of care for out-of-state resident-enrollees.

Process for Developing New Rule: The commission is seeking written comments from health plans, employers, employees, consumers, and other affected parties on out-of-state health services for residents of Washington state.

**Process for Resident-Enrollees Out-of-State.** In submitting your written comments to the commission, please refer to this title: "**Process for Resident-Enrollees Out-of-State.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

The Washington Health Services Act of 1993 (RCW 43.72.040(24)) authorizes the Washington Health Services Commission to establish rules for purchasing the uniform benefits package when resident-enrollees are out of state. The commission is interested in public comments on the need for health services related to extended out-of-state travel and temporary relocation of Washington resident-enrollees to other states.

There is a range of practices across existing health plans for addressing out-of-state travel and temporary relocation of Washington resident-enrollees to other states. At a minimum, plans cover medical emergencies when enrollees/beneficiaries are out of state. With authorization, many health plans permit prescription services while out of state. In instances where health plans participate in multi-state

health service delivery systems, there are reciprocity agreements between plans. Otherwise, there is substantial variation among plans concerning out-of-state coverage for health services. Usually, health plans require higher copayments, deductibles, or coinsurance from enrollees/beneficiaries when out of state.

The commission is interested in seeking comments from health plans, employers, employees, consumers, providers, and other interested persons concerning rules for resident-enrollees purchasing the uniform benefits package while out of state. Specifically, the commission is interested in the following:

(1) What are the financial and administrative implications of purchasing the uniform benefits package when resident-enrollees travel out of state on a temporary or transient basis?

(2) What are the health service needs of resident-enrollees when traveling out of state? How frequently does this occur?

(3) What are the unique considerations associated with out-of-state providers, payment systems, and service delivery mechanisms the commission should consider when establishing rules for resident-enrollees traveling out of state?

(4) Are there unique characteristics the commission should consider for specific groups of Washington resident-enrollees living out of state, such as:

(a) Residents who are dependents of Washington residents;

(b) Emancipated minors;

(c) College students;

(d) Washington state retirees;

(e) Traveling workers; or

(f) Others?

The commission recognizes the increasing global lifestyle of many state residents and acknowledges the need for travelers to have access to health services when out of state. The commission is interested in developing creative solutions that assure our state residents have access to preventive and routine care as well as emergent and urgent care when traveling. One suggestion is development of a supplemental benefit package for travelers. The commission is interested in comments on a traveler's supplemental package and identification of other innovative methods for meeting this need.

**How Interested Parties can Participate in Formulation of the New Rule:** Please respond in writing by July 20, 1994, to Randy Revelle, Washington Health Services Commission, P.O. Box 41252, Olympia, WA 98504-1252, FAX (206) 407-0069. Questions about the Preproposal: Call Michelle Vest, Policy Analyst, at (206) 407-0153.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

## WSR 94-13-205

### PREPROPOSAL STATEMENT OF INTENT HEALTH SERVICES COMMISSION

[Filed June 22, 1994, 9:56 a.m.]

**Specific Statutory Authority for New Rule:** Commission powers and duties, RCW 43.72.040(3) and 43.72.040(21); Certified health plans—Duties, RCW 43.72.100(6) and Registered employer health plans, RCW 43.71.120(7).

**Reasons Why the New Rule is Needed:** RCW 43.72.090 states that no person or entity in the state of Washington shall provide the uniform benefits package or supplemental benefits without being certified as a certified health plan by the Office of the Insurance Commissioner (OIC). The commission needs to adopt rules that describe how a plan may become certified or an employer health plan may become registered.

**Goals of New Rule:** The goals of the rule are to define the process by which a plan or employer may be approved to offer the uniform benefits package and supplemental benefits and to propose possible requirements for certified health plans and registered employer health plans.

**Process for Developing New Rule:** The commission is seeking comments from employers, health plans, consumers, providers, and other interested parties to the questions presented in this Preproposal Statement of Intent. Comments received may be used to help draft proposed rules at a future date.

**Certification Standards for Certified Health Plans and Registered Employer Health Plans.** In submitting your written comments to the commission, please refer to this title "Certification Standards for Certified Health Plans and Registered Employer Health Plans." If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Act of 1993 (RCW 43.72.090) states that no person or entity in the state of Washington shall provide the uniform benefits package or supplemental benefits without being certified as a certified health plan by the Office of the Insurance Commissioner (OIC). The Washington Health Services Commission is seeking comments from health plans, providers, consumers, employers, and others regarding standards for the process to be used to certify health plans and register employer health plans.

The commission also seeks comments on certain other possible areas of rulemaking related to requirements for certified health plans and registered employer health plans once they are certified.

RCW 43.72.040(21) states that the commission must develop standards "for the certification process" that the OIC will use "to certify health plans and employer health plans to provide the uniform benefits package. . . ." Subsection (29) of the same section states that, in developing standards, the commission is to consider the likelihood of establishment of a national health service plan by the federal government, and to consider its implications.

RCW 43.72.040(3) requires the commission to submit "an initial set of draft rules establishing . . . standards for

certified health plan certification, must be submitted in draft form to appropriate committees of the legislature by December 1, 1994."

Section I of this Preproposal Statement of Intent concerns standards for the certification process. Section II asks for comments on other areas where the commission may propose rules and requirements to govern the structure and actions of plans once they are certified.

### Section I

#### STANDARDS FOR DETERMINING WHETHER AN APPLICANT SHOULD BE CERTIFIED TO OFFER THE UNIFORM BENEFITS PACKAGE AND SUPPLEMENTAL BENEFITS

##### Statement of intent

In this Preproposal Statement of Intent, certified health plan and registered employer health plan certification refers to the process by which a plan or employer is approved to offer the uniform benefits package and supplemental benefits.

In this Preproposal Statement of Intent, the commission is assuming that these standards apply only to plans seeking certification to offer the uniform benefits package. A plan must be registered by the OIC as a disability insurer, health maintenance organization, health care services contractor, or certified health plan before it may apply for certification to offer the uniform benefits package. Those registered carriers not seeking certification to offer the uniform benefits package and approved supplemental benefits would not be subject to the standards outlined in this preproposal.

Comments on Section I should focus on standards to be used by the OIC in making its initial review and certification of plans and employers so they may offer the uniform benefits package. In some cases, certification will occur before the certified health plan or registered employer health plan has a performance record. Our intent is to propose a consistent set of standards that determine if a plan or employer is capable of providing services in the manner envisioned by the act. An applicant that does not demonstrate to the satisfaction of the OIC that it meets the certification standards will be denied certification pursuant to RCW 48.43.030.

In this Preproposal Statement of Intent, please assume that all references to certified health plans apply equally to registered employer health plans. The commission assumes that most certification standards will apply equally to certified health plans and registered employer health plans. Respondents are encouraged to indicate standards they believe are not applicable to registered employer health plans and to identify additional standards that should apply only to such plans.

##### General approach to certification standards

The commission is interested in comments on the overall approach that should be used in determining when an applicant plan should be certified. The commission expects to develop general standards that require a plan to have a process in place to meet a specified goal and explicit standards that require the plan to demonstrate that it meets a specified goal. An example of a general standard would be "certified health plans must provide access to all health services in the uniform benefits package."

General standards may be appropriate when referring to elements that cannot be evaluated until the enrolled population is in place. One advantage of this approach is that it gives more responsibility and flexibility to certified health plans to tailor their systems. Allowing plans flexibility in the way they meet the standards may support competition among plans and is consistent with the commission's intent to allow for a broad range of plan designs. A disadvantage is that having policies and processes in place is no guarantee the standards will be met.

Explicit standards require a plan to demonstrate that it meets a specified goal. An explicit standard is only possible when a reasonable standard exists. An example of an explicit standard would be "certified health plans must provide emergency, urgent, routine, and preventive care services at no more than one hour's drive time for any enrollee, if the services are available."

Explicit standards may be more appropriate when certain features should be in place at the time of certification—for example, appropriate service area boundaries, inclusion of all types of licensed providers, and adequate reserves. One advantage of using explicit standards is that they may minimize confusion among plans about what is required and among consumers about what is offered. Disadvantages are that explicit standards limit the flexibility of plans and it may be difficult to specify in advance precisely where and what standards are needed.

The commission would like interested parties to keep this issue in mind as they review the following potential standards, and to comment on the issue of the overall approach to certification standards.

##### Potential standards for the certification process

Health maintenance organizations, health care service contractors, and disability insurers currently licensed under Title 48 are defined as certified health plans by RCW 43.72.010(1). However, they must still be certified to offer the uniform benefits package. RCW 48.43.020 and 48.43.030 establish requirements that the OIC must use to determine whether a new entity may be granted a certificate of registration as a certified health plan.

The commission is considering using the standards included in RCW 48.43.030 concerning the ability of the applicant to deliver services as required by the act when developing standards for health plan certification. This would allow for a coordinated process by which new certified health plans and existing health maintenance organizations, health care service contractors, and disability insurers would be held to the same standards for certification.

This Preproposal Statement of Intent includes more potential standards than the commission expects to include in the adopted certification standards. Some of the issues in these potential standards may be addressed through the approval process and market conduct examinations subsequent to certification. For the potential standards described below, the commission would like interested parties to indicate: (1) Are the areas covered by the potential standards sufficient to assure the applicant is capable of offering the uniform benefits package as envisioned by the act, or are additional standards needed and (2) are the standards themselves appropriate?

**A. The basic organizational documents of the plan support a determination that the applicant will meet the goals of the act.**

The commission is considering requiring the following potential certification standards:

(1) The applicant must have a plan and timetable for including provider and consumer representatives on key decision-making bodies. The commission would particularly like comments on what roles and ratio of participation by providers and consumers would be reasonable.

(2) The applicant must provide a written plan for working with local communities to integrate provision of the uniform benefits package with public health services and for cooperating in community-based needs assessment.

(3) The applicant must have a written quality improvement plan that would allow the plan to meet the standards of the National Committee for Quality Assurance, or an equivalent body, by the year 1999.

**B. The applicant demonstrates the intent and ability to assure that health services will be available and accessible.**

The commission is considering requiring the following potential certification standards:

(1) The applicant must accept for enrollment any Washington state resident living within the plan's service area. The plan may also accept residents who work within the plan's service area.

(2) The applicant must demonstrate that its contracts or other arrangements with providers and facilities are adequate to offer the uniform benefits package to its projected enrolled population. The commission is considering general and explicit standards in this area. For example, a general standard might be that every applicant must submit to the OIC an enrollment projection and the basis for determining that its network is sufficient to meet the needs of its members. Explicit standards might require that service standards related to travel time and appointment access be met.

(3) The applicant must demonstrate that its network includes every category of licensed providers of uniform benefits services. The plan must also demonstrate that all providers of services in the uniform benefits package or approved supplemental benefits in the plan's service area have access to the plan's general criteria for selection and termination of providers, consistent with the commission's rules regarding proprietary and confidential criteria.

(4) Plans may (but would not be required to) offer an extended or "point of service" network. The plan's basic network must be adequate to provide all services included in the uniform benefits package and approved supplemental benefits. The extended network is intended to provide enrollees with greater choice or with the option of self-referral to certain providers. The commission would like comments on the contents of rules governing the cost-sharing provisions of this plan design.

(5) The applicant must describe its service area. Service areas must not be drawn to exclude specific population groups and must include the entire county in counties served by the plan. The commission is interested in comments about other service area guidelines that should be considered and whether justification and notice should be required for plans to change their service areas.

(6) The applicant must provide evidence that barriers to enrollment, health services, and health promotion programs

due to language, culture, ethnicity, gender, and age have been eliminated for the applicant's projected enrolled population.

(7) Plans and their participating providers and facilities would be exempt from participating in the provision of benefits included in the uniform benefits package or approved supplemental benefits if they object to doing so for reasons of conscience or religion as long as they comply with the provisions of the act.

(8) The applicant must have a policy allowing enrollees, particularly minors, access to services where the confidentiality of billing, test results, and medical record information meets the specific needs of the enrollee. For example, minors may request approval to receive family planning services, abortion, or treatment of sexually transmitted diseases from a provider other than their regular plan provider.

(9) Plans must have written policies outlining the plan's referral policies, including any provisions for self-referral. The policies must be included in marketing and enrollment materials.

(10) The plan must have a plan for administering the uniform benefits package through managed care systems that assure continuity and coordination of care so providers and patients work toward desired health outcomes in an efficient manner.

(11) The applicant must have a written plan for providing culturally appropriate instruction and informational materials that increase awareness of prevention, encourage personal responsibility for protecting personal health, and stimulate discussion about the use and limits of medical care.

(12) The applicant must have a mechanism for providing coverage for emergent and urgent services for enrollees when they are out of the plan's service area.

**C. The applicant is financially responsible and reasonably able to meet its obligations to enrollees.**

The commission is considering requiring the following potential certification standards:

(1) Applicants are required to disclose any agreements with a casualty insurer, a government agency, or any other organization paying or insuring payment for services. Should this disclosure requirement also apply to providers who are bearing significant risk?

(2) Applicants must demonstrate that information was made available to providers regarding the plan's utilization management program and any risk sharing mechanisms in which providers participate.

**D. The applicant has procedures for offering services that are reasonable and equitable and allow the plan to: (1) Monitor the quality of care, (2) operate internal peer review mechanisms, and (3) resolve provider disputes and consumer grievances as required by the act.**

The commission is considering the following potential requirements:

(1) The applicant must have a plan in place for monitoring and analyzing information about the health status of its enrolled population and utilization of services.

(2) The applicant must file a written procedure for resolving grievances in compliance with rules adopted by the OIC.

(3) The applicant must have a written procedure for peer review.

## Section II

### REQUIREMENTS TO BE MET BY PLANS WHEN OFFERING THE UNIFORM BENEFITS PACKAGE

As noted earlier, the commission is also considering developing and proposing rules that certified health plans must comply with once a plan has been certified and is offering the uniform benefits package. The possible rules identified below would augment other rules being developed to implement specific provisions of the act (for example, quality assurance rules, rules specifying how to coordinate premium payments, and data collection rules).

#### Statement of intent

The possible rules listed below address some of the same areas covered by certified health plan certification standards. They do so, however, from the perspective of requirements to be met by plans on an on-going basis. The purpose of these possible rules is to implement and clarify requirements of the act for certified health plans.

For the additional areas of possible rulemaking described below, please comment on: (1) Whether rules in the areas identified are needed; (2) whether the areas identified are sufficient; and (3) how any specific requirement should be formulated.

#### A. Adequacy of provider network

The commission is considering whether to adopt rules that would specify:

- (1) Factors to be considered in making a determination that a plan does not have the clinical, administrative, or financial capacity to serve additional enrollees.
- (2) How the adequacy of provisions for enrollee access to health services outside the plan's service area, particularly outside of the state, can be assured.
- (3) Rules governing how a plan can reenter the market after closing enrollment due to capacity constraints.
- (4) Guidelines to be used by the OIC when directing certified health plans to expand their service areas into rural areas.
- (5) Requirements that certified health plans contract with rural integrated care networks.

#### B. Coordination between plans and public health agencies.

The commission is considering whether to adopt rules specifying the following:

- (1) Certified health plans must collect health status indicators annually that are consistent with the Health Services Information System uniform definitions on data elements for measuring the following: Infant, child, and adolescent mortality; injury, immunization, and pediatric asthma rates; and percentage of low birthweight infants.
- (2) How plans should be required to participate in community-based needs assessments.

#### C. Requirements of the Health Services Information System

The commission is considering whether to adopt rules in the following areas:

- (1) Certified health plans must have in place a plan to implement the policies, procedures, and operational systems for data collection consistent with Health Services Information System rules.
- (2) Plans must use standardized enrollment and claims forms and uniform data elements.

(3) Plans are required to establish a uniform system that assures that the confidentiality of services, billing information, medical records, and utilization information is protected.

#### D. Other areas of possible rulemaking

The commission is considering whether to adopt rules in the following areas:

(1) All contracts with providers and facilities are consistent with requirements of the act, including provisions which require group and individual policies to contain notice of the charity care requirements and subrogation provisions. Contracts should also include language that prohibits billing enrollees for any amounts in excess of applicable enrollee cost-sharing obligations for services included in the uniform benefits package or approved supplemental benefits.

(2) An annual open enrollment period of at least one month must be available to all group and individual enrollees.

(3) All certified health plans are required to contract with a health insurance purchasing cooperative.

(4) All certified health plans are required to accept subsidy payment from the Basic Health Plan and the Medicaid program.

(5) Plans must have a documented utilization management program that meets national standards; for example, the following standards of the National Committee for Quality Assurance:

- (a) Where procedures are used for preauthorization and concurrent review, qualified medical professionals supervise review decisions;
- (b) There is a set of written utilization review decision protocols based on reasonable medical evidence;
- (c) Efforts are made to obtain all necessary information, including pertinent clinical information and consultation with the treating physician, as appropriate; and
- (d) Reasons for denial are clearly documented and available to the member. Notification of a denial includes appeal process information.

(6) Plans must have a documented credentialing program for physicians and other licensed independent providers which meets national standards; for example, the following standards of the National Committee for Quality Assurance:

- (a) The plan designates a credentialing committee or other peer review body that makes recommendations regarding credentialing decisions;
- (b) There is a periodic verification of credentials that is ongoing and up-to-date;
- (c) The recredentialing, recertification or performance appraisal process includes review of data from member complaints, results of quality reviews, utilization management reports, and member satisfaction surveys; and
- (d) The plan has policies and procedures for reducing, suspending, or terminating privileges.

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41253, Olympia, WA 98504-1253, FAX (206) 407-0069. Questions about the Preproposal: Call Nancy Long, Policy Analyst, at (206) 407-0154.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-13-206**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH SERVICES COMMISSION**

[Filed June 22, 1994, 9:58 a.m.]

Specific Statutory Authority for New Rule: Cost sharing for the uniform benefits package and maximum enrollee financial participation, RCW 43.72.040(12) and 43.72.130(4).

Reasons Why the New Rule is Needed: The Health Services Commission will establish point-of-service cost-sharing amounts for the uniform benefits package. These cost-sharing features should not create an access barrier for low-income enrollees, but should provide for moderate cost sharing for higher income residents. The commission also directed to establish a maximum enrollee financial participation level related to enrollee household income. The maximum level will be addressed in two parts: Point-of-service cost sharing and premium sharing.

Goals of New Rule: The goals of the rule are to establish: (1) Point-of-service cost-sharing levels for the uniform benefits package and (2) maximum enrollee financial participation levels that divide health services costs equitable among individuals, businesses, and government.

Process for Developing New Rule: The commission is seeking written comments from employers, health plans, consumers, providers, and others on the questions presented in the Preproposal Statement of Intent shown below. Comments received will be used to help draft proposed rules for this subject at a future date.

**Cost Sharing and Maximum Financial Participation.**

In submitting your written comments to the commission, please refer to this title: "**Cost Sharing and Maximum Financial Participation.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject of Possible Rulemaking:** The Washington Health Services Commission is seeking comments from employers, health plans, consumers, providers, and others about how best to define the cost-sharing features of the uniform benefits package. In particular, information on enrollee point-of-service cost sharing and the maximum enrollee financial participation is being sought. These comments will assist the commission in understanding the impacts and practical consequences of defining employee cost-sharing features of the uniform benefits package. *Anyone who has already provided comments to the Health Services Effectiveness Advisory Committee or the commission on one of the questions listed below need not resubmit their comments.*

**Point-of-Service Cost Sharing**

The commission shall establish and modify as necessary the uniform benefits package that shall be offered to enrollees of a certified health plan. The commission shall establish enrollee point-of-service cost sharing for health services of a nonpreventive nature related to enrollee household income, so that financial considerations are not a barrier to access for low-income persons. For those of means, however, the uniform benefits package should provide for moderate point-of-service cost sharing. As an

example, one way to relate point-of-service cost sharing to enrollee income would be to use a sliding fee schedule.

All point-of-service cost sharing and cost control requirements shall apply uniformly to all health care providers delivering substantially similar uniform benefits package services. The schedule shall provide for an alternate and lower schedule of cost sharing applicable to enrollees with household incomes below the federal poverty level. Enrollee point-of-service cost sharing for the uniform benefits package may not exceed the limits established by the commission in accordance with RCW 43.72.040(12).

The Health Services Effectiveness Advisory Committee will consider alternative cost-sharing approaches and make a recommendation on the cost-sharing features of the uniform benefits package to the commission. The commission shall select a uniform benefits package, with specific cost-sharing amounts that divide the costs of care among employers, individuals, and government.

Before discussing cost-sharing principles and questions, it may be helpful to review the definitions used by the commission for various cost-sharing terms.

(1) **Cost sharing:** A general term for a health insurance policy provision that requires an individual to pay part of the costs of his or her health services. This financial participation could be through paying part of an individual premium, deductibles, co-insurance, co-payments, and/or balance billing.

(2) **Premium sharing:** The amount of the monthly premium for health care coverage that is paid by the individual.

(3) **Point-of-service cost sharing:** The money paid by patients when they receive a health service. Payment can be made either at the time the service is delivered or it can be made afterwards when the patient is billed. Point-of-service cost sharing includes deductibles, co-insurance, co-payments, and balance billing.

(4) **Deductible:** A type of cost sharing where the individual pays a specified amount, for example, the first \$100 or \$500, of health care expenses for covered services before the insurer assumes liability for all or part of the remaining covered services.

(5) **Co-insurance:** A type of cost sharing where the individual and the insurer share payment of the expenses of covered services. Costs are divided according to a specified percentage, such as 20 percent payment by the individual and 80 percent payment by the insurer.

(6) **Co-payment:** A type of cost sharing where the individual pays a fixed dollar amount per service, for example, \$10 per provider visit.

(7) **Balance billing:** In fee-for-service health insurance, the practice of billing patients in excess of the amount approved by the health plan. The act prohibits balance billing by certified health plan providers.

The commission will consider the following principles when setting point-of-service cost sharing amounts.

(1) First, the method of cost sharing should be based to the extent possible on co-payments. They are more appropriate than co-insurance and deductibles in a managed care environment, where utilization is influenced to a greater extent by providers than by imposing significant consumer cost-sharing.

(2) Second, the point-of-service cost-sharing features of the uniform benefits package will be simple. To achieve the greatest ease of administration for certified health plans, consumers, and employers, there will not be multiple and different cost-sharing amounts for similar services. For example, to the extent feasible, all provider visits will have the same co-payment amount. Similarly, while the point-of-service cost-sharing amounts will be related to enrollee income, there may be only two or three different levels of cost sharing, rather than using a fixed percentage of income, for example. Sliding scale percentages likely will be used to establish **premium sharing** levels for low-income enrollees, as the Basic Health Plan currently uses.

(3) Third, cost-sharing amounts will be lower for low-income enrollees, but they will not be so low that the administrative costs of collecting the cost-sharing amounts outweigh the value of the enrollees' financial contribution.

#### **Maximum Enrollee Financial Participation**

The commission has the authority to establish maximum enrollee financial participation levels related to enrollee household income. Maximum enrollee financial participation levels for the uniform benefits package may not exceed the limits established by the commission in accordance with RCW 43.72.040(12).

The commission plans to examine separately the effects of point-of-service and premium cost sharing on enrollees' total maximum financial participation. Initial study by the commission and the Office of Financial Management shows that enrollee premium sharing has a much greater effect on low-income enrollees' financial status than does point-of-service cost-sharing.

Comments can address any aspect of developing cost sharing levels or setting a maximum enrollee participation level for the uniform benefits package. The commission is particularly interested in receiving responses to the following questions:

(1) What income cut-offs should be used to establish different point-of-service cost-sharing amounts related to enrollee household income, and why?

(2) What constitutes moderate point-of-service cost sharing for middle and upper income enrollees?

(3) How can certified health plan administration of cost-sharing features be kept simple?

(4) What kind of cost sharing, if any, is appropriate for low-income enrollees earning less than the federal poverty level?

(5) What percentage of income is excessive for residents to spend on health care premiums and on point-of-service cost sharing?

(6) Should employers be able to purchase supplemental benefits policies that reduce or eliminate point-of-service cost-sharing requirements for their employees?

(7) What are the advantages and disadvantages of using deductibles as a cost-sharing method?

(8) How should state subsidization for low-income enrollees' premium payments be considered in determining the maximum enrollee financial participation levels as related to enrollee household income?

**How Interested Parties can Participate in Formulation of the New Rule:** Please respond in writing by July 20, 1994, to Randy Revelle, Director, Washington Health Services Commission, P.O. Box 41250, Olympia, WA 98504-1250,

FAX (206) 407-0069. Questions about the Preproposal: Call Kirsten Iversen, Policy Analyst, at (206) 407-0211.

June 21, 1994

Bernadene Dochnahl  
Commission Chair

#### **WSR 94-13-207**

#### **PREPROPOSAL STATEMENT OF INTENT HEALTH SERVICES COMMISSION**

[Filed June 22, 1994, 10:01 a.m.]

**Specific Statutory Authority for New Rule:** RCW 43.72.040(13) Employee premium share through payroll deductions.

**Reasons Why the New Rule is Needed:** To assist employers and employees in premium payments, minimizing administrative burdens for all participants.

**Goals of New Rule:** Rules are needed to assure that: (1) Payroll deductions are coordinated with other employee/employer rules and regulations; and (2) payroll deductions are fair and equitable to participating parties.

**Process for Developing New Rule:** The commission is seeking written comments from health plans, employers, employees, consumers, and other affected parties on payroll deductions for premium sharing. The Small Business Advisory Committee has participated in this effort, providing needed advice to the commission and staff. The commission desires additional comments from interested parties.

**Employee Enrollee Premium Sharing through Payroll Deductions.** In submitting your written comments to the commission, please refer to this title: "**Employee Enrollee Premium Sharing through Payroll Deductions.**" If you respond to more than one Preproposal Statement of Intent, please mail your comments in *separate* documents to the appropriate post office boxes (each Preproposal Statement of Intent will have its own post office box).

**Subject for Possible Rulemaking:** The Washington Health Services commission is seeking comments from employers, employees, health plans, and others about employee enrollee premium sharing through payroll deductions. The Washington Health Services Act of 1993 (RCW 43.72.040(13)) authorizes the commission to establish rules requiring employee enrollee premium sharing, as defined in RCW 43.72.010(9), be paid through deductions from wages or earnings.

The most significant issues for rulemaking related to payroll deductions include: (1) The impact on employers to administer a payroll deduction system for employee premium sharing; and (2) a mechanism for monitoring each employee's financial participation to determine when maximum levels have been met through premium sharing and point-of-service cost sharing. The commission's goal is to assure payroll deductions for employee premium sharing be simple, reasonable, and minimize administrative burdens on employers and cost burdens on employees.

#### **Definitions**

RCW 43.72.010 defines enrollee premium sharing to mean that portion of the premium paid by enrollees and their family members. The act defines premium to mean all sums charged by a certified health plan as consideration for a

uniform benefits package, excluding enrollee point-of-service cost sharing.

The act also authorizes the commission to establish a maximum amount that enrollees should contribute to their health care. The commission intends to establish separate maximums for (1) enrollee premium sharing and (2) point-of-service cost sharing. For this Preproposal Statement of Intent, the commission is interested in comments related to enrollee premium sharing, particularly as it relates to payroll deductions.

The maximum enrollee financial participation in premium sharing will equal the full amount of the employee's share for the certified health plan selected by that employee. The full amount will be collected through payroll deductions.

For low income families, maximum enrollee participation in premium sharing will be based on a sliding fee scale for families with annual incomes up to 200 percent of the federal poverty level. If eligible for subsidies, it will be the responsibility of the employee to: (1) Apply for premium subsidies through the Basic Health Plan and (2) supply documentation to the employer on the amount to be deducted from payroll if the amount is less than the employee's full share.

Although it will be the responsibility of the employee to document eligibility for subsidies, the commission remains concerned there may be other administrative burdens affecting employers regarding plan selection and portability, monitoring maximum employee contribution levels, and coordinating benefits under reform. The commission is interested in responses to the following questions concerning employee enrollee premium sharing through payroll deductions:

(1) What are the financial and operational implications to employers of using payroll deductions for employee premium cost sharing?

(2) Would health insurance purchasing cooperatives be useful to employers, employees, and/or certified health plans as a mechanism to administer premium sharing through payroll deductions? If so, how should purchasing cooperatives be paid for this service?

(3) How might employee maximum levels of financial participation be monitored?

(4) Are there any tax implications for employers or employees associated with employee premium sharing through payroll deductions?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by July 20, 1994, to Randy Revelle, Washington Health Services Commission, P.O. Box 41251, Olympia, WA 98504-1251, FAX (206) 407-0069. Questions about the Preproposal: Call Michelle Vest, Policy Analyst, at (206) 407-0153.

June 21, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-13-213**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed June 22, 1994, 11:39 a.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: To correct a pamphlet error closing Horsethief Lake to fishing when the park surrounding the lake is closed.

Goals of New Rule: To close Horsethief Lake to fishing when the state park closes due to loss of all public access to the lake.

Process for Developing New Rule: Agency review of game fish regulation. Proposed rule-making order will be filed with the Office of the Code Reviser, July 6, 1994.

How Interested Parties can Participate in Formulation of the New Rule: Denise Box or Dee Talotta, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 902-2158.

June 20, 1994  
Craig C. Burley  
Native Resident  
Fish Resource Manager

**WSR 94-13-214**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed June 22, 1994, 11:41 a.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: Salmon stocks are at depressed levels throughout Washington. Game fish sport fishing regulations may have the potential to impact nontarget salmon stocks.

Goals of New Rule: Protect depressed salmon stocks while maintaining recreational opportunity on anadromous game fish.

Process for Developing New Rule: Agency review of biological data and related information. Proposed rule making order will be filed with the Office of the Code Reviser, July 6, 1994.

How Interested Parties can Participate in Formulation of the New Rule: Denise Box or Dee Talotta, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 902-2158.

June 20, 1994  
Bob Gibbons  
Anadromous Resource Manager

**WSR 94-13-215**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed June 22, 1994, 11:43 a.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

**Reasons Why the New Rule is Needed:** To allow anglers to use an electric motor while fishing from a floating device on Big Twin Lake (Okanogan County).

**Goals of New Rule:** To provide additional recreational fishing opportunity on Big Twin Lake by allowing the use of electric motors.

**Process for Developing New Rule:** Agency review of biological data [data] and related information. Proposed rule making order will be filed with the Office of the Code Reviser, July 6, 1994.

**How Interested Parties can Participate in Formulation of the New Rule:** Denise Box or Dee Talotta, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 902-2158.

June 20, 1994  
Craig C. Burley  
Native Fish  
Resource Manager



**WSR 94-13-007**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed June 2, 1994, 11:01 a.m.]

Original Notice.

Title of Rule: WAC 388-49-340 Cooperation with quality control review.

Purpose: Households sanctioned for noncooperation with quality control that reapply after ninety-five days from the end of the annual review period and are eligible for expedited service, only have to meet expedited service verification requirements. Other households must verify all eligibility requirements.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Households reapplying after ninety-five days from the end of the annual review period who are eligible for expedited service, only have to meet ES verification requirements, including the provision that only identity must be verified. Other households must verify all eligibility requirements.

Reasons Supporting Proposal: Administrative Notice 94-14 and Indexed Policy Memo 94-03 clarify food stamp program verification requirements for households applying after a quality control sanction.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Arnaud, Division of Income Assistance, 438-8322.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Administrative Notice 94-14 and Indexed Policy Memo 94-03.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by July 12, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by July 19, 1994.

Date of Intended Adoption: August 30, 1994.

June 2, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

**AMENDATORY SECTION** (Amending Order 2575, filed 12/31/87)

**WAC 388-49-340 Cooperation with quality control review.** (1) A household shall be ineligible if it refuses to cooperate in a quality control review.

(2) The household shall remain ineligible until the earlier of the following:

(a) Quality control review requirements are met, or  
(b) Ninety-five days from the end of the annual quality control review period.

(3) Households reapplying after ninety-five days from the end of the annual quality control review period shall provide verification ~~((of all eligibility requirements))~~:

(a) Of all eligibility requirements prior to certification if not an expedited ~~((services))~~ service household, or

(b) ~~((Prior to receiving second month's benefits if))~~ According to expedited service verification requirements in WAC 388-49-080 if the household is eligible for expedited ~~((services))~~ service.

**WSR 94-13-008**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed June 2, 1994, 11:03 a.m.]

Original Notice.

Title of Rule: WAC 388-24-2070 Aid to families with dependent children-foster care—Summary of eligibility conditions, 388-24-2100 Aid to families with dependent children-foster care—Assistance unit, 388-24-2150 Aid to families with dependent children-foster care—Requirements, 388-24-2200 Aid to families with dependent children-foster care—Standards and requirements, 388-24-2250 Aid to families with dependent children-foster care—Income and nonexempt resources, 388-24-2350 Aid to families with dependent children-foster care—Medical care, 388-24-2430 Aid to families with dependent children-foster care—Nonprofit agency placement, 388-218-1010 Financial need—Rules and procedures, 388-218-1050 Definitions, 388-218-1130 Community income, 388-218-1200 Exempt income types, 388-218-1210 Exempt and disregarded income—Educational assistance, 388-218-1220 Disregarded income—Native American benefits, 388-218-1230 Disregarded income types, 388-230-0090 Eligibility conditions—Financial criteria, 388-233-0060 Eligibility conditions—Support enforcement cooperation, 388-233-007- Eligibility conditions—Financial criteria, 388-235-0070 Residence—Temporary absences, 388-235-2000 Resources, 388-235-3000 Income, and 388-275-0060 Payments.

Purpose: The department recently rewrote most of the rules related to financial assistance. It was not our intent to make any substantive changes to the prior rules. It has been recently noted that some of these rewritten rules could be interpreted to affect a change from the prior rule. The purpose of this issuance is to assure that the rewritten rules reflect the intent of the prior rules.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: This issuance makes emergency changes to recently adopted rules to prevent potential misinterpretation of these rewritten rules. Other changes include updating references to reflect new chapters.

Reasons Supporting Proposal: It was our intent to not make substantive changes to these rules, only to reorganize

and clarify existing policies. It was recently noted that some rules could be subject to interpretations which would alter the prior rule. This issuance modifies the language to assure that interpretations do not reflect a change in policy.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McNeil, Division of Income Assistance, 438-8303.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by July 12, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 2, 1994

Dewey Brock, Chief

Office of Vendor Services

Administrative Services Division

**Chapter 388-24 WAC  
AID TO FAMILIES WITH DEPENDENT CHILDREN—FOSTER CARE ELIGIBILITY**

**NEW SECTION**

**WAC 388-24-2070 Aid to families with dependent children-foster care—Summary of eligibility conditions.** To be eligible for aid to families with dependent children-foster care a child shall:

(1) Meet all the eligibility requirements in WAC 388-215-1000, except for his removal from his or a relative's home as specified in subsection (2); and

(2) Have been removed from a relative's home as a result of a judicial determination to the effect that remaining in the relative's home would be contrary to his welfare, for any reason, and who has been placed in foster care as a result of such determination; and

(3) Be under the direct care or supervision of the department in a licensed family foster home, nonprofit group home, or nonprofit child care institution; and

(4) Meet one of the following conditions:

(a) Be receiving AFDC for the month in which court proceedings leading to such determination were initiated, or

(b) Have been eligible to receive AFDC, had application been made, for the month in which court action for his removal was initiated, or

(c) Lived with a specified relative within six months prior to the month in which court proceedings were initiated,

and would have been eligible for AFDC in and for the month in which court proceedings were initiated if in that month he had been living with such relative and application for AFDC had been made.

**NEW SECTION**

**WAC 388-24-2100 Aid to families with dependent children-foster care—Assistance unit.** The AFDC foster care assistance unit shall consist of only the eligible child.

**NEW SECTION**

**WAC 388-24-2150 Aid to families with dependent children-foster care—Requirements.** (1) The basic requirements of the eligible child shall be foster family home care, clothing, and personal incidentals.

(2) Additional requirements for the eligible child shall be school supplies when not provided by the school, needed transportation costs, and psychological services.

**NEW SECTION**

**WAC 388-24-2200 Aid to families with dependent children-foster care—Standards and requirements.** The basic requirements of the eligible child shall be care according to:

(1) The monthly cost standards for family foster home care in WAC 388-70-042, or

(2) The monthly cost standard for foster care and related services paid by the department to licensed nonprofit child caring agencies and institutions.

**NEW SECTION**

**WAC 388-24-2250 Aid to families with dependent children-foster care—Income and nonexempt resources.** The income and resources of the child shall be taken into consideration in determining need according to the rules in chapters 388-216 and 388-218 WAC. Support from parents shall be determined and secured according to the rules in WAC 388-70-075. When the child's parents receive public assistance, the parents' nonexempt income and resources are used first to meet the parents' need including the need of the parents' other minor children.

**NEW SECTION**

**WAC 388-24-2350 Aid to families with dependent children-foster care—Medical care.** Medical care shall be provided children receiving AFDC-FC in accordance with the rules and procedures which govern the granting of medical care to other children receiving care from foster care funds.

**NEW SECTION**

**WAC 388-24-2430 Aid to families with dependent children-foster care—Nonprofit agency placement.** (1) When a child is eligible for AFDC-FC and placed with a licensed nonprofit child-caring agency, the custody, planning and casework service shall be developed and maintained by the nonprofit agency. Direct contact with the child and foster home, and casework service to the parents where

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appropriate, shall be maintained by the agency or institutional staff caring for the child. A quarterly progress report shall be made to the department authorizing payment for the child's care.

(2) The department has final responsibility for determining initial and ongoing eligibility for financial support and for approval of the placement and the plan for child care. No payment for care shall be made without the approval of such placement and plan by the department. This control shall be maintained through written agreements, documentary reports and supervisory conferences with the nonprofit agency.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1010 Financial need—Rules and procedures.** (1) To be eligible for public assistance a client must be in financial need.

(2) Financial need exists when:

(a) The client's payment level (~~(as adjusted for the maximum grant limitations)~~) plus authorized additional requirements exceeds the amount of the client's nonexempt recurrent and nonrecurrent income. The difference thus computed represents the extent of need which exists; and

(b) The client's total nonexempt resources are within applicable program ceiling values.

(3) The rules in chapter 388-218 WAC governing determination of an applicant's financial need for assistance also govern the determination of the continuing need of a recipient unless specifically stated otherwise.

(4) Need is subject to change whenever the client's financial circumstances change in such a way that the appropriate payment level or the client's income is increased or decreased in relation to the standards for assistance.

(5) The department shall take into account the net recurrent or nonrecurrent nonexempt income in cash or in-kind known at the time of application in computing eligibility for payment for an applicant and when determining the continuing grant amount of the recipient.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1050 Definitions.** (1) "Allocation" means the process of determining the amount of income possessed by someone outside the AFDC assistance unit considered available to meet the needs of legal dependents in the assistance unit, or the process of determining the amount of income possessed by the assistance unit considered available to meet the needs of legal dependents outside the assistance unit.

(2) "Available income" means any income which the client possesses and can currently use to supply all or part of his/her requirements.

(3) "Budget month" means the second calendar month preceding the payment month.

(4) "Deeming" means the process of determining the amount of an alien sponsor's income available to the alien.

(5) "Earned income" means income in cash or in-kind earned as wages, salary, commissions, or profit from activities in which the client is engaged as a self-employed person or as an employee. Earned income may be derived

from self-employment (such as business enterprise or farming), or derived from wages or salary received as an employee. Earned income also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock, or poultry. Income from rentals is earned income, provided the client has managerial responsibility for the rental property.

(6) The definition of "earned income" includes:

((\*) (a) Earnings under Title I of the Elementary and Secondary Education Act;

((\*) (b) All earnings received under the Economic Opportunity Act;

((\*) (c) Wages from on-the-job training and work experience; and

((\*) (d) Wages paid under the Job Training Partnership Act (JTPA).

(7) The definition of "earned income" excludes:

((\*) (a) Returns from capital investment with respect to which the client is not actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income."

((\*) (b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, Social Security, etc.

((\*) (c) Income from incentive payments and training-related expenses derived from institutional or work experience training.

((\*) (d) Income received under the Job Training Partnership Act for training allowances, payments for support services, etc.

(8) "Earned income in-kind" means the in-kind item is earned by work performed for another person by the client such as earning rent from a landlord, etc.

(9) "Entitlement" means any claim or interest, payable in cash or in-kind, a client may have in the following:

((\*) (a) Benefit;

((\*) (b) Compensation;

((\*) (c) Insurance;

((\*) (d) Pension (retirement, military, etc.);

((\*) (e) Bonus;

((\*) (f) Allotment; and

((\*) (g) Allowance, etc.

(10) "Gross income" means all income not specifically exempted by rule or regulation before applicable program disregards are applied.

(11) "Income" shall include, but is not limited to, all types of:

((\*) (a) Income from the lease or rental of real or personal property;

((\*) (b) Support from parent, stepparent, or other nonrelated adult;

((\*) (c) Interest or dividends from stocks and bonds as specified in WAC 388-218-1920 (3)(a);

((\*) (d) Wages, including garnished wages;

(\* ~~Interest in an estate;~~)

((\*) (e) Income from farming;

((\*) (f) Benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, and U.C.;

((\*) (g) Gifts and prizes in the form of cash or marketable securities; and

((\*) (h) Lump sum payments.

(12) "**Initial investments**" means real or personal property purchased directly with funds from an annuity fund or per capita payment up to the amount of the funds from the annuity fund or per capita payment.

(13) "**Lump sum payment**" means a nonrecurring unearned income. Lump sum payments may include, but are not limited to:

((\*) (a) Lottery, bingo, or gambling winnings;

((\*) (b) An inheritance;

((\*) (c) Personal injury award;

((\*) (d) Workers compensation awards; or

((\*) (e) Social Security back payments.

(14) "**Minor parent**" means a person who:

((\*) (a) Is seventeen years of age or younger; and

((\*) (b) Resides in the same household with an adult responsible for the minor parent's support.

(15) "**Net income**" means gross income less applicable disregards and deductions for which the client is eligible.

(16) "**Newly acquired income**" means any previously unreported or undiscovered income a client possesses or controls in whole or in part.

(17) "**Payment month**" means the calendar month for which payment is made.

(18) "**Process month**" means the calendar month between the budget month and the payment month.

(19) "**Self-produced**" means an item (~~made~~) produced by a client (for personal use), as opposed to an item purchased by a client, given to a client, or earned by a client in lieu of wages.

(20) "**Student**" means a client attending a school, college or university, or a course of vocational or technical training designed to fit the client for gainful employment. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student enrolled during the school term just completed and planning to return to school when school reopens shall retain status as a student during the summer vacation.

(21) "**Supplied**" means the in-kind item is furnished to the client without work or cost.

(22) "**Unearned income**" means income not directly resulting from a client's employment or self-employment.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1130 Community income.** (1) The department shall (~~consider~~) presume the following to be community income:

(a) All income held in the name of either the husband or wife or both;

(b) Any income received by either the husband or wife; or

(c) The earnings of the husband, or wife, or both, if not legally separated.

(2) The department shall (~~consider~~) presume income subject to the disposition of either the client or the client's spouse, to be community income for the purpose of deter-

mining eligibility. This (~~consideration~~) presumption stands until overcome by positive evidence to the contrary.

(3) Community income is considered to constitute a benefit available to the family unit and hence to both or either spouse.

(4) Each member of the marital community shall have eligibility determined on the basis of a family unit and on the basis of the total community income, regardless of whether one or both are clients.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94.)

**WAC 388-218-1200 Exempt income types.** The department shall exempt the following from consideration as income when determining need:

(1) The income of a supplemental security income recipient. The department shall not count nonrecurring lump sum SSI retroactive payments made to an AFDC client as income in the month paid nor in the next following month;

(2) AFDC benefits resulting from a court order modifying a department policy;

(3) Title IV-E, state and/or local foster care maintenance payments;

(4) Adoption support payments if the adopted child is excluded from the assistance unit;

(5) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, section 218;

(6) The food coupon allotment under Food Stamp Act of 1977;

(7) Compensation to volunteers under the Domestic Volunteer Act of 1973, P.L. 93-113, Titles I, II, and III;

(8) Benefits under women, infants and children program (WIC);

(9) Food service program for children under the National School Lunch Act of 1966, P.L. 92-433 and 93-150;

(10) Energy assistance payments;

(11) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(12) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(13) A previous underpayment of assistance under WAC 388-33-195. The department shall not consider such retroactive corrective AFDC payments as income in the month paid nor in the next following month;

(14) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims, P.L. 101-201. The effective date of the disregard is retroactive to January 1, 1989;

(15) Payments made under the Disaster Relief Act of 1974, P.L. 93-288, as amended by Disaster and Relief and Emergency Assistance Amendments of 1988, P.L. 100-707. This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(16) Payments from the Radiation Exposure Compensation Act, P.L. 101-426, made to an injured person, surviving spouse, children, grandchildren, or grandparents; (~~and~~)

(17) Earned income tax credit; and

(18) Income specifically excluded by any other federal statute from consideration as income.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94.)

**WAC 388-218-1210 Exempt and disregarded income—Educational assistance.** (1) The department shall exempt from consideration as income when determining need educational assistance, in the form of grants, loans, or work study, issued to a student from the following sources:

- (a) Title IV of the Higher Education Amendments; or
- (b) Bureau of Indian Affairs student assistance programs.

(2) The department shall ~~((take))~~ disregard the following ~~((into consideration as))~~ types of income ~~((and disregard as specified))~~ when determining need:

(a) Grants or loans made or insured under any programs administered by the department of education to an undergraduate student for educational purposes.

(b) Educational assistance in the form of grants, loans, or work study, issued under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-391, for attendance costs as identified by the institution. For a student attending school:

(i) At least half-time, attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses; or

(ii) Less than half-time, attendance costs include tuition, fees, and costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study.

(c) Educational assistance in the form of grants, work study, scholarships, or fellowships, from sources other than those identified in subsections (1), (2)(a) and (b) of this section for attendance costs as identified by the institution. Attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses.

(d) Any remaining educational assistance, in the form of grants, work study, scholarships, or fellowships, not disregarded in subsections (1), (2)(a), (b), and (c) of this section, as allowed under WAC 388-218-1540 Assistance from other agencies and organizations.

(e) Apply any applicable earned income disregards to any work study earnings received and not disregarded in subsections (1), (2)(a), (b), (c), and (d) of this section.

(f) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance. Attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94.)

**WAC 388-218-1220 Disregarded income—Native American benefits.** The department shall ~~((take))~~ disregard the following ~~((into consideration as))~~ types of income ~~((and disregard as specified))~~ when determining need:

(1) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act, P.L. 92-203 and 100-241;

(2) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian tribe or individual tribal member;

(3) Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134 as amended by P.L. 97-458 and 98-64. In addition:

(a) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income.

(b) When the initial investments are nonexempt resources see WAC 388-216-2000.

(c) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited.

(4) Income received by Native Americans which is derived from leases or other uses of individually owned trust or restricted lands up to two thousand dollars per person per year (P.L. 103-66).

(5) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age.

(a) The department shall treat the income derived either from the annuity fund payment or the initial investments as newly acquired income.

(b) When the initial investments are nonexempt resources see WAC 388-216-2000.

(6) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94.)

**WAC 388-218-1230 Disregarded income types.** The department shall ~~((take))~~ disregard the following ~~((into consideration as))~~ types of income ~~((and disregard as specified))~~ when determining need:

(1) Child's earned income. Earned income of a child when student eligibility conditions in WAC 388-218-1410 Earned income of a child, have been met.

(2) ~~((Earned income tax credit (EITC))~~

~~((3)))~~ Foster care payments. Disregard as income a foster care payment made for the care of a child. See WAC 388-218-1400 Earned income types, for the treatment of foster care retainer fees.

~~((4)))~~ (3) Gifts:

(a) Cash gifts. Nonrecurring cash gifts up to thirty cumulative dollars received by each member of the AFDC assistance unit per calendar quarter. The department, unless otherwise specified by the donor, shall determine an individual's share in a gift to more than one person by

dividing the amount of the gift by the number of persons receiving the gift.

(b) Noncash gifts. Gifts other than cash as defined under chapter 388-22 WAC provided such gifts are within the allowable program resource limits.

~~((5))~~ (4) Household cost funds. Funds representing another person's or family's share of household costs.

~~((6))~~ (5) Loans.

(a) Bona fide loans. The department shall consider a loan bona fide when the loan is a debt the borrower has an obligation to repay.

(b) Loan repayments. The department shall not consider as income to a client money received from loan repayment; however, the department shall consider any interest paid in the loan as newly acquired income.

~~((7))~~ (6) Office of support enforcement pass-through payments. The monthly child support incentive payment from the office of support enforcement (OSE);

~~((8))~~ (7) Overpayments recovered by source agency. Any overpayment amount withheld from a client's benefit in order to recover an overpayment by the source agency.

~~((9))~~ (8) Per diem and transportation. Per diem and transportation funds paid to AFDC advisory committee members.

~~((10))~~ (9) Settlements. Settlements for destroyed, stolen exempt property, or back medical bills when conditions in, WAC 388-218-1530 Determining net income—Other income, have been met.

~~((11))~~ (10) Self-produced or supplied items. The value of self-produced or supplied items except as specified in, WAC 388-218-1340 Self-produced or supplied items, when:

(a) Self-produced items are sold for cash; or

(b) The household's requirement for shelter is supplied.

AMENDATORY SECTION (Amending Order 3556, filed 7/29/93, effective 8/29/93)

**WAC 388-230-0090 Eligibility conditions—Financial criteria.** In determining financial eligibility and grant amounts, the department shall follow aid to families with dependent children income, resource, transfer of property, and payment rules.

AMENDATORY SECTION (Amending Order 3610, filed 8/11/93, effective 9/11/93.)

**WAC 388-233-0060 Eligibility conditions—Support enforcement cooperation.** (1) The department shall require the court-appointed legal guardian to cooperate with the office of support enforcement in the collection of child support.

(2) The department shall waive the requirement for cooperation if the guardian claims and the department establishes good cause as specified under ~~((WAC 388-24-44))~~ chapter 388-215 WAC.

AMENDATORY SECTION (Amending Order 3610, filed 8/11/93, effective 9/11/93.)

**WAC 388-233-0070 Eligibility conditions—Financial criteria.** In determining financial eligibility, the department shall follow aid to families with dependent children income ~~((and))~~, resource, and transfer of property rules. The

department shall consider only the income and resources of the eligible child.

AMENDATORY SECTION (Amending Order 3559, filed 7/29/93, effective 8/29/93.)

**WAC 388-235-0070 Residence—Temporary absences.** (1) The department shall find that a recipient is maintaining residence in Washington state when the ~~((=~~ ~~((+))~~ person's absences of more than one month were for:

(a) A visit as specified ~~((under chapter 388-26 WAC))~~ for the AFDC program; or

(b) Reasons other than a visit, and the person provides adequate information to establish a continuing residence in the state.

(2) The department shall determine the adequacy of the information on a person's absence of more than one month. In such cases, the department shall assume the person is no longer a resident unless the person provides evidence to the contrary.

AMENDATORY SECTION (Amending Order 3559, filed 7/29/93, effective 8/29/93.)

**WAC 388-235-2000 Resources.** The department shall treat resources and transfer of property for GAU the same as for AFDC ~~((under chapter 388-28 WAC))~~ under chapters 388-216 and 388-217 WAC.

AMENDATORY SECTION (Amending Order 3559, filed 7/29/93, effective 8/29/93.)

**WAC 388-235-3000 Income.** In determining a person's financial eligibility and assistance amount, the department shall:

(1) Follow income ~~((=))~~ rules in chapter 388-219 WAC; and resource, transfer of property, and payment rules applicable to GAU as required under chapters ~~((388-28 and 388-33 WAC))~~ 388-216, 388-217, and 388-265 WAC; and

(2) Exempt the first eighty-five dollars plus one-half the remainder of the applicant's/recipient's total gross monthly earned income.

AMENDATORY SECTION (Amending Order 3695, filed 1/26/94, effective 2/26/94)

**WAC 388-275-0060 Payments.** (1) The amounts of state supplementary payment standards are as specified under ~~((WAC 388-29-295))~~ chapter 388-250 WAC and the state supplementary agreement between the department and SSA.

(2) A state supplementary payment is made on a monthly basis and is included in the same check as a federal benefit is payable.

(3) The state supplementary payment is for the same month as the federal benefit.

**WSR 94-13-013**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
[Filed June 3, 1994, 8:21 a.m.]

Continuance of WSR 94-09-070.

Title of Rule: Commercial fishing rules.

Purpose: Amend commercial fishing seasons.

Other Identifying Information: Partial continuance of WSR 94-09-070 to take additional testimony.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Set fall season for Willapa Bay gill net fishery.

Reasons Supporting Proposal: Provide for harvest of available salmon.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1100 Washington Street, Olympia, 902-2930; Implementation: Gene DiDonato, 1100 Washington Street, Olympia, 902-2625; and Enforcement: Dayna Matthews, 1100 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Season adjustment to harvest available hatchery chinook and provide coho salmon update. Directed coho and chum salmon fisheries closed to provide escapement for reproduction.

Proposal Changes the Following Existing Rules: Amend WAC 220-40-027 as above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

See WSR 94-09-070.

Hearing Location: Room 172, Natural Resource Building, 1100 Washington Street, Olympia, on June 9, 1994, at 7:00 p.m.

Submit Written Comments to: Hearings Officer, Washington Department of Fish and Wildlife, 600 Capitol Way, Olympia, WA 98501, by June 8, 1994.

Date of Intended Adoption: June 17, 1994.

May 25, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

AMENDATORY SECTION (Amending Order 93-54, filed 6/29/93, effective 7/30/93)

**WAC 220-40-027 Salmon—Willapa Bay fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing period**

(1) Gill net gear may be used to fish for salmon from:

- (a) 6:00 p.m. August ~~((+8))~~ 22 to 6:00 p.m. August ~~((+9))~~ 23, 6:00 p.m. August ~~((25))~~ 29 to 6:00 p.m. August ~~((26))~~ 31, 6:00 p.m. September ~~((+))~~ 6 to 6:00 p.m. Septem-

ber ~~((2))~~ 8, and 6:00 p.m. September ~~((7))~~ 13 to 6:00 p.m. September ~~((9))~~ 15, ~~((1993))~~ 1994, in SMCRA 2J, 2K, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy ~~((43))~~ 12, and that portion of SMCRA 2H west of Willapa Channel Marker 35;

(b) 6:00 p.m. September ~~((43))~~ 19 to 6:00 p.m. ~~((September 16, 1993))~~ October 5, 1994, in SMCRA 2H, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy ~~((43))~~ 10 and that part of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2);

~~((c)) (6:00 p.m. September 19 to 6:00 p.m. October 14 in SMCRA 2H, 2M and that portion of 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 10;~~

~~((d))~~ 6:00 p.m. September ~~((43))~~ 19 to 6:00 p.m. September ~~((14, 1993))~~ 20, 6:00 p.m. September ~~((20))~~ 22 to 6:00 p.m. September ~~((21, 1993))~~ 23, 6:00 p.m. September ~~((23))~~ 26 to 6:00 p.m. September ~~((24, 1993))~~ 27, 6:00 p.m. September ~~((27))~~ 29 to 6:00 p.m. September ~~((28, 1993, 6:00 p.m. September 30 to 6:00 p.m. October 1, 1993))~~ 30, and 6:00 p.m. October ~~((4))~~ 3 to 6:00 p.m. October ~~((5, 1993, 6:00 p.m. October 7 to 6:00 p.m. October 8, 1993, 6:00 p.m. October 11 to 6:00 p.m. October 12, 1993))~~ 4, 1994, in SMCRA ~~((2J and))~~ 2K, ~~((except that 6:00 p.m. September 12 to 6:00 p.m. September 17, 1993, and 6:00 p.m. September 19 to 6:00 p.m. October 1, 1993;))~~ and that part of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2) ~~((is open continuously;~~

~~((e)) 6:00 p.m. October 14 to 6:00 p.m. November 1, 1993, in SMCRA 2H and that portion of SMCRA 2G east of Willapa River Channel Marker 24;~~

~~((f)) 6:00 p.m. November 1 to 6:00 p.m. November 30, 1993, in SMCRA 2G, 2H, 2J, 2K and 2M and that portion of SMCRA 2 east of a line from Shoalwater Light to Leadbetter Point)).~~

(2) The Tokeland Boat basin is closed to commercial fishing during the openings in SMCRA 2G described in this section. The Tokeland Boat basin means that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

**Gear**

~~((2))~~ (3) Gill net gear shall be used as provided in WAC 220-40-015 except~~((~~

~~((a))~~ that before September 14, the maximum mesh size is 8-1/2 inches~~((; and~~

~~((b)) After November 19, the minimum mesh size is 7-1/2 inches)).~~

PROPOSED

WSR 94-13-022  
PROPOSED RULES  
DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT

[Filed June 3, 1994, 1:20 p.m.]

Original Notice.

Title of Rule: State funding for the emergency food assistance program (EFAP).

Purpose: To update and revise chapter 365-140 WAC.

Statutory Authority for Adoption: RCW 43.63A.060.

Statute Being Implemented: Section 222(5), chapter 232, Laws of 1992.

Summary: These changes reflect the new agency name, implementation of a pilot project, and clarification of contractor eligibility.

Name of Agency Personnel Responsible for Drafting and Implementation: Susan Eichrodt, Program Manager, CBFS, 9th and Columbia, 586-4921; and Enforcement: Peggy Jo Mihata, Assistant Director, CBFS, 9th and Columbia, 753-4979.

Name of Proponent: Washington State Department of Community, Trade and Economic Development, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Changes would allow participants in a consolidated pilot project to apportion their EFAP funds differently than currently allowed in WAC. This will result in funds being utilized in ways more tailored to each community's needs. The changes also clarify eligibility criteria for contractors, and update the agency's name.

Proposal Changes the Following Existing Rules: Revised contractor eligibility criteria. Adds section allowing for different rules for participants in a pilot project.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Community, Trade and Economic Development, 906 Columbia Street S.W., Room 4A, Olympia, WA 98504-8300, on July 26, 1994, at 11:00 a.m.

Submit Written Comments to: Susan Eichrodt, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 98504-8300, by July 26, 1994.

Date of Intended Adoption: September 1, 1994.

June 2, 1994

Andrew J. Lofton  
Deputy Director  
for Mike Fitzgerald  
Director

AMENDATORY SECTION (Amending Order 93-06, filed 8/25/93, effective 9/25/93)

**WAC 365-140-030 Definitions.** (1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Food bank" means an emergency food program that distributes food and other products on a regular basis without a charge.

(4) "Food distributor" means a food distribution agency that collects, warehouses, and distributes food and other products to emergency food programs and other charities on a county, regional, or state-wide basis.

(5) "Commodity program" means a program that primarily distributes USDA surplus commodities to clients (TEFAP).

(6) "Emergency food assistance program" means the multifaceted state-wide administrative activities carried out within the department (~~of community development~~) to allocate, award, and monitor state funds appropriated to assist local food banks and food distributors, tribes or tribal organizations, and other food programs.

(7) "Applicant" means a public or private nonprofit organization, tribe or tribal organization which applies for state emergency food assistance.

(8) "Contractor" means an applicant which has been awarded state funds under the emergency food assistance program, and which has entered into a contract with the department of community, trade, and economic development to provide emergency food assistance to individuals.

(9) "Lead agency contractor" means a contractor which may subcontract with one or more local organizations to provide emergency food assistance to individuals.

(10) "Tribal food voucher program" means the state-wide administrative activities carried out within the department (~~of community development~~) to allocate, award, and monitor state funds appropriated to assist tribes or tribal organizations in issuing food vouchers to clients.

(11) "Religious service" means any sectarian or non-denominational service, rite, or meeting that involves worship of a higher being.

(12) "Participating agency" means a local public or private nonprofit organization which enters into a subcontract with a contractor to provide emergency food program services.

NEW SECTION

**WAC 365-140-045 Pilot project for consolidated emergency food assistance program.** The department has established an optional consolidated emergency food assistance program pilot project for counties or multicounty regions. The following conditions shall apply to pilot project participants:

(1) A county or multicounty region which requests to participate in the pilot project must be approved by the department to do so. Approval shall be granted if all existing participating food banks and contractors in the county or multicounty region agree to participate in the pilot project.

(2) WAC 365-140-040 (1), (2) and (6) and the criteria found in WAC 365-140-050(6) for food distributors shall not apply to participants in the pilot project.

(3) A public or nonprofit agency selected as the emergency food assistance program lead agency contractor for a county or multicounty region shall contract with the department for that county's or region's entire emergency food assistance program allocation.

PROPOSED

(4) Except for the additional funds specifically allocated for food banks in timber-dependent communities, funds shall be allocated between food distributors, food banks and special dietary needs foods based on a two-thirds vote of all participating food banks.

(5) The additional funds specifically allocated for food banks in timber-dependent communities shall remain in the amounts identified by the timber task force.

(6) If a lead agency contractor and the participating food banks designate funds for food distribution, a food distributor will be chosen by a two-thirds vote of the participating food banks and the lead agency contractor. The lead agency contractor shall be responsible for subcontracting with the food distributor. The lead agency contractor and the participating food banks will, by a two-thirds vote, determine the criteria the food distributor must meet, and shall ensure that the requirements of WAC 365-140-050(1) are met.

**AMENDATORY SECTION** (Amending Order 93-06, filed 8/25/93, effective 9/25/93)

**WAC 365-140-050 Applicant eligibility criteria.** (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501(c)3, ~~((have a sponsor providing 501(c)3 status,))~~ or be a public nonprofit agency, be a recognized tribe, a tribal organization with 501(c)3 status, or an unrecognized tribe with 501(c)3 status.

(2) The applicant must not require participation in a religious service as a condition of receiving emergency food or a food voucher.

(3) The applicant must provide food or food vouchers to individuals in an emergency, regardless of residency.

(4) The applicant must practice nondiscrimination in providing services and employment.

(5) The applicant must not deny food or food vouchers to an individual because of his or her inability to pay.

(6) Applicants for funding as participating agency or food distributor must have had a food bank program or food distribution center in operation for one year prior to the beginning date of the contract year.

(7) The applicant for food bank lead agency contractor may or may not actually provide emergency food program services.

**WSR 94-13-024  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Filed June 3, 1994, 2:59 p.m.]

**Original Notice.**

Title of Rule: WAC 388-49-670 Intentional program violations—Disqualification penalties.

Purpose: Add new subsection (6) to WAC 388-49-670.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Adds permanent disqualification for trading food coupons for firearms. It also adds one year disqualification for a first finding of trading food coupons for a

controlled substance; and permanent disqualification for a second finding of same.

Reasons Supporting Proposal: To comply with Section 13942 of the Public Law 103-66.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Henderson, Division of Income Assistance, 438-8325.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 103-66, Section 13942.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by July 12, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 3, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

**AMENDATORY SECTION** (Amending Order 2803, filed 6/1/89)

**WAC 388-49-670 Intentional program violations—Disqualification penalties.** (1) The department shall disqualify the person or persons committing an intentional program violation, but not the entire household, as defined in WAC 388-49-020.

(2) The department shall apply disqualification penalties as follows:

(a) If the violation occurred in whole or in part after the household was notified of the following penalties, ~~((these))~~ the department shall apply the following disqualification periods ((shall apply)):

- (i) Six months for the first disqualification((?));
- (ii) Twelve months for the second disqualification((?));

and

- (iii) Permanently for the third disqualification.

(b) The department shall disqualify the person or persons for three months:

(i) If the violation ended ~~((prior to))~~ before the department notified the household ~~((being notified))~~ of the penalties in subsection (2)(a) of this section((?)); and

(ii) If the department determined the disqualification ~~((was determined))~~ in an administrative hearing.

(c) The department shall consider multiple violations ~~((occurring prior to))~~ as only one disqualification when the violations occur before the department notified the household

PROPOSED

~~((being notified))~~ of the penalties, as described in subsection (2)(a) of this section ~~((as only one disqualification))~~.

(d) Court-ordered disqualifications are for the length of time specified by the court. The department shall:

(i) Recommend that a disqualification penalty, as provided in subsection (2)(a) of this section, be imposed in addition to any civil or criminal intentional program violation penalties;

(ii) Initiate the disqualification period for the currently eligible person or persons within forty-five days of the date the:

(A) ~~((Date the))~~ Disqualification is ordered if the court does not specify a date; or

(B) ~~((Date the))~~ Court finds such person or persons guilty if the court specifies a disqualification date.

(iii) Impose a disqualification period as specified in subsection (2)(a) of this section if the court fails to address or specify a disqualification period; and

(iv) Not initiate or continue an intentional program violation disqualification period contrary to a court order.

(3) The department shall provide written notice of disqualification to the person or persons ~~((prior to))~~ before the disqualification. The department shall ensure the notice ~~((shall inform))~~ informs the:

(a) Participating person or persons of the disqualification and the effective date of the disqualification~~((:));~~ or

(b) Nonparticipating person or persons that the disqualification period ~~((shall))~~ will be deferred until such time as the person or persons applies for and is found eligible for benefits.

(4) The department shall provide written notice to the remaining household member or members, if any~~((-of))~~:

(a) Of the allotment the household will receive during the period of disqualification; or ~~((that))~~

(b) That the household must re-apply because the certification period has expired.

(5) The department shall recognize an intentional program violation determined in another state or political jurisdiction.

(6) The department shall apply disqualification penalties against a person for trading food coupons for controlled substances or firearms. The department shall impose:

(a) A one year disqualification penalty for the first occasion of a finding by a federal, state, or local court of the trading of food coupons for a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(b) A permanent disqualification for:

(i) The second occasion of a finding by a federal, state, or local court of the trading of food coupons for a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(ii) The first occasion of a finding by a federal, state, or local court of the trading of food coupons for firearms, ammunition, or explosives.

**WSR 94-13-025**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed June 3, 1994, 3:00 p.m.]

Original Notice.

Title of Rule: WAC 388-320-115 Disclosure coordinator, 388-320-130 Request for disclosure of a public record, 388-320-135 disclosure to client's representative, 388-320-220 Exemptions to public records disclosure, and 388-320-240 Disclosure for other than program purposes.

Purpose: Specifies that the unit head is the disclosure coordinator unless the unit head delegated the responsibility. Limits disclosure of a confidential client file to another agency to two situations: A release is included with the request for records, or disclosure is necessary for the Department of Social and Health Services to administer the program correctly. Clarifies language and edits to make rules easier to read.

Statutory Authority for Adoption: RCW 74.08.090 and 42.17.260(2).

Statute Being Implemented: RCW 74.08.090, 42.17.260(2).

Summary: Clarification and corrections of various chapter 388-320 WAC language.

Reasons Supporting Proposal: Edits and clarifies language.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dave Henry, Office of Appeals, 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by July 12, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 3, 1994

Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

AMENDATORY SECTION (Amending Order 1609, filed 2/19/81)

**WAC 388-320-115** (~~Public~~) Disclosure coordinator. The head of each (~~departmental~~) department administrative unit—for example, each CSO or institution—(~~shall designate from among its employees at least one public~~) or the department designee shall be the disclosure coordinator( ~~who shall:~~

- (1) ~~Have responsibility to respond to written requests for disclosure of the department's nonexempt public records located in that office; and~~
- (2) ~~Refer the person requesting disclosure to any other office where the record is located, and assist further in the disclosure process; and~~
- (3) ~~Verify, if necessary, the identity of any person requesting information) for that unit. The coordinator shall, upon request, assist the public or department staff in disclosure matters in that unit.~~

AMENDATORY SECTION (Amending Order 3300, filed 11/27/91, effective 12/28/91)

**WAC 388-320-130 Request for disclosure of a public record.** (1) A request for disclosure of a public record may be oral or written. A request need merely identify with reasonable certainty the record sought to be disclosed.

(2) A request for disclosure shall be made during customary business hours and may be made at (~~my~~) any office of the department. A request for research purposes should be made at the human research section (mailing address: in care of the Office of the Secretary, P.O. Box 45010, Olympia WA 98504).

(3) When the law makes a record disclosable to a specific person, a requestor may be required to provide personal identification.

~~((7) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery.))~~

AMENDATORY SECTION (Amending Order 1609, filed 2/19/81)

**WAC 388-320-135 Disclosure to client's representative.** (1) (~~H~~) When a (~~client requests disclosure to a~~) representative(~~, that request~~) who is not a legislator or attorney requests a client's record, the request must be accompanied by a written release signed by the client(~~, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative~~)). A written release must include:

- (a) The identity of the person(s) or organization(s) to whom disclosure is to be made;
- (b) An identification of the record, or portion thereof, to be disclosed;

(c) A statement of when the authorization for disclosure expires.

(2) (~~Disclosures~~) When a representative who is a legislator or attorney requests a client's record, no written release signed by the client is required.

(3) Disclosure of information to a representative shall be made to the same extent as to the client.

~~((3))~~ (4) The legal guardian of a client has any and all rights accorded to a client by this section.

AMENDATORY SECTION (Amending Order 3456, filed 9/23/92, effective 10/24/92)

**WAC 388-320-220 Exemptions to public records disclosure.** Nondisclosable department records exempted by law include:

(1) Personal information in any file maintained for clients of public institutions or welfare recipients, to the extent required by RCW 42.17.310 (1)(a);

(2) Information regarding applicants and recipients of public assistance to the extent required by RCW 74.04.060 and/or (~~42.17.320 (1)(a))~~ 42.17.310 (1)(a);

(3) Vocational rehabilitation records to the extent required by 34 C.F.R. 361.49;

(4) Juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW;

(5) Alcohol and drug abuse patient records to the extent required by 42 C.F.R. chapter 1 part II or other federal law and regulations;

(6) Records concerning applicants or recipients of support enforcement activities to the extent required by 45 C.F.R. 302.18 or RCW 26.23.120;

(7) Office of support enforcement information regarding location of parents to the extent required by RCW 74.20.280;

(8) Adoption and voluntary termination of parent-child relationship records to the extent required by chapter 26.32 RCW and financial information received from adoptive parents to the extent required by RCW 74.13.121;

(9) Mental illness and inebriacy records to the extent required by RCW 71.05.390;

(10) (~~The central registry of reported cases of child abuse or abuse of developmentally disabled persons to the extent required by RCW 26.44.070;~~

~~((11))~~ Records of patients and inmates of state institutions to the extent required by RCW 72.01.290;

~~((12))~~ (11) Nursing home records to the extent required by RCW 18.51.190, 70.124.010, and 74.46.820;

~~((13))~~ (12) Records maintained by rape crisis centers to the extent required by RCW 70.125.065;

~~((14))~~ (13) Competitive contract procurement instruments, such as a request for proposals or an invitation for bids, prior to the release to potential bidders; proposals and bids received in response to competitive contract procurement instruments until either the public opening of bids or, for proposals, the contractor and the department have signed the contract, under RCW 43.20A.050;

~~((15))~~ (14) Personal information in files maintained for an employee or volunteers of the department to the extent required by RCW 42.17.310 (1)(b) and (u);

~~((16))~~ (15) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies

PROPOSED

vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy under RCW 42.17.310 (1)(d). Under the rules set forth in chapter 388-08 WAC, administrative law and review judges may make determinations in the following program areas only: Public assistance and/or food stamp programs as to whether the circumstances of a particular case, when weighing the public interest in protecting the flow of information against the individual's right to prepare ~~((his or her))~~ the individual's defense, necessitates nondisclosure of particular intelligence or investigative information~~((+))~~. Nothing in this regulation shall be deemed to deny adequate opportunity to the appellant or his or her representative, to examine any intelligence or investigative information to be used by the agency at the hearing. As used in these regulations, intelligence and investigative information includes the following:

(a) Allegations or complaints of suspected criminal activity;

(b) Identification of informants, complainants, any person whose physical safety or property may be endangered by such disclosure, and potential witnesses regarding alleged criminal activity;

(c) Identification of and reports concerning criminal suspects other than the person who is the subject of the fair hearing;

(d) Assessments, reports, notes or voice recordings of law enforcement officials or officials of a criminal justice agency, as defined in RCW 10.97.030, concerning the person who is the subject of the fair hearing, informants or potential witnesses; and

(e) Criminal history information relating to persons or organizations other than the person or persons who are the subject of the fair hearing.

~~((+7))~~ (16) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern pursuant to RCW 42.17.310 (1)(e);

~~((+8))~~ (17) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the department in connection with any action under RCW 42.17.310 (1)(i); ~~((and~~

~~((+9))~~ (18) Records relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts under RCW 42.17.310 (1)(j)~~((--(20)))~~; and

(19) Information as described under RCW 42.17.320 (1)(cc) that identifies a person who, while an agency employee:

(a) Seeks advice, under an informal process established by the employing agency, in order to ascertain such person's rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and

(b) Requests such person's identity or any identifying information not be disclosed.

AMENDATORY SECTION (Amending Order 1609, filed 2/19/81)

**WAC 388-320-240 Disclosure for other than program purposes.** To the extent not otherwise prohibited or authorized by law, ~~((inquiries))~~ a request to disclose a client's record from ~~((agencies))~~ an agency outside the department seeking disclosure for a purpose other than the administration of the department's program, will be honored only if ~~((written and only if))~~ the client's authorization is included with the request.

**WSR 94-13-026**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed June 3, 1994, 3:01 p.m.]

Original Notice.

Title of Rule: WAC 388-49-410 Resources—Exempt and 388-49-430 Resources—Vehicles.

Purpose: Implements provisions of the Mickey Leland Childhood Hunger Relief Act that changes the treatment of vehicles for the food stamp program. The act raises the fair market value (FMV) limit on licensed vehicles from \$4,500 to \$4,550 and excludes the entire value of any vehicle that a household uses to carry fuel or water. Revises the treatment of unlicensed vehicles to conform to federal regulations and clarifies the treatment of vehicles in general.

Statutory Authority for Adoption: RCW 74.04.050, AN 94-03 Sections 13923 and 13924, Public Law 103-66, CFR 273.8 (e)(3), (g), and (h).

Statute Being Implemented: RCW 74.04.050.

Summary: The Leland act raises the FMV limit on licensed vehicles from \$4,500 to \$4,550 and excludes the entire value of any vehicle that a household uses to carry fuel or water when such transported fuel or water is the primary source of fuel or water for the household.

Reasons Supporting Proposal: Administrative Notice 94-03 implements provisions of the Mickey Leland Childhood Hunger Relief Act. Two provisions change food stamp program resource regulations for vehicles. Non-Leland changes clarify CFR intent for unlicensed vehicles (273.8 (h)(4)) and make the WAC easier to understand.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Arnaud, Division of Income Assistance, 438-8322.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 103-66, Sections 13923 and 13924, CFR 273.8 (e)(3), (g), and (h).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by July 12, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 3, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

AMENDATORY SECTION (Amending Order 3375, filed 4/21/92, effective 5/22/92)

**WAC 388-49-410 Resources—Exempt.** (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if the household:

(i) Is making a good faith effort to sell; or  
(ii) Intends to return to the home and the house is unoccupied due to:

(A) Employment;  
(B) Training for future employment;  
(C) Illness; or  
(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;  
(e) Household goods;  
(f) One burial plot per household member;  
(g) Cash value of:  
(i) Life insurance policies; and  
(ii) Pension funds.

(h) Vehicles as provided under WAC 388-49-430;  
(i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and ~~((f))~~ (g);

(j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;

(k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;

(l) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(m) Resources held separately by a nonhousehold member or an ineligible student;

(n) Indian lands:

(i) Held jointly with the tribe; or  
(ii) Sold only with the approval of the Bureau of Indian Affairs.

(o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

(p) Cash value of resources not accessible to the household;

(q) Funds in a trust and the income produced by that trust, to the extent they are not available;

(r) Resources excluded by express provision of federal law from consideration in the food stamp program;

(s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

(t) Value of the property sold under an installment contract;

(u) The value of property held for security if the purchase price is consistent with fair market value;

(v) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

(w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

(x) Energy assistance payments or allowances made under federal, state, or local laws;

(y) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

(z) Payments received under the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, as follows:

(i) Payments from the annuity fund established by P.L. 101-41 made to a Puyallup Tribe member upon reaching twenty-one years of age;

(ii) The investments or purchases made directly with the annuity payment up to the amount from the annuity fund payment; and

(iii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup Tribal member.

(2) The department shall continue to exempt a household's funds commingled in an account with nonexempt funds for up to six months from the date the funds are commingled.

(3) The department shall exempt a resource of a household member who receives a supplemental security income (SSI) or aid to families with dependent children (AFDC) grant.

AMENDATORY SECTION (Amending Order 3605, filed 7/28/93, effective 8/28/93)

**WAC 388-49-430 Resources—Vehicles.** (1) The department shall exclude the entire value of a licensed

vehicle even during periods of temporary unemployment if ((#)) the vehicle is:

(a) Used for income-producing purposes over fifty percent of the time ((#)) the vehicle is in use. A vehicle excluded under this provision because the vehicle is used by a self-employed farmer ((shall)) retains its exclusion for one year from the date the household member terminates self-employment from farming;

(b) Annually producing income consistent with its fair market value;

(c) Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, ((and)) ineligible alien, or ((a)) disqualified person whose resources are considered available to the household((. This exclusion applies only if the vehicle is necessary for long distance travel other than daily commuting));

(d) Necessary for subsistence hunting or fishing;

(e) Used as the household's home; ((or))

(f) Used to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household; or

(g) Necessary to transport ((one of the following persons who has a temporary or permanent physical disability)) a temporarily or permanently physically disabled:

(i) Household member;

(ii) Ineligible alien whose resources are available to the household; or

(iii) Disqualified person whose resources are available to the household.

The exclusion is limited to one vehicle per physically disabled person.

(2) The department shall ((exclude)) count the ((entire)) equity value of an unlicensed ((vehicles)) vehicle even during periods of temporary unemployment unless the vehicle is:

(a) ((Driven by an Indian tribal member on those reservations not requiring vehicle licensing; and)) Annually producing income consistent with its fair market value (FMV); or

(b) ((Meeting one of the provisions in subsection (1) of this section)) Work-related equipment necessary for employment or self-employment of a household member.

(3) The department shall ((continue the exclusions described in subsections (1) and (2) of this section when the vehicle is not in use because of temporary unemployment.

(4) The department shall:

(a) ((Determine the fair market value of all licensed vehicles not excluded in subsections (1) and (2) of this section by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies; and

(b) Count the fair market value of each vehicle in excess of four thousand five hundred dollars toward the household's resource maximum)) consider unlicensed vehicles the same as licensed vehicles if the vehicles are driven by Indian tribal members on those reservations not requiring vehicle licensing.

((5)) (4) The department shall ((determine the equity value of all licensed vehicles except:

(a) Those excluded in subsections (1) and (2) of this section;

(b) One licensed vehicle per household regardless of the use of the vehicle; and

(c) Any other licensed vehicle used for:

(i) Transportation to and from employment;

(ii) Seeking employment; or

(iii) Transportation for training or education which is preparatory to employment.

(6) The department shall count the equity value of licensed and unlicensed vehicles not excluded in subsections (1), (2), and (5) of this section toward the household's maximum allowable resource limit.

(7) The department shall consider the value of a countable vehicle to be the greater amount of either:

(a) Fair market value in excess of four thousand five hundred dollars; or

(b) Equity value)) count toward the household's resource maximum either the FMV in excess of four thousand five hundred fifty dollars or the equity value of licensed vehicles, whichever is greater. Except, the department shall only count the FMV in excess of four thousand five hundred fifty dollars for the following vehicles:

(a) One licensed vehicle per household regardless of the vehicle's use; and

(b) Any other licensed vehicle used for:

(i) Transportation to and from employment;

(ii) Seeking employment; or

(iii) Transportation for training or education.

(5) The department shall determine the FMV using vehicles listed in publications written for the purpose of providing guidance to automobile dealers and loan companies.

## WSR 94-13-027

### PROPOSED RULES

### UTILITIES AND TRANSPORTATION

### COMMISSION

[Filed June 3, 1994, 4:11 p.m.]

#### Original Notice.

Title of Rule: Amendments to WAC 480-120-056 (two options), 480-120-061, 480-120-081, 480-120-101, 480-120-138, and 480-120-141 relating to deposits, refusal of service, disconnection of service, complaints and disputes, pay telephones, alternative operator services. Written and/or oral submissions may contain data, views and arguments concerning the effect of the amendments on economic values, pursuant to chapter 43.21H RCW. Docket No. UT-94-0049

Purpose: To amend WAC 480-120-056 Deposits, to allow telecommunications companies to require deposits in additional circumstances, and delete authorization to require a deposit from an applicant or subscriber based on a previous customer still residing at the premises and having an unpaid bill at that premises; establish additional alternatives to paying a deposit, such as toll restriction and toll limiter service; allow companies to apply deposits to customer accounts rather than mailing refunds in specified circumstances; and clarify language. Two options for amending WAC 480-120-056 Deposits, are proposed (see Summary below). To amend WAC 480-120-061 Refusal of service, to allow a telecommunications company to refuse service to an applicant or subscriber until verifiable positive identification

is provided, clarify that a telecommunications company may only deny service to an applicant or subscriber for charges owed to that company, and prohibit interexchange carriers from providing service to nonregistered telecommunications companies that intend to use the service for hire, sale or resale to the general public. To amend WAC 480-120-081 Discontinuance of service, to prohibit the disconnection of local exchange service for nonpayment of interexchange telecommunications companies' charges; allow a company to use toll restriction in lieu of total or partial disconnect, allow local exchange companies to disconnect service if they are notified by law enforcement or the attorney general's office that a subscriber's number has been used to place abusive calls or to telemarket in a deceptive or unlawful manner; establish guidelines relating to discontinuance of residential service in the case of a medical emergency; and clarify language. To amend WAC 480-120-101 Complaints and disputes, to clarify that telecommunications companies must have personnel available during regular work days to address customer complaints or inquiries and to respond to commission staff; define regular work days; and clarify other language. To amend WAC 480-120-138 Pay telephones—Local and intrastate, to clarify that the rule mandates that a local exchange company take disconnect action for violations of tariff and commission rules. To amend WAC 480-120-141 Alternate operator services, to make a similar clarification as is proposed for WAC 480-120-138.

Statutory Authority for Adoption: RCW 80.01.040.

Summary: See Purpose above. The commission is proposing two alternative versions of WAC 480-120-056. Option 1 is commission staff's preferred version. Option 2 includes language proposed by US WEST Communications, Inc., at subsections (3), (5), and (9) of the proposed rule. The two versions differ on the means by which an applicant for or customer of residential local exchange service can establish creditworthiness (proposed subsection (3)), on the alternatives to paying a deposit available to residential applicants or customers (proposed subsection (9)), and on the amount of the deposit a company may require of a residential applicant or customer without previous verifiable service (proposed subsection (5)). Currently, local exchange companies cannot require a deposit unless an applicant or customer is a known credit risk. Either alternative version would allow a company to require a deposit of a residential applicant or customer who is unable to establish credit. Option 1 would allow an applicant or customer to demonstrate creditworthiness based on prior satisfactory telecommunications payment history, employment, stable income, or home ownership. Option 2 would only allow an applicant or customer to demonstrate creditworthiness based on prior satisfactory telecommunications payment history, but would allow a customer an additional alternative to paying a deposit: Providing evidence of satisfactory nontelecommunications credit as verified by a consumer credit reporting agency. Under Option 1, a residential service applicant or subscriber without previous verifiable service could be required to pay a deposit equal to two months estimated usage. Under Option 2, the maximum deposit would be two times the telecommunications company's statewide average monthly bill.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McLellan, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted because the proposal is pursuant to legislative authorization in RCW 80.01.040.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Summary above.

Proposal Changes the Following Existing Rules: See Purpose and Summary above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The proposal would not impose additional economic costs to businesses in the industry classification. The catalyst for the proposed rule changes in this docket was a request by US WEST Communications, Inc., for waiver of certain commission rules to enable it to reduce the level of its uncollectibles. The proposed rule changes would give affected companies new options related to customer deposits, refusal of service, and discontinuance of service. Other proposed changes would clarify language in commission telecommunications rules. The proposed rule changes would affect virtually all of the companies in Standard Industry Classification No. 4813: Telephone Communications, Except Radiotelephone. In drafting the proposed rule changes, commission staff considered what costs, if any, the proposed changes would impose on businesses within the industry classification, and whether any economic burden imposed by the changes would be proportionately higher on small businesses. Staff has determined that the proposed amendments would not impose additional costs on business large or small. A small business economic impact statement is not required. Staff engaged the extensive involvement of telecommunications companies and other interested parties in the process of developing these final proposed amendments. It notified every telecommunications company that is registered with the commission as well as public counsel of its intention to review the existing rules. It held three informal meetings with interested companies and other interested persons, in December 1993, and in March and April 1994. The following participated in the meetings: US WEST Communications, Inc., AT&T, MCI Telecommunications Corporation, Sprint; Public Counsel Section of the Attorney General's Office, and Evergreen Legal Services. Staff also received and considered written comments. Staff conducted its own analysis of the proposed changes for their potential economic cost on affected businesses. The proposed amendments would not impose additional costs on businesses within the industry. They would provide affected companies additional options relating to customer deposits, refusal of service, and discontinuance of service. Several options would reduce the costs of doing business. For example, a company could require deposits in circumstances where it currently cannot require a deposit. A company could apply a deposit to an account rather than refunding it,

as it is presently required to do. A company could require positive identification as a condition of providing service. Some new options might require more costly procedures than current practices, but they would not be mandatory. Other proposed changes merely clarify language and would have no economic effect. Staff conducted a survey to determine the potential economic impact of the proposed amendment to WAC 480-120-101 that would require telecommunications companies to ensure that they have personnel available during regular work days to address customer complaints or inquiries and to respond to commission staff. Staff was uncertain whether the provision would require small companies to hire additional personnel. Staff discussed staffing requirements with the companies that attended the April meeting, which included the largest telecommunications companies, and surveyed at random ten telecommunications companies having 50 or fewer employees, to determine whether the proposed rule would have a disproportionate impact on the small companies. All of the companies contacted indicated that they either already meet the requirement or can meet it with existing staff, and that the proposed rule amendment would not impose additional costs on them.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on September 14, 1994, at 9:00 a.m.

Submit Written Comments to: Steve McLellan, Secretary, P.O. Box 47250, Olympia, WA 98504-7250, by August 5, 1994.

Date of Intended Adoption: September 14, 1994.

June 3, 1994  
Steve McLellan  
Secretary

### OPTION 1

AMENDATORY SECTION (Amending Order R-287, Cause No. U-87-1611-R, filed 6/21/88)

WAC 480-120-056 Deposits. (1) Establishment of credit - nonresidential ((deposit requirements)). An applicant for or subscriber of nonresidential service may be required to demonstrate satisfactory credit by reasonable means appropriate under the circumstances.

(2) ~~((Residential deposit requirements. A deposit may be required under the following circumstances:~~

~~(a) A deposit may be required when, within the twelve months prior to the application, the applicant's service of a similar type has been disconnected for failure to pay amounts owing, when due; where applicant has an unpaid, overdue balance owing for service from the telecommunications company to which application is being made or any other telecommunications company; or where four or more delinquency notices have been served upon the applicant by any other telecommunications company during the twelve months previous to the application for service. A telecommunications company shall provide written notice to the subscriber that a deposit may be required upon issuance of the fourth delinquency notice.~~

~~(b) Installation or continuation of service to a residence where a prior subscriber still resides and where any balance for such service to that prior subscriber is past due or owing.~~

~~(e) When a subscriber (i) is initially provided service without a deposit on the basis of information supplied to the telecommunications company by the subscriber which is incorrect and the subscriber would have otherwise been required to make a deposit; or (ii) has an unpaid, overdue balance owing for the same class of service from the telecommunications company providing that service, or any other telecommunications company, which becomes known to the serving telecommunications company after current service has been provided; or (iii) has incurred excessive toll charges as defined in subsection (3)(b) of this section and the subscriber has elected not to make full payment of all proper toll charges as provided in subsection (3)(b) of this section.~~

~~(d) Any new or additional deposit required under authority of these rules, except as may be provided for elsewhere in these rules, is due and payable on the sixth business day after written notice of the deposit requirement is mailed to the subscriber, or, if personal service is elected, by 5 p.m. of the first business day following notification.~~

~~(3)) Establishment of credit for residential - interexchange telecommunications company services. An applicant for or subscriber of interexchange telecommunications services may be required to demonstrate satisfactory credit by reasonable means appropriate under the circumstances.~~

~~(3) Establishment of credit for residential - local exchange telecommunications company services. An applicant for or subscriber of local exchange service may demonstrate satisfactory credit by demonstrating any one of the following, provided the applicant or subscriber is not subject to a deposit requirement under subsection (4)(b) of this section, and the information can be confirmed easily and quickly by the company:~~

~~(a) Prior residential service with the telecommunications company in question during the previous twelve months for at least six consecutive months during which service was rendered and was not disconnected for failure to pay, and no more than one delinquency notice was served upon the customer during the six-month period. Unless, the telecommunications company has determined that realignment of the customer's bill due date as provided for in WAC 480-120-106 would have negated the need for notices.~~

~~(b) Prior residential service with any telecommunications company with a satisfactory payment record as demonstrated in (a) of this subsection and the applicant provides the necessary information to substantiate the assertion. The applicant may either provide verification via a letter from their previous telecommunications company or have their previous telecommunications company provide the verification of credit.~~

~~(c) Consecutive employment during the entire twelve months next previous to application, with no more than two employers, and the applicant is currently employed. The applicant or subscriber must provide a work telephone number to enable the telecommunications company to verify employment.~~

~~(d) Stable monthly income during the entire twelve months next previous to application for service, and the applicant or subscriber is continuing to receive such income. The applicant or subscriber must provide a telephone number of the income provider which can confirm the information.~~

(e) Applicant owns or is purchasing the residence to be served. The applicant must provide a parcel number or another means whereby the telecommunications company can confirm the information.

Upon request, telecommunications companies within the state of Washington must provide applicants or subscribers confirmation of their payment history for the previous twelve-month period. Written confirmation may be provided to either the consumer or directly to the telecommunications company of which service is requested. Verbal confirmation must be provided directly to the telecommunications company of which service is requested. The criteria used for the confirmation must be the same as provided for in (a) of this subsection. The confirmation must be provided on the same or following business day of the request.

The information provided by the applicant or subscriber to establish credit shall be used only for purposes of establishing credit worthiness. Information shall not be provided to any person or telecommunications company for purposes other than to establish credit worthiness as provided for in (a) of this subsection.

(4) Deposit requirements. An applicant or subscriber may be required to pay a deposit under the following circumstances:

(a) When an applicant or subscriber is unable to establish credit as defined above.

(b) When a subscriber is initially provided service without a deposit on the basis of information supplied to the telecommunications company by the subscriber which is incorrect and the subscriber otherwise would have been required to make a deposit.

(c) In any event, a deposit may be required when within the last twelve months prior to application, the applicant's or subscriber's service of a similar type has been disconnected for failure to pay amounts owing, when due; or where applicant has an unpaid, overdue balance owing for the same class of service from the telecommunications company to which application is being made, or any other telecommunications company.

(d) When a subscriber has incurred excessive toll charges as defined in subsection (5) of this section.

(e) Any new or additional deposit required under authority of these rules, except as may be provided for elsewhere in these rules, is due and payable on the sixth business day after written notice of the deposit requirement is mailed to the subscriber, or, if personal service is elected, by 5:00 p.m. of the first business day following notification.

(5) Amount of deposit.

(a) In instances where a deposit may be required by the telecommunications company, the deposit shall not exceed:

(i) For nonresidential service, two-twelfths of estimated annual billings(±);

(ii) For residential service, two months customary utilization for applicants or subscribers with previous verifiable service or two months estimated usage for applicants or subscribers without previous verifiable service. Customary utilization is calculated using charges for the previous three months service.

(b) Subscribers whose toll charges exceed thirty dollars, or whose toll charges exceed customary utilization over the previous six months by twenty dollars or by twenty percent, whichever is greater, may be required, upon written or verbal

notice to the subscriber, to make payment of either of the following in the subscriber's election, before the close of the next business day following receipt of the notice:

(i) Full payment of outstanding toll charges specified in said notice; or all toll charges accrued to the time of payment providing the subscriber has been notified that he or she is liable for toll charges in addition to those charges specified in the notice which come to the attention of the telecommunications company between the time of notice and of payment.

(ii) Payment of a new or additional deposit in light of the subscriber's actual use based upon two months customary utilization.

(c) If the notice herein described is mailed, receipt may be presumed ~~((open))~~ upon the fourth business day following date of mailing.

(d) At the time application is made for service, the telecommunications company may request an estimate of the applicant's greatest monthly toll usage during the ensuing twelve months. When such an estimate is asked and given, the applicant for service shall be advised that if the estimate is exceeded by twenty dollars or twenty percent, whichever is greater, immediate payment may be required(±) if the toll is incurred by a telecommunications company authorized by the commission to collect deposits and advanced payments; a deposit or additional deposit may be required, or service may be disconnected.

~~((4))~~ (6) Transfer of deposit. Where a subscriber of whom a deposit is required transfers service to a new location within the same utility's service area, the deposit, less any outstanding balance, shall be transferable and applicable to the new service location.

~~((5))~~ (7) Interest on deposits. Interest on deposits held shall be accrued at a rate based upon a simple average of the effective interest rate for new issues of one year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. Deposits would earn that interest rate during January 1 through December 31 of the subsequent year. Interest shall be computed from the time of deposit to the time of refund or total application of the deposit and shall be compounded annually.

~~((6))~~ (8) Extended payment on deposit. Where a subscriber or applicant for service of whom a deposit is required is unable to pay the entire amount of the deposit in advance of installation or continuation of service, the subscriber or applicant shall be allowed to pay fifty percent of the deposit amount prior to installation or continuation of service, with the remaining amount payable in equal amounts ~~((on the telecommunications company's ordinary billing cycle during))~~ over the following two months ~~((of service))~~. A subscriber or applicant for service unable to meet this deposit requirement shall have the opportunity to receive service under subsection ~~((7))~~ (9) of this section, alternative to deposit, of this section.

~~((7))~~ (9) Alternative to deposit. A residential subscriber or applicant for residential service ~~((of whom))~~ who is unable to establish credit as provided above and is required to make a deposit ~~((is required))~~, but who is unable to make a deposit, shall be allowed, as an alternative to the making of a deposit, to:

(a) Furnish a satisfactory guarantor to secure payment of bills for service requested in a specified amount not to

exceed the amount of deposit which may be required until satisfactory credit is established. The company may require that the guarantor reside in the state of Washington and currently have service with the telecommunications company requesting the deposit.

(b) Where technically feasible, accept a toll restricted access line in lieu of payment of the deposit until satisfactory credit is established as provided for above, or until a deposit is received. A toll restricted line shall provide access to emergency service, such as 911.

(c) Where technically feasible, accept a toll limited/blocked line until satisfactory credit is established or a deposit is paid. Toll limited/blocking allows a telecommunications company to deny continued access to toll service when a subscriber meets or exceeds a predetermined toll amount within a one-month billing period. The subscriber's toll limit will be a combination of both intraLATA and interLATA toll of sixty dollars or the consumer's estimated usage whichever is less. A telecommunications company may allow higher toll limits if it deems it appropriate. A telecommunications company may offer this option only when it is able to comply with the following requirements:

(i) Ensure that a subscriber's toll service will not be toll limited/blocked for toll charges of an interexchange carrier that is not authorized by the commission to collect deposits or advanced payments;

(ii) Ensure that a subscriber's toll service will not be toll limited/blocked for nonregulated information provider charges;

(iii) Provide a message before every call advising the subscriber of the amount of toll which has been used to date during that monthly period;

(iv) Ensure that a call in progress will not be interrupted if a subscriber exceeds their monthly toll limit during the course of the call, provided the charge for the call does not exceed the subscriber's toll limit by twenty dollars or twenty percent.

(v) Provide a recording that advises the subscriber when the toll limit has been exceeded and refers the subscriber to a number where arrangements may be made to prepay the toll charges or pay a deposit to regain toll capabilities;

(vi) Provide the subscriber at the time service is established, written confirmation of the toll limit service which includes: The amount of toll the subscriber is authorized each month; the procedure and required service time frames for increasing the authorized toll limit; and the subscriber's right, at any time prior to establishment of a satisfactory payment history, to pay a deposit for removal of toll limit/blocking;

(vii) Ensure subscribers continue to have access to emergency services, such as 911.

~~((8))~~ (10) Receipt. Where payment is made by cash, a receipt shall be furnished to each applicant or subscriber for the amount deposited.

~~((9))~~ (11) Refund of deposit, removal of toll restriction, or removal of toll limit/blocking. Deposits shall be refunded, toll restriction converted to unrestricted service and toll limit/blocking converted to unrestricted service under the following circumstances ~~((in the following form))~~:

(a) Satisfactory payment. Where the subscriber has for twelve consecutive months paid for service in a prompt and satisfactory manner as evidenced by the following:

(i) The telecommunications company has not initiated disconnection proceedings against the subscriber.

(ii) No more than ~~((three))~~ two notices of delinquency have been made to the subscriber by the telecommunications company within the previous twelve-month period.

(b) Termination of service. Upon termination of service, the telecommunications company shall return to the subscriber the amount then on deposit plus accrued interest, less any amounts due the telecommunications company by the subscriber for service rendered on the telephone account for which the deposit was collected.

(c) Refunds - how made. Any deposit, plus accrued interest, ~~((shall))~~ may be ~~((refunded))~~ applied to the ~~((subscriber either))~~ subscriber's telephone account for service in the 13th and, if appropriate, subsequent months once satisfactory credit is established. Upon subscriber request, the refund shall be made in the form of a check issued and mailed to the subscriber no longer than fifteen days following completion of twelve months' satisfactory payment as described above ~~((, or applied to the subscriber's bill for service in the thirteenth and, if appropriate, subsequent months, in accordance with the preference as to refund indicated by the subscriber at the time of deposit, or as thereafter modified))~~.

~~((40))~~ (12) Should a larger or new deposit be required, the reasons therefor shall be specified in writing to the subscriber. Any requirement for a new or larger deposit shall be in conformity with the standards set forth in this section.

#### OPTION 2

AMENDATORY SECTION (Amending Order R-287, Cause No. U-87-1611-R, filed 6/21/88)

**WAC 480-120-056 Deposits.** (1) Establishment of credit - nonresidential ~~((deposit requirements))~~. An applicant for or subscriber of nonresidential service may be required to demonstrate satisfactory credit by reasonable means appropriate under the circumstances.

(2) ~~((Residential deposit requirements. A deposit may be required under the following circumstances:~~

~~((a) A deposit may be required when, within the twelve months prior to the application, the applicant's service of a similar type has been disconnected for failure to pay amounts owing, when due; where applicant has an unpaid, overdue balance owing for service from the telecommunications company to which application is being made or any other telecommunications company; or where four or more delinquency notices have been served upon the applicant by any other telecommunications company during the twelve months previous to the application for service. A telecommunications company shall provide written notice to the subscriber that a deposit may be required upon issuance of the fourth delinquency notice.~~

~~((b) Installation or continuation of service to a residence where a prior subscriber still resides and where any balance for such service to that prior subscriber is past due or owing.~~

~~((c) When a subscriber (i) is initially provided service without a deposit on the basis of information supplied to the telecommunications company by the subscriber which is incorrect and the subscriber would have otherwise been required to make a deposit; or (ii) has an unpaid, overdue~~

~~balance owing for the same class of service from the telecommunications company providing that service, or any other telecommunications company, which becomes known to the serving telecommunications company after current service has been provided; or (iii) has incurred excessive toll charges as defined in subsection (3)(b) of this section and the subscriber has elected not to make full payment of all proper toll charges as provided in subsection (3)(b) of this section.~~

~~(d) Any new or additional deposit required under authority of these rules, except as may be provided for elsewhere in these rules, is due and payable on the sixth business day after written notice of the deposit requirement is mailed to the subscriber, or, if personal service is elected, by 5 p.m. of the first business day following notification.~~

~~(3)) Establishment of credit for residential - interexchange telecommunications company services. An applicant for or subscriber of interexchange telecommunications services may be required to demonstrate satisfactory credit by reasonable means appropriate under the circumstances.~~

~~(3) Establishment of credit for residential - local exchange telecommunications company services. An applicant for or subscriber of local exchange service may demonstrate satisfactory credit by demonstrating any one of the following, provided the applicant or subscriber is not subject to a deposit requirement under subsection (4)(b) of this section, and the information can be confirmed easily and quickly by the company:~~

~~(a) Prior residential service with the telecommunications company in question during the previous twelve months for at least six consecutive months during which service was rendered and was not disconnected for failure to pay, and no more than one delinquency notice was served upon the customer during the six-month period. Unless, the telecommunications company has determined that realignment of the customer's bill due date as provided for in WAC 480-120-106 would have negated the need for notices.~~

~~(b) Prior residential service with any telecommunications company with a satisfactory payment record as demonstrated in (a) of this subsection and the applicant provides the necessary information to substantiate the assertion. The applicant may either provide verification via a letter from their previous telecommunications company or have their previous telecommunications company provide the verification of credit.~~

~~Upon request, telecommunications companies within the state of Washington must provide applicants or subscribers confirmation of their payment history for the previous twelve-month period. Written confirmation may be provided to either the consumer or directly to the telecommunications company of which service is requested. Verbal confirmation must be provided directly to the telecommunications company of which service is requested. The criteria used for the confirmation must be the same as provided for in (a) of this subsection. The confirmation must be provided on the same or following business day of the request.~~

~~The information provided by the applicant or subscriber to establish credit shall be used only for purposes of establishing credit worthiness. Information shall not be provided to any person or telecommunications company for purposes~~

~~other than to establish credit worthiness as provided for in (a) of this subsection.~~

~~(4) Deposit requirements. An applicant or subscriber may be required to pay a deposit under the following circumstances:~~

~~(a) When an applicant or subscriber is unable to establish credit as defined above.~~

~~(b) When a subscriber is initially provided service without a deposit on the basis of information supplied to the telecommunications company by the subscriber which is incorrect and the subscriber otherwise would have been required to make a deposit.~~

~~(c) In any event, a deposit may be required when within the last twelve months prior to application, the applicant's or subscriber's service of a similar type has been disconnected for failure to pay amounts owing, when due; or where applicant has an unpaid, overdue balance owing for the same class of service from the telecommunications company to which application is being made, or any other telecommunications company.~~

~~(d) When a subscriber has incurred excessive toll charges as defined in subsection (5) of this section.~~

~~(e) Any new or additional deposit required under authority of these rules, except as may be provided for elsewhere in these rules, is due and payable on the sixth business day after written notice of the deposit requirement is mailed to the subscriber, or, if personal service is elected, by 5:00 p.m. of the first business day following notification.~~

~~(5) Amount of deposit.~~

~~(a) In instances where a deposit may be required by the telecommunications company, the deposit shall not exceed:~~

~~(i) For nonresidential service, two-twelfths of estimated annual billings(+);~~

~~(ii) For residential service, two months customary utilization for applicants or subscribers with previous verifiable service;~~

~~(iii) For residential service, applicants or subscribers without previous verifiable service, a deposit may be required which is based upon two times the telecommunications company's state-wide average monthly bill.~~

~~(b) Subscribers whose toll charges exceed thirty dollars, or whose toll charges exceed customary utilization over the previous six months by twenty dollars or by twenty percent, whichever is greater, may be required, upon written or verbal notice to the subscriber, to make payment of either of the following in the subscriber's election, before the close of the next business day following receipt of the notice:~~

~~(i) Full payment of outstanding toll charges specified in said notice; or all toll charges accrued to the time of payment providing the subscriber has been notified that he or she is liable for toll charges in addition to those charges specified in the notice which come to the attention of the telecommunications company between the time of notice and of payment.~~

~~(ii) Payment of a new or additional deposit in light of the subscriber's actual use based upon two months customary utilization.~~

~~(c) If the notice herein described is mailed, receipt may be presumed ((open)) upon the fourth business day following date of mailing.~~

~~(d) At the time application is made for service, the telecommunications company may request an estimate of the~~

applicant's greatest monthly toll usage during the ensuing twelve months. When such an estimate is asked and given, the applicant for service shall be advised that if the estimate is exceeded by twenty dollars or twenty percent, whichever is greater, immediate payment may be required ~~((7))~~ if the toll is incurred by a telecommunications company authorized by the commission to collect deposits and advanced payments; a deposit or additional deposit may be required, or service may be disconnected.

~~((4))~~ (6) Transfer of deposit. Where a subscriber of whom a deposit is required transfers service to a new location within the same utility's service area, the deposit, less any outstanding balance, shall be transferable and applicable to the new service location.

~~((5))~~ (7) Interest on deposits. Interest on deposits held shall be accrued at a rate based upon a simple average of the effective interest rate for new issues of one year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. Deposits would earn that interest rate during January 1 through December 31 of the subsequent year. Interest shall be computed from the time of deposit to the time of refund or total application of the deposit and shall be compounded annually.

~~((6))~~ (8) Extended payment on deposit. Where a subscriber or applicant for service of whom a deposit is required is unable to pay the entire amount of the deposit in advance of installation or continuation of service, the subscriber or applicant shall be allowed to pay fifty percent of the deposit amount prior to installation or continuation of service, with the remaining amount payable in equal amounts ~~((on the telecommunications company's ordinary billing cycle during))~~ over the following two months ~~((of service))~~. A subscriber or applicant for service unable to meet this deposit requirement shall have the opportunity to receive service under subsection ~~((7))~~ (9) of this section, alternative to deposit, of this section.

~~((7))~~ (9) Alternative to deposit. A residential subscriber or applicant for residential service ~~((of whom))~~ who is unable to establish credit as provided above and is required to make a deposit ~~((is required))~~, but who is unable to make a deposit, shall be allowed, as an alternative to the making of a deposit, to:

(a) Furnish a satisfactory guarantor to secure payment of bills for service requested in a specified amount not to exceed the amount of deposit which may be required until satisfactory credit is established. The company may require that the guarantor reside in the state of Washington and currently have service with the telecommunications company requesting the deposit.

(b) Where technically feasible, accept a toll restricted access line in lieu of payment of the deposit until satisfactory credit is established as provided for above, or until a deposit is received. A toll restricted line shall provide access to emergency service, such as 911.

(c) Where technically feasible, accept a toll limited/blocked line until satisfactory credit is established or a deposit is paid. Toll limited/blocking allows a telecommunications company to deny continued access to toll service when a subscriber meets or exceeds a predetermined toll amount within a one-month billing period. The subscriber's toll limit will be a combination of both intraLATA and interLATA toll of sixty dollars or the consumer's estimated

usage whichever is less. A telecommunications company may allow higher toll limits if it deems it appropriate. A telecommunications company may offer this option only when it is able to comply with the following requirements:

(i) Ensure that a subscriber's toll service will not be toll limited/blocked for toll charges of an interexchange carrier that is not authorized by the commission to collect deposits or advanced payments;

(ii) Ensure that a subscriber's toll service will not be toll limited/blocked for nonregulated information provider charges;

(iii) Provide a message before every call advising the subscriber of the amount of toll which has been used to date during that monthly period;

(iv) Ensure that a call in progress will not be interrupted if a subscriber exceeds their monthly toll limit during the course of the call, provided the charge for the call does not exceed the subscriber's toll limit by twenty dollars or twenty percent.

(v) Provide a recording that advises the subscriber when the toll limit has been exceeded and refers the subscriber to a number where arrangements may be made to prepay the toll charges or pay a deposit to regain toll capabilities;

(vi) Provide the subscriber at the time service is established, written confirmation of the toll limit service which includes: The amount of toll the subscriber is authorized each month; the procedure and required service time frames for increasing the authorized toll limit; and the subscriber's right, at any time prior to establishment of a satisfactory payment history, to pay a deposit for removal of toll limit/blocking;

(vii) Ensure subscribers continue to have access to emergency services, such as 911;

(d) Provide evidence of satisfactory nontelecommunications credit as verified with an established consumer reporting agency.

~~((8))~~ (10) Receipt. Where payment is made by cash, a receipt shall be furnished to each applicant or subscriber for the amount deposited.

~~((9))~~ (11) Refund of deposit, removal of toll restriction, or removal of toll limit/blocking. Deposits shall be refunded, toll restriction converted to unrestricted service and toll limit/blocking converted to unrestricted service under the following circumstances ~~((in the following form))~~:

(a) Satisfactory payment. Where the subscriber has for twelve consecutive months paid for service in a prompt and satisfactory manner as evidenced by the following:

(i) The telecommunications company has not initiated disconnection proceedings against the subscriber.

(ii) No more than ~~((three))~~ two notices of delinquency have been made to the subscriber by the telecommunications company within the previous twelve-month period.

(b) Termination of service. Upon termination of service, the telecommunications company shall return to the subscriber the amount then on deposit plus accrued interest, less any amounts due the telecommunications company by the subscriber for service rendered on the telephone account for which the deposit was collected.

(c) Refunds - how made. Any deposit, plus accrued interest, ~~((shall))~~ may be ~~((refunded))~~ applied to the ~~((subscriber either))~~ subscriber's telephone account for service in the 13th and, if appropriate, subsequent months once

satisfactory credit is established. Upon subscriber request, the refund shall be made in the form of a check issued and mailed to the subscriber no longer than fifteen days following completion of twelve months' satisfactory payment as described above (~~or applied to the subscriber's bill for service in the thirteenth and, if appropriate, subsequent months, in accordance with the preference as to refund indicated by the subscriber at the time of deposit, or as thereafter modified~~).

~~((10))~~ (12) Should a larger or new deposit be required, the reasons therefor shall be specified in writing to the subscriber. Any requirement for a new or larger deposit shall be in conformity with the standards set forth in this section.

**AMENDATORY SECTION** (Amending Order R-353, Docket No. UT-910788), filed 12/18/91, effective 1/18/92)

**WAC 480-120-061 Refusal of service.** (1) The ~~((utility))~~ telecommunications company may refuse to connect with or render service to an applicant for service when such service will adversely affect the service to other existing customers, or where the applicant has not complied with state, county, or municipal codes and/or regulations concerning the rendition of such service.

(2) A ~~((utility))~~ telecommunications company may refuse to serve an applicant for service or a subscriber if, in its judgment, the installation is considered hazardous or of such nature that satisfactory service cannot be given.

(3) A ~~((utility))~~ telecommunications company shall not be required to connect with or render service to an applicant unless and until it can secure all necessary rights of way, easements, and permits.

(4) A ~~((utility))~~ telecommunications company may deny service to an applicant or subscriber because of an overdue, unpaid prior obligation to the same ~~((utility))~~ telecommunications company for the same class of service at the same or different location until the obligation is paid or arrangements satisfactory ~~((arrangements))~~ to the telecommunications company are made: *Provided*, That an overdue or unpaid obligation to an information provider shall not be grounds for denial of service. A nontelecommunication company applicant for service shall only on an initial occurrence be entitled as a matter of right to arrange to pay an overdue, unpaid prior obligation over not less than six monthly billing periods. Any amount owed to a local exchange company or an interexchange carrier at the time a customer's local service is disconnected for nonpayment is considered a prior obligation. Any amount owed to an interexchange carrier at the time the telecommunications company toll restricts a customer's service for nonpayment is considered a prior obligation. If an applicant or subscriber defaults on a payment agreement such default shall constitute grounds for discontinuance or toll restriction of service under the provisions of WAC 480-120-081 ~~((2)(a))~~. A ~~((utility))~~ telecommunications company may offer a payment agreement at any time if deemed to be appropriate by the ~~((utility))~~ company.

(5) A ~~((utility))~~ telecommunications company may deny service to an applicant or subscriber for service at an address where a former subscriber is known to reside and has an overdue, unpaid prior obligation to the same ~~((utility))~~

telecommunications company for the same class of telecommunications service at that address until the obligation is paid or satisfactory arrangements are made.

(6) A telecommunications company may deny service until any proper deposit is paid in full, or in part, or an alternative service option as defined in WAC 480-120-056 has been selected by the applicant or subscriber.

(7) A telecommunications company may deny installation or continuation of service to any applicant or subscriber who fails to provide accurate and verifiable information necessary to establish the identity of the applicant or subscriber until verifiable information is provided. Telecommunications companies must provide a means for applicants or subscribers to provide identification. At a minimum business offices and payment agencies required under WAC 480-120-510 must provide this service at no charge to the applicant or subscriber.

(8) A ~~((utility))~~ telecommunications company may deny installation or continuation of service to any applicant or subscriber who is shown to have obtained or retained service from the company by fraudulent means, including but not limited to false statements of credit references or employment; false statement of premises address; use of an alias or false name with intent to deceive; rotation of service among roommates or persons living together for the purpose of avoiding the debts of one or more of said persons, or any other similar fraudulent devices.

~~((7))~~ (9) A ~~((local exchange))~~ telecommunications company shall deny service to a nonregistered telecommunications company that intends to use the service requested to provide telecommunications for hire, sale, or resale to the general public within the state of Washington. Any telecommunications company requesting service from a local exchange company or interexchange carrier shall state in writing whether the service is intended to be used for intrastate telecommunications for hire, sale, or resale to the general public.

**AMENDATORY SECTION** (Amending Order R-233, Cause No. U-85-35, filed 8/23/85)

**WAC 480-120-081 Discontinuance of service.** (1) By subscriber - a subscriber shall be required to give notice to the ~~((utility))~~ telecommunications company of his intention to discontinue service.

(2) By ~~((utility))~~ telecommunications company - service may be discontinued by the ~~((utility))~~ telecommunications company for any of the following reasons:

(a) For the nonpayment of bills. The ~~((utility))~~ telecommunications company shall require that bills for service be paid within a specified time after issuance. The minimum specified time shall be fifteen days. Upon the expiration of said specified time without payment, the bill may be considered delinquent.

(b) For tampering with the ~~((utility's))~~ telecommunications company's property.

(c) In case of vacation of the premises by subscriber.

(d) For nonpayment of any proper charges including deposit, as provided in the tariff or pricelist of the ~~((utility))~~ telecommunications company. Nonpayment of charges billed by the ~~((utility))~~ telecommunications company on behalf of information providers shall not be grounds for discontinu-

ance of service in whole or in part. Nonpayment of interexchange carrier charges shall not be grounds for disconnection of local service. However, the telecommunications company may toll restrict a subscriber's service for nonpayment of proper interexchange carrier charges. A telecommunications company may toll limit/block a subscriber's service for exceeding their authorized toll amount as specified in WAC 480-120-056. Disputed third party billed charges shall not be grounds for disconnection of service in whole or in part.

(e) For violation of rules, service agreements, or filed tariff(s).

(f) For use of subscriber equipment which adversely affects the ((utility's)) telecommunications company's service to its other subscribers.

(g) For fraudulent obtaining or use of service. Whenever a fraudulent obtaining or use of the service is detected the ((utility)) telecommunications company may discontinue service without notice: *Provided, however,* That if the subscriber shall make immediate payment for such estimated amount of service as had been fraudulently taken and all costs resulting from such fraudulent use, the ((utility)) telecommunications company shall continue such service, subject to any applicable deposit requirements. If a second offense as to fraudulent obtaining or use is detected the ((utility)) telecommunications company may refuse to reestablish service, subject to appeal to the commission. The burden of proof of such fraudulent obtaining or use will be upon the ((utility)) telecommunications company in case of an appeal to the commission. This rule shall not be interpreted as relieving the subscriber or other person of civil or criminal responsibility.

(h) For unlawful use of service or use of service for unlawful purposes, including notification from law enforcement authorities that the subscriber's telephone number has been identified as a location originating abusive calls and including notification from the office of the state's attorney general or law enforcement that the subscriber is using the service to sell goods or services or solicit payment for any purpose through unfair, deceptive, or other unlawful means. Upon notification from law enforcement of the state attorney general's office the telecommunications company shall provide five days written notice to the subscriber describing the reason for the proposed disconnection of service. Before effecting a disconnection of service the telecommunications company must attempt personal contact as provided for in subsection (5)(b) of this section. Should a subscriber notify the telecommunications company prior to disconnection of the service that the cause for the disconnect threat has been corrected the company shall cease disconnect action. The subscriber shall be informed that the provisions of subsection (7) of this section will be applicable if future reports of unlawful actions are received.

(3) When a local exchange telecommunications company has cause to totally disconnect or has totally disconnected a residential service, it shall postpone disconnection of local service or shall reinstate local service after receiving either verbal or written notification of the existence of a medical emergency for a grace period of five business days. When service is reinstated, payment of a reconnection charge and/or deposit shall not be required prior to reinstatement of local service.

(a) The local exchange company may require that the subscriber within five business days submit written certification from a qualified medical professional stating that the disconnection of local service would significantly endanger the physical health of the subscriber, a member of the subscriber's family or another permanent resident of the household. "Qualified medical professional" means a licensed physician, nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this section precludes a company from accepting other forms of certification but the maximum the company can require is written certification. If the company requires written certification, it may require that the certification include some or all of the following information:

(i) The name of the resident whose health would be affected by the disconnection of local service;

(ii) The relationship to the subscriber;

(iii) A description of the health condition;

(iv) An explanation of how the physical health of the person will be endangered by disconnection of local service;

(v) A statement of how long the condition is expected to last; and

(vi) The title, signature and telephone number of the person certifying the condition.

(b) A medical emergency does not excuse a subscriber from paying delinquent and ongoing charges. The company may require that the subscriber do the following within the five business day grace period: Pay a minimum of twenty-five percent or ten dollars of the delinquent balance, whichever is greater; and enter into an agreement to pay the remaining delinquent balance within ninety days and to pay subsequent bills when due. Nothing in this section precludes the company from agreeing to an alternate payment plan, but the company may not require the subscriber to pay more than this subsection prescribes. The company shall send a notice confirming the payment arrangements within two business days.

(c) If within the five-day grace period the subscriber fails to provide acceptable certification or fails to make payment or enter into an acceptable payment arrangement, the company may disconnect local service without further notice.

(d) If the subscriber fails to abide by the terms of the payment agreement the company may disconnect local service following notification provided for in subsection (5)(b) of this section.

(e) The medical certification shall be valid only for the length of time the health endangerment is certified to exist but no longer than six months without renewal.

((3)) (4) A subscriber's service shall be treated as continuing through a change in location from one premises to another within the same service area if a request for service at the new premises is made prior to disconnection of service at the old premises and service is not subject to termination for cause. A subscriber shall be entitled to the same type of service at the new premises unless precluded by the tariff or pricelist of the company.

((4)) (5) Except in case of danger to life or property, fraudulent use, impairment of service, or violation of law, no ((utility)) telecommunications company shall discontinue service unless the following conditions are met:

~~(a) (Before effecting disconnection of service, a utility shall make a good faith, bona fide effort to reach the subscriber in person or by telephone to advise the subscriber of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach the subscriber by telephone during reasonable hours shall be made. If a business or message telephone is provided by the subscriber, the utility shall endeavor by that means to reach the subscriber if unable to make contact through the subscriber's home telephone. A log or record of the attempts shall be maintained by the utility showing the telephone number called and the time of call. Telephone or personal contact shall not be a substitute for written notice of disconnection as specified below. Telephone or personal contact need not be attempted when (i) the company has had cause in any two previous billing periods during a consecutive twelve-month period to attempt such contact; and (ii) the company has notified the subscriber in writing that such telephone or personal contact will not be attempted in the future before effecting disconnection of services.~~

~~(b)) Each ((utility)) telecommunications company shall provide, subsequent to a subscriber's account becoming delinquent, written notice of disconnection served on the subscriber either by mail or, at its option, by personal delivery of the notice to the subscriber's address. If a mailed notice is elected, service shall not be disconnected prior to the eighth business day following mailing of the notice. If personal delivery is elected, disconnection shall not be permitted prior to 5 p.m. of the first business day following delivery. Delivered notice shall be deemed effective if handed to a person of apparent competence in the residence or, if a business account, a person employed at the place of business of the subscriber. If no person is available to receive notice, notice shall be deemed served if attached to the primary door of the residence unit or business office at which service is provided. If service is not discontinued within ten working days of the first day on which disconnection may be effected, unless other mutually acceptable arrangements have been made, that disconnect notice shall become void and a new notice shall be required before the service can be discontinued.~~

~~(b) Before effecting disconnection of service, a telecommunications company shall make a good faith, bona fide effort to reach the subscriber in person or by telephone to advise the subscriber of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach the subscriber by telephone at the service number during reasonable hours shall be made. If a business or message telephone is provided by the subscriber, the telecommunications company shall endeavor by that means to reach the subscriber if unable to make contact through the subscriber's service telephone number. A log or record of the attempts shall be maintained by the telecommunications company showing the telephone number called and the time of call. Telephone or personal contact shall not be a substitute for written notice of disconnection as specified below. Telephone or personal contact need not be attempted when:~~

~~(i) The company has had cause in any two previous billing periods during a consecutive twelve-month period to attempt such contact; and~~

~~(ii) The company has notified the subscriber in writing that such telephone or personal contact will not be attempted in the future before effecting disconnection of services.~~

All notices of delinquency or pending disconnection shall detail procedures pertinent to the situation and provide notice of means by which the subscriber can make contact with the ((utility)) telecommunications company to resolve any differences. All notices must accurately state amounts owing for service(s) which are subject to disconnection. A new notice will be required in cases where information is incorrect.

(c) Except in case of danger to life or property, no disconnection shall be accomplished on Saturdays, Sundays, legal holidays, or on any other day on which the ((utility)) telecommunications company cannot reestablish service on the same or following day.

(d) When a ((utility)) telecommunications company employee is dispatched to disconnect service, that person shall be required to accept payment of a delinquent account at the service address if tendered in cash, but shall not be required to dispense change for cash tendered in excess of the amount due and owing. Any excess payment shall be credited to the subscriber's account. When disconnection is not effected due to such payment the ((utility)) telecommunications company shall be permitted to assess a reasonable fee as provided for in the tariff of the ((utility)) telecommunications company for the disconnection visit to the service address. Notice of the amount of such fee, if any, shall be provided within the notice of disconnection.

(e) Where the ((utility)) telecommunications company has reasonable grounds to believe service is to other than the subscriber of record, the ((utility)) company shall undertake reasonable efforts to inform occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the subscriber of record, a minimum period of five business days shall be allowed to permit the service users to arrange for continued service.

(f) Where service is provided to a hospital, medical clinic with resident patients, or nursing home, notice of pending disconnection shall be provided to the secretary, Washington state department of social and health services, as well as to the subscriber. Upon request from the secretary or his designee, a delay in disconnection of no less than five business days from the date of notice shall be allowed so that the department may take whatever steps are necessary in its view to protect the interests of patients resident therein who are responsibilities of the department.

(g) Service may not be totally disconnected while a subscriber is pursuing any remedy or appeal provided for by these rules, provided any amounts not in dispute are paid when due. The subscriber shall be so informed by the ((utility)) telecommunications company upon referral of a complaint to a ((utility)) company supervisor or the commission.

(h) Where a subscriber's toll charges substantially exceed the amount of any deposit or customary utilization, and where it appears the subscriber will incur excessive, uncollectible toll charges while an appeal is being pursued, the ((utility)) telecommunications company may, upon authorization from the commission, disconnect service. A subscriber whose service is so eligible for disconnection may

maintain service pending resolution of any dispute upon payment of outstanding toll charges subject to refund if the dispute is resolved in the subscriber's favor.

~~((5))~~ (6) Payment of any delinquent amount to a designated payment agency of the ~~((utility))~~ telecommunications company shall constitute payment to the ~~((utility))~~ company, if the subscriber informs the ~~((utility))~~ company of such payment and the ~~((utility))~~ company verifies such payment.

~~((6))~~ (7) Service shall be restored when the causes of discontinuance have been removed and when payment or satisfactory arrangements for payment of all proper charges due from the applicant, including any proper deposit, has been made as provided for in the tariff or pricelist of the ~~((utility))~~ telecommunications company; or as the commission may order pending resolution of any bona fide dispute between the ~~((utility))~~ telecommunications company and the subscriber or applicant over the propriety of disconnection.

~~((7))~~ (8) Service that has been disconnected for unlawful use as described in subsection (2)(h) of this section shall be restored when the subscriber indicates that the unlawful practice has ceased. Should a second offense of the same nature be reported by law enforcement or the office of the attorney general, service may again be disconnected following five days notice and personal contact. The telecommunications company may refuse to reestablish service, subject to appeal to the commission. Should the subscriber appeal, the burden of proof of the unlawful action will be upon the telecommunications company and appropriate law enforcement agencies. This rule shall not be interpreted as relieving the subscriber or other persons of civil or criminal responsibility.

(9) A ~~((utility))~~ telecommunications company may make a charge for restoring service when service has been discontinued or toll restricted for nonpayment of bills. The amount of such charge is to be specified in the ~~((utility's))~~ telecommunications company's tariff or pricelist.

When service is ~~((discontinued))~~ disconnected for nonpayment of a bill it may be either completely disconnected, toll restricted or partially disconnected. Service may be toll limited/blocked when a subscriber exceeds their toll limit as provided for in WAC 480-120-056. Toll restricted and toll limited/blocked service must allow access to emergency numbers such as 911. Partial disconnection means telephone service will be restricted to either incoming or outgoing service. In case of a partial disconnection, the subscriber shall be notified of the restricted usage. Upon any complete disconnection of telephone service to a subscriber, charges for service will be discontinued as of the date of the disconnection.

**AMENDATORY SECTION** (Amending Order R-86, filed 6/30/76)

**WAC 480-120-101 Complaints and disputes.** Any complaint or dispute involving a ~~((utility))~~ telecommunications company and a subscriber shall be treated in the following manner:

~~((a))~~ (1) Each complaint or dispute received by a ~~((utility))~~ telecommunications company shall be investigated promptly as required by the particular case, and the result reported to the applicant or subscriber. When circumstances

indicate the need for corrective action, such action shall be taken as soon as possible.

(2) Each ~~((utility))~~ telecommunications company shall ensure that personnel engaged in initial contact with a dissatisfied or complaining applicant or subscriber shall inform the applicant or subscriber that if dissatisfied with the decision or the explanation that is provided, the applicant or subscriber has the right to have that problem considered and acted upon by supervisory personnel. The applicant or subscriber shall be provided with the name or department of such supervisory personnel and a telephone number by which they may be reached.

(3) Each ~~((utility))~~ telecommunications company shall ensure that supervisory personnel contacted by a dissatisfied applicant or subscriber shall inform a still-dissatisfied applicant or subscriber of the availability of the commission for further review of any complaint or dispute. The toll-free telephone number and address of the commission shall also be provided.

(4) All parties to a dispute between an applicant or subscriber and the ~~((utility))~~ telecommunications company shall have the right to bring before the commission an informal complaint pursuant to the provisions of WAC ~~((480-08-040))~~ 480-09-150 and/or a formal complaint pursuant to the provisions of WAC ~~((480-08-050))~~ 480-09-420.

(5) When a complaint is referred to a ~~((utility))~~ telecommunications company by the commission, the utility shall, within 2 working days, report results of any investigation made regarding the complaint to the commission and shall keep the commission currently informed as to progress made with respect to the solution of, and final disposition of, the complaint. If warranted in a particular case, a utility may request an extension of time.

(6) Records - each utility shall keep a record of all complaints concerning the utility's service or rates. The record shall show at least the name and address of the complainant, the nature and date of the complaint, action taken, and the final disposition of the complaint. Such records shall be maintained in a suitable place readily available for commission review.

All written complaints made to a utility shall be acknowledged. Correspondence and records of complaints shall be retained by the utility for a minimum period of one year.

(7) Each telecommunications company shall ensure that it has personnel available during regular work days to address customer complaints or inquiries and to respond to commission staff. Regular work days mean Monday - Friday, excluding official state holidays.

**AMENDATORY SECTION** (Amending Order R-345, Docket No. UT-900726, filed 6/18/91, effective 7/19/91)

**WAC 480-120-138 Pay telephones—Local and intrastate.** Every telecommunications company operating an exchange within the state of Washington may allow pay telephones to be connected to the company's network for purposes of interconnection and use of registered devices for local and intrastate communications. Every such telecommunications company offering such service shall file tariffs with the commission setting rates and conditions applicable to the

connection of pay telephones to the local and intrastate network under the following terms and conditions. Local exchange companies that do not have a public access line tariff on file with the commission shall not be subject to these rules.

For purposes of these rules "pay telephone" is defined as equipment connected to the telephone network in one of the following modes:

(a) Coin operated: A telephone capable of receiving nickels, dimes, and quarters to complete telephone calls. Credit card or other operator-assisted billing may be used from a coin-operated instrument.

(b) Coinless: A pay telephone where completion of calls, except emergency calls, must be billed by an alternative billing method such as credit card, calling cards, collect, third-party billing, or billed in connection with the billing of meals, goods, and/or services. These pay phones include, but are not limited to, charge-a-call, cordless, tabletop, and credit card stations. The term does not include in-room telephones provided by hotels, motels, hospitals, campuses or similar facilities for the use of guests or residents.

For purposes of these rules, the term "subscriber" is defined as a party requesting or using a public access line for the purpose of connecting a pay telephone to the telephone network.

(1) Pay telephones connected to the company network must comply with Part 68 of the Federal Communications Commission rules and regulations and the National Electric Code and National Electric Safety Code as they existed on January 1, 1991, and must be registered with the Federal Communications Commission, or installed behind a coupling device which has been registered with the Federal Communications Commission.

(2) All pay telephones shall provide dial tone first to assure emergency access to operators without the use of a coin.

(3) The caller must be able to access the operator and 911 where available without the use of a coin.

(4) The charge for each directory assistance call paid by the consumer shall not exceed the prevailing per call charge for comparable directory assistance. In the absence of persuasive contrary evidence, the charge of U S WEST Communications for intraLATA directory assistance or AT&T for interLATA directory assistance shall be accepted as the prevailing charge. A location surcharge is not permitted.

(5) Emergency numbers (e.g., operator assistance and 911) must be clearly posted on each pay telephone.

(6) Information consisting of the name, address, telephone number of the owner, or the name of the owner and a toll-free telephone number where a caller can obtain assistance in the event the pay telephone malfunctions in any way, and procedures for obtaining a refund from the subscriber must be displayed on the front of the pay telephone.

The following information shall also be posted on or adjacent to the telephone instrument:

(a) The method by which the consumer may obtain without charge an accurate quotation of rates, fees and surcharges; and

(b) The notices required by WAC 480-120-141(4).

In no case will the charges to the user exceed the quoted costs.

(7) The telephone number of the pay telephone must be displayed on each instrument.

(8) The subscriber shall ensure that the pay telephone is compatible for use with hearing aids and its installation complies with all applicable federal, state, and local laws and regulations concerning the use of telephones by disabled persons.

(9) The pay telephone, if coin operated, must return the coins to the caller in the case of an incomplete call and must be capable of receiving nickels, dimes, and quarters. Local exchange company pay telephones shall not be subject to the requirements of this subsection.

(10) All pay telephones must provide access to all interexchange carriers where such access is available. If requested by the subscriber, the local exchange company providing the public access line shall supply, where available, (a) restriction((+)) which prevents fraud by selective blocking of 10XXX 1+ codes and (b) call screening to identify the line as one to which charges may not be billed, at appropriate tariffed rates.

(11) Except for service provided to hospitals, libraries, or similar public facilities in which a telephone ring might cause undue disturbance, or upon written request of a law enforcement agency, coin-operated pay telephones must provide two-way service, and there shall be no charge imposed by the subscriber for incoming calls. This subsection will not apply to pay telephones arranged for one-way service and in service on May 1, 1990. Should an existing one-way service be disconnected, change telephone number, or change financial responsibility, the requirements of this subsection shall apply. All pay telephones confined to one-way service shall be clearly marked on the front of the instrument.

(12) Pay telephones shall be connected only to public access lines in accordance with the approved tariffs offered by the local exchange company. Local exchange company pay telephones are not subject to this requirement.

(13) A subscriber must order a separate pay telephone access line for each pay telephone installed. Extension telephones may be connected to a pay telephone access line when the instrument:

(a) Prevents origination of calls from the extension station; and

(b) Prevents third party access to transmission from either the extension or the pay telephone instrument.

Local exchange companies are exempted from (b) of this subsection.

(14) Credit card operated pay telephones shall clearly identify all credit cards that will be accepted.

(15) Involuntary changes in telephone numbers upon conversion of pay telephones from local exchange company-owned to privately-owned pay telephones are prohibited.

(16) No fee shall be charged for nonpublished numbers on a public access line.

(17) Cordless and tabletop pay telephones shall not be connected to the telephone network except under the following conditions:

(a) The bill for usage is tendered to the user before leaving the premises where the bill was incurred or alternatively billed at the customer's request; and

(b) The user is notified verbally or on the instrument that privacy on cordless and tabletop telephones is not guaranteed; and

(c) When other electrical devices are equipped with filters, as necessary, to prevent interference with the pay telephone.

(18) Violations of the tariff, commission rules pertaining to pay telephone service, or other requirements contained in these rules, including interexchange carrier access requirements, will subject the pay telephone to disconnection of service ~~((if the deficiency is not corrected within five days from date of written notification to the subscriber))~~ as follows. When the local exchange company becomes aware of a violation, prior to disconnection of service, it shall immediately send written notification to the subscriber outlining all deficiencies. If any deficiency is not corrected within five days from the date of written notification to the subscriber, the local exchange company shall discontinue service. Prior to effecting the disconnection of service, the local exchange company shall make two bona fide attempts to reach the subscriber by telephone to advise the subscriber of the impending disconnection. WAC 480-120-081 ~~((4)(g))~~ shall not apply to such disconnections. The local exchange company shall ensure that any costs associated with the field visits ~~((shall be charged to the subscriber if the charge is required by a pertinent local exchange company tariff))~~ for public access lines services be recovered from the subscriber of the public access line service in question.

It shall be the responsibility of every local exchange company to assure that any subscriber taking service pursuant to these rules and to tariffs filed pursuant to these rules meets all of the terms and conditions contained within these rules and the tariffs so filed. It shall be the duty of the local exchange company to enforce the terms and conditions contained herein.

It shall be the responsibility of the local exchange company to provide free of charge one current telephone directory each year for each public access line. It shall be the responsibility of the subscriber to make a reasonable effort to assure a current directory is available at every pay telephone location.

Public access lines will be charged at rates according to the relevant tariff as approved by the commission.

(19) Disconnection of, or refusal to connect, a pay telephone for violation of these rules may be reviewed by the commission in a formal complaint under WAC 480-09-420(5) through an adjudicative or a brief adjudicative proceeding under the provisions of chapters 34.05 RCW and 480-09 WAC.

**AMENDATORY SECTION** (Amending Order R-348, Docket No. UT-910828, filed 10/2/91, effective 11/2/91)

**WAC 480-120-141 Alternate operator services.** All telecommunications companies providing alternate operator services (AOS), as defined in WAC 480-120-021, shall comply with this and all other rules relating to telecommunications companies not specifically waived by order of the commission.

(1) Each alternate operator services company shall file with the commission at least every six months a current list of operator services customers which it serves and the

locations and telephone numbers to which such service is provided to each customer. A customer list provided pursuant to this rule is proprietary information and, if identified when filed as required in WAC 480-09-015, is subject to the protections of that rule.

(2) Each AOS company is responsible for assuring that each of its customers complies fully with contract and tariff provisions which are specified in this rule. Failure to secure compliance constitutes a violation by the AOS company.

(a) The AOS company shall withhold on a location-by-location basis the payment of compensation, including commissions, from a call aggregator, if the AOS company reasonably believes that the call aggregator is blocking access to interexchange carriers in violation of these rules.

(b) Violations of tariff, contract or other statements of conditions of service, in commission rules pertaining to AOS company service, or of other requirements contained in these rules, including interexchange carrier access requirements, will subject an aggregator to termination of alternate operator services ~~((if the deficiency is not corrected within five days from date of written notification to the aggregator))~~ as follows. When the AOS becomes aware of a violation, prior to disconnection of service, it shall immediately send written notification to the aggregator outlining all deficiencies. If any deficiency is not corrected within five days from the date of written notification to the aggregator, the AOS shall terminate service. Prior to effecting the termination of service, the AOS company shall make two bona fide attempts to reach the subscriber by telephone to advise the subscriber of the impending termination. WAC 480-120-081 ~~((4)(g))~~ shall not apply to such terminations.

(c) AOS company actions in furtherance of this rule may be reviewed by the commission in a formal complaint under WAC 480-09-420 through an adjudicative or a brief adjudicative proceeding under the provisions of chapters 34.05 RCW and 480-09 WAC.

(d) An AOS company shall refuse to provide operator services to a call aggregator who the commission has found to have knowingly and repeatedly violated commission rules regarding the provision of alternate operator service until the commission has found that the call aggregator will comply with relevant law and rule.

(3) For purposes of this section, "consumer" means the party initiating and/or paying for an interexchange or local call. "Customer" means the call aggregator, i.e., the hotel, motel, hospital, prison, campus, pay telephone, etc., contracting with an AOS for service.

(4) An alternate operator services company shall require, as a part of any contract with its customer and as a term and condition of service stated in its tariff, that the customer:

(a) Post on the telephone instrument in plain view of anyone using the telephone, in eight point or larger Stymie Bold type, the information provided in the following notice:

SERVICE ON THIS INSTRUMENT MAY BE PROVIDED AT RATES THAT ARE HIGHER THAN NORMAL. YOU HAVE THE RIGHT TO CONTACT THE OPERATOR FOR INFORMATION REGARDING CHARGES BEFORE PLACING YOUR CALL. INSTRUCTIONS FOR REACHING YOUR PREFERRED CARRIER ARE ALSO AVAILABLE FROM THE OPERATOR.

(b) Post and maintain in legible condition on or near the telephone:

(i) The name, address, and without-charge number of the alternate operator services company, as registered with the commission;

(ii) Dialing directions so that a consumer may reach the AOS operator without charge to receive specific rate information; and

(iii) Directions to allow the consumer to reach the consumer's preferred carrier and to make it clear that the consumer has access to the other providers.

(c) Provide access from every instrument to 1-800 services and all available interexchange carriers; and

(d) Shall post, on or near the instrument, a notice stating whether a location surcharge or any other fee is imposed for telecommunications access through the instrument, the amount of any fee or location surcharge, and the circumstances when it will apply.

(e) Posting under these rules shall begin no later than October 1, 1991, and shall be completed no later than January 31, 1992. In the interim, posting in compliance with the immediate prior posting provisions of WAC 480-120-141 is required and shall constitute compliance with this rule.

(5) The alternate operator services company shall:

(a) Identify the AOS company providing the service audibly and distinctly at the beginning of every call, and again before the call is connected, including an announcement to the called party on calls placed collect.

(i) For purposes of this rule the beginning of the call is no later than immediately following the prompt to enter billing information on automated calls and, on live and automated operator calls, when the call is initially routed to the operator.

(ii) The message used by the AOS company shall state the name of the company as registered with the commission whenever referring to the AOS company. Terms such as "company," "communications," "incorporated," "of the northwest," etc., when not necessary to clear consumer identification of the entity providing service may be omitted when authorized by letter from the secretary of the commission.

(iii) The consumer shall be permitted to terminate the telephone ~~((call))~~ call at no charge before the call is connected.

(iv) The AOS company shall immediately, upon request, and at no charge to the consumer, disclose to the consumer:

(A) A quote of the rates or charges for the call, including any surcharge;

(B) The method by which the rates or charges will be collected; and

(C) The methods by which complaints about the rates, charges, or collection practices will be resolved.

(b) Provide to the local exchange company such information as may be necessary for billing purposes, as well as an address and toll free telephone number for consumer inquiries.

(c) Reoriginate calls to another carrier upon request and without charge, when equipment is in place which will accomplish reorigination with screening and allow billing from the point of origin of the call. If reorigination is not available, the AOS company shall give dialing instructions for the consumer's preferred carrier.

(d) Assure that a minimum of ninety percent of all calls shall be answered by the operator within ten seconds from the time the call reaches the carrier's switch.

(e) Maintain adequate facilities in all locations so the overall blockage rate for lack of facilities, including as pertinent the facilities for access to consumers' preferred interexchange carriers, does not exceed one percent in the time consistent busy hour. Should excessive blockage occur, it shall be the responsibility of the AOS company to determine what caused the blockage and take immediate steps to correct the problem. This subsection does not apply to blockage during unusually heavy traffic, such as national emergency, local disaster, holidays, etc.

(6) The alternate operator services company shall assure that persons are not billed for calls which are not completed. For billing purposes, calls shall be itemized, identified, and rated from the point of origination to the point of termination. No call shall be transferred to another carrier by an AOS which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.

(7) For purposes of emergency calls, every alternate operator services company shall have the following capabilities:

(a) Automatic identification at the operator's console of the location from which the call is being made;

(b) Automatic identification at the operator's console of the correct telephone numbers of emergency service providers that serve the telephone location, including but not limited to, police, fire, ambulance, and poison control;

(c) Automatic ability at the operator's console of dialing the appropriate emergency service with a single keystroke;

(d) Ability of the operator to stay on the line with the emergency call until the emergency service is dispatched.

No charge shall be imposed on the caller by the telephone company or the alternate operator services company for the emergency call.

If the alternate operator services company does not possess these capabilities, all calls in which the consumer dials zero (0) and no other digits within five seconds shall be routed directly to the local exchange company operator, or to an entity fully capable of complying with these requirements. AOS companies lacking sufficient facilities to provide such routing shall cease operations until such time as the requirements of this section are met.

(8) Complaints and disputes shall be treated in accordance with WAC 480-120-101, Complaints and disputes.

(9) Charges billed to a credit card company (e.g., American Express or Visa) need not conform to the call detail requirements of this section. However, the AOS shall provide specific call detail in accordance with WAC 480-120-106 upon request.

(10) "Public convenience and advantage"; surcharges; variable rates.

(a) For services, public convenience and advantage means at a minimum that the provider of alternate operator services offers operator services which equal or exceed the industry standards in availability, technical quality and response time and which equal or exceed industry standards in variety or which are particularly adapted to meet unique needs of a market segment. In the absence of other persuasive evidence, a demonstration that operator service equals or exceeds that provided by US WEST Communications for

intraLATA services or AT&T for interLATA services will be accepted as demonstrating public convenience and advantage.

(b) Charges no greater than the prevailing charges in the relevant market - intraLATA or interLATA - will be accepted as demonstrating that charges are for the public convenience and advantage. In the absence of persuasive contrary evidence, the charges for US WEST for intraLATA service and AT&T for interLATA service will be accepted as the prevailing charges.

(c) Surcharges; variable rates. No location surcharge may be added to without-charge calls nor to a charge for directory assistance. No tariff may provide for rate levels which vary at the option of a call aggregator, provided, that an aggregator may waive application of the surcharge to calls from its instruments, and provided further, that an AOS company may establish a tariff rate for high-cost locations if the conditions for application of the rate confine it to locations with substantially higher than average operating costs.

(11) Rates to the consumer for the provision of alternate operator services, including directory assistance, shall not exceed the prevailing rates for such services in the relevant market - intraLATA or interLATA - unless need for the excess to produce rates which are fair, just and reasonable is demonstrated to the satisfaction of the commission. In the absence of persuasive contrary evidence, rate levels of US WEST for intraLATA service and AT&T for interLATA service will be considered the prevailing rate.

(12) Fraud prevention.

(a) A company providing interexchange telecommunications service may not bill a call aggregator for charges billed to a line for calls which originated from that line through the use of 10XXX+0; 10XXX+01; 950-XXXX; or 1-800 access codes, or when the call originating from that line otherwise reached an operator position, if the originating line subscribed to outgoing call screening and the call was placed after the effective date of the outgoing call screening order.

(b) A company providing interexchange telecommunications service may not bill to a call aggregator any charges for collect or third number billed calls, if the line serving to which the call was billed was subscribed to incoming call screening and the call was placed after the effective date of the call screening service order.

(c) Any calls billed through the local exchange carrier in violation of subparagraphs (a) or (b) above must be removed from the call aggregator's bill by the local exchange company upon identification. If investigation by the local exchange company determines that the pertinent call screening was operational when the call was made, the local exchange company may return the charges for the call to the interexchange telecommunications company as not billable.

(d) Any call billed directly by an alternate operator service company, or through a billing method other than the local exchange company, which is billed in violation of subparagraphs (a) and (b), above, must be removed from the call aggregator's bill. The telecommunications company providing the service may request an investigation by the local exchange company. If the local exchange company, after investigation, determines that call screening which would have protected the call, which is offered by the LEC and was subscribed to by the call aggregator, was not

operational at the time the call was placed, the AOS company shall bill the LEC for the call.

**WSR 94-13-028**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed June 6, 1994, 9:16 a.m.]

Original Notice.

Title of Rule: Vehicle trip permits.

Purpose: Prescribe the procedure to be used in issuing trip permits to the public.

Statutory Authority for Adoption: RCW 46.16.160.

Statute Being Implemented: RCW 46.16.160.

Summary: Establish criteria for procurement, use and display of vehicle temporary permits.

Name of Agency Personnel Responsible for Drafting: Jack Lince, General Administration Building, Olympia, Washington, 753-7379; Implementation: Art Farley, Black Lake Building 3, Olympia, Washington, 753-6993; and Enforcement: Nancy Kelly, General Administration Building, Olympia, Washington, 753-6920.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-96A-027 is being proposed to consolidate procedures for issuance and use of trip permits. Adoption of the regulation will reduce the unauthorized use of trip permits and establish uniform method for displaying validated permits.

Proposal Changes the Following Existing Rules: Repeal chapter 308-97 WAC. Procedures for trip permits are consolidated in WAC 308-96A-027.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: General Administration Building, 210 11th Avenue S.W., Conference Room 3B, Olympia, WA 98504, on July 28, 1994, at 9:30 a.m.

Submit Written Comments to: Jack Lince, Licensing Services Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, by July 22, 1994.

Date of Intended Adoption: July 31, 1994.

June 3, 1994

Nancy Kelly

Administrator

NEW SECTION

**WAC 308-96A-027 Vehicle trip permits.** (1) Vehicle trip permits may be issued as an alternative to a license registration for operation on public highways of this state as provided in RCW 46.16.160 and for any vehicle or combination of vehicles which could be lawfully operated on public highways of this state if fully registered or proportional registered pursuant to the International Registration Plan (IRP) or Uniform Vehicle Registration, Proration, and Reciprocity Agreement (Western Compact) provided in chapters 46.85 and 46.87 RCW.

The provisions of RCW 46.16.160 apply to vehicle trip permits issued pursuant to the provisions of IRP and the Western Compact.

(2) Each trip permit issued pursuant to RCW 46.16.160 shall have the three consecutive days the trip permit will be used completed and shall be signed and dated by the issuing authority and the applicant at time of issuance.

(3) Each trip permit issued pursuant to the IRP or Western Compact shall be completed in its entirety and signed and dated by a representative of the vehicle owner and vehicle operator when assigned to a vehicle.

(4) Prior to being used on a vehicle, each trip permit shall be completed in its entirety to include the:

(a) Identity of the vehicle on which it is used to include make, model year, vehicle registered owner, and vehicle identification number (VIN) or license plate number and state;

(b) Three consecutive days the trip permit will be used by blotting out the appropriate month(s) and dates using a permanent marking method; and

(c) Signatures of the issuing entity and the applicant or vehicle operator and date of issuance.

(5) Vehicle trip permits for use on vehicles operated under the IRP and Western Compact and requests from government agencies may be purchased in quantities from Prorate and Fuel Tax Services. Trip permits purchased in this manner need not be completed and signed when the order is filled. Orders must be accompanied by payment in the amount prescribed for each trip permit ordered, plus mailing costs. The purchaser shall keep a record in consecutive trip permit number order for a period of eighteen months from date of assignment. The record shall include:

(a) Name of the purchasing business if different than the assigning company name;

(b) Vehicle description, including vehicle identification number (VIN), and license plate and state, to which the trip permit is assigned;

(c) Date the trip permit was purchased;

(d) Legible name and signature of the vehicle operator to which the permit is assigned; and

(e) The name and signature of the company representative assigning the trip permit.

(6) Each trip permit shall be completed in its entirety, dated and signed prior to commencement of the trip for which it authorizes the operation of the vehicle. The trip permit shall be displayed inside the vehicle in the lower corner of the driver side rear window. If the vehicle does not have a rear window, the window is obscured, or the vehicle is nonpowered, the permit shall be displayed inside the powered vehicle in the lower corner of the passenger side windshield. When powered vehicles do not have rear windows or windshields, the permits shall be in the possession of the vehicle operator. Displayed trip permits shall be legible from outside the vehicle.

(7) Any alteration to a trip permit, including but not limited to a change in use dates, vehicle identification, or failure to have appropriate signatures shall invalidate the trip permit in addition to any penalty prescribed by RCW 46.16.160(7).

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- 308-97-010 Definitions
- 308-97-060 Duration, weight limit and converter gear.
- 308-97-090 Completing trip permits.
- 308-97-125 Display of trip permits.
- 308-97-175 Bulk purchase of trip permits.
- 308-97-205 Design of trip permit.
- 308-97-230 Appointment of vehicle trip permit agents.

**WSR 94-13-041**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed June 7, 1994, 10:58 a.m.]

Original Notice.

Title of Rule: WAC 16-400-210 Other charges, horticultural inspection fees.

Purpose: To generate funds for Washington state's pest certification programs through an assessment of fresh apple shipments.

Statutory Authority for Adoption: Chapters 15.17 and 17.24 RCW.

Statute Being Implemented: Chapters 15.17 and 17.24 RCW.

Summary: The proposed amendment makes the assessment applicable year-round.

Reasons Supporting Proposal: Certain export markets now require pest-free certification of fruit based in part on annual government conducted pest surveys. These survey programs allow foreign and domestic market access for Washington apples. The rule change will establish an assessment on fresh apples to generate the necessary funds for these pest certification services provided by the department.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Eric LaGasa, 1111 Washington Street, Olympia, (206) 902-2063.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal will establish a mechanism to fund department pest program services to meet marketing requirements of importers of Washington state apples.

Proposal Changes the Following Existing Rules: It establishes a year-round assessment on fresh apples.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Agriculture Service Center Conference Room, 2015 South First Street, Yakima, WA 98903, on July 27, 1994, at 2:00 p.m.

Submit Written Comments to: Eric LaGasa, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by July 27, 1994.

Date of Intended Adoption: July 28, 1994.

PROPOSED

June 7, 1994  
K. Diane Dolstad  
Assistant Director

AMENDATORY SECTION (Amending Order 4019, filed 3/23/93, effective 4/23/93)

**WAC 16-400-210 Other charges.** Other miscellaneous charges are listed below:

(1) Charges for platform inspection shall be:

(a) Platform inspections, time taking samples, extra time, phytosanitary and/or quarantine inspection, and all other services, shall be charged at the hourly rate of twenty dollars.

(b) Time allowance - Where a platform inspector is working full time at one house and also doing certification inspection, the inspector shall allow credit for the time according to limits outlined in the schedule for such certification at the hourly rate of twenty dollars.

Should the certificate charges divided by the respective hourly rates equal or exceed the number of hours worked, no platform charge shall be assessed. Should the certificate charges divided by the respective hourly rates be less than the number of hours worked, the platform charge shall be made to bring the total to the appropriate charge.

(2) Fumigation charges—The minimum charge for supervision of fumigation shall be eighteen dollars. Additional or unnecessary stand-by time shall be charged as specified in subsection (1)(a) of this section. In temporary, nonpermanent facilities or those lacking adequate devices for maintenance of acceptable treatment temperatures, no fumigations shall be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

(3) Field or orchard inspections made at the applicant's request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of two dollars fifty cents per acre or fraction thereof or at the rate specified in subsection (1)(a) of this section except as otherwise provided in subsection (13) of this section.

(4) Seed sampling fees shall be arranged with the plant services division for services performed.

(5) Extra charges on services provided shall be assessed according to provisions listed below.

(a) The minimum inspection charge for each commodity and requested form shall be at the rate specified in subsection (1)(a) of this section.

(b) If, through no fault of the inspection service, time over the maximum allowance as supported by unit rates for each commodity and requested form is required, such excess time shall be at the rate as specified in subsection (1)(a) of this section.

(c) For all inspection services performed beyond a regularly scheduled eight-hour week day shift or on Saturdays, or Sundays, or state legal holidays, an hourly charge shall be made equivalent to twenty-seven dollars.

These charges shall be made for actual hours spent in performance of duties. This shall include unit charges, plus, if necessary, overtime charges to equal the respective overtime hourly rates.

The following are state legal holidays: New Year's Day, Veteran's Day, Memorial Day (the last Monday of

May), Independence Day, Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November) and the day following Thanksgiving Day, Christmas Day, Martin Luther King, Jr. Day (third Monday in January), and Presidents' Day (third Monday in February).

(d) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges shall be assessed.

(6) Mileage—Whenever necessary, mileage shall be charged at the rate established by the state office of financial management.

(7) Electronic transmission of documents—Telegrams, facsimile, or electronic transmission of inspection documents shall be charged at the rate of four dollars per transmission in addition to Western Union charges made directly to the applicant.

(8) Services provided to other agencies—Services provided to other agencies, commissions, and organizations shall be charged at the rate specified in subsection (1)(a) of this section.

(9) Timely payment—Payment of fees and charges is due within thirty days after date of statement, provided:

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

(10) USDA positive lot identification—Certification utilizing positive lot identification shall be charged at the rates specified in this section and WAC 16-400-010, 16-400-040, and 16-400-100 with an additional charge of ten percent. The minimum shall be twelve dollars per inspection. Service will be provided first in those instances in which positive lot identification is a mandatory condition of the sales transaction. Other requests for positive lot identification will be serviced upon adequate notification to the inspection service and availability of inspection personnel.

(11) Controlled atmosphere license fee—The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee of five dollars per room, with a minimum fee established at twenty-five dollars for five rooms or less.

(12) Inspection fees may be waived on inspections of fruits and vegetables when donated to bona fide nonprofit organizations: *Provided*, That shipping containers shall be conspicuously labeled or marked as "not for resale."

(13) For apple pest certification by survey method; \$.0075 per cwt. or fraction thereof, on all fresh apples produced in the state of Washington or marketed under Washington state grades and standards. ~~((Such fee shall apply from February 1 to May 31, 1993.))~~

WSR 94-13-043  
PROPOSED RULES  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS  
(Division of Credit Unions)  
[Filed June 7, 1994, 11:22 a.m.]

Original Notice.

Title of Rule: Credit union common bond definition.

Purpose: Clarify WAC to ensure consistency with RCW.

Statutory Authority for Adoption: RCW 31.12.045(1).

Statute Being Implemented: RCW 31.12.045(1).

Summary: For the purpose of defining "common bond" as it applies to the ability of certain groups to be included within the field of membership of a credit union.

Reasons Supporting Proposal: Clarifies the definitions contained in WAC 419-72-015.

Name of Agency Personnel Responsible for Drafting and Enforcement: B. Anne Pulitano, 1400 Evergreen Park Drive S.W., Suite 100, (206) 753-5597; and Implementation: David C. Marchetti, 14500 Evergreen Park Drive S.W., Suite 100, (206) 753-5597.

Name of Proponent: Division of Credit Unions, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Clarification of the WAC will aid credit unions in understanding the expectations of the law. This will simplify compliance for the credit unions.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Financial Institutions, 1400 Evergreen Park Drive S.W., Suite 100, Olympia, WA 98502, on September 15, 1994, at 10:00 a.m.

Submit Written Comments to: Division of Credit Unions, P.O. Box 41204, Olympia, WA 98504-1204, by September 15, 1994.

Date of Intended Adoption: October 15, 1994.

June 7, 1994

B. Anne Pulitano  
Assistant Director

Chapter 419-70 WAC  
CREDIT UNION COMMON BOND DEFINITION

AMENDATORY SECTION (Amending Order 89-2, filed 8/1/89, effective 9/1/89)

**WAC 419-70-010 Purpose.** This chapter is adopted by the ~~supervisor~~ ((director)) pursuant to RCW 31.12.045 (1)(a) for the purpose of defining "common bond" as it applies to the ability of certain groups to be included within the field of membership of a credit union.

**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.

AMENDATORY SECTION (Amending Order 89-2, filed 8/1/89, effective 9/1/89)

**WAC 419-70-020 General requirement.** RCW 31.12.045 ((allows)) ~~limits~~ credit union membership "to groups having a common bond of occupation or association; ~~or to groups within a well defined neighborhood, community, or rural district.~~" Any group seeking inclusion within the field of membership of a credit union must share a common bond of occupation; ((or)) association; ~~or community.~~

**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 Order 89-2, filed 8/1/89, effective 9/1/89)

**WAC 419-70-040 Common bond of association.** "Common bond of association" means a current, unifying factor or characteristic among a group of natural persons which links them together and distinguishes them from the general public and which is based on membership in a ~~bona fide~~ ((an association)) ~~, fraternal organization, or religious organization.~~ Such an association or organization must be primarily composed of natural persons, who participate within the group in organized activities ~~developing common loyalties, common interests, and mutual benefits.~~ Such an association or organization must have clearly defined membership eligibility ~~requirements, must have officers elected by the membership,~~ and must hold regular meetings at least once each year ~~and otherwise provide activities promoting contact among its members.~~ Matriculating students of an accredited college or university also have a common bond of association.

~~A group (a) the primary purpose of which is to provide products or services to members at a discount, (b) which has no meaningful qualifications for membership other than a generalized interest in or agreement on a particular topic, with no requirements of an ongoing commitment for personal participation in the group, (c) which is formed or continued primarily for a commercial purpose or (d) which is formed or continued primarily for the purpose of its members obtaining credit union services, does not qualify as a bona fide association or organization, for the purposes of this section.~~

**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.

**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 94-13-044  
PROPOSED RULES  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS  
(Division of Credit Unions)  
[Filed June 7, 1994, 11:24 a.m.]

Original Notice.

PROPOSED

Title of Rule: Credit union field of membership expansion.

Purpose: Clarify WAC to ensure consistency with RCW.

Statutory Authority for Adoption: RCW 31.12.045(2), 31.12.115, 31.12.516, 31.12.535.

Statute Being Implemented: RCW 31.12.045(2), 31.12.115, 31.12.516, 31.12.535.

Summary: Establishes a process for a credit union to expand its field of membership to include a separate group with a common bond of occupation or association or community.

Reasons Supporting Proposal: Will ensure process to expand field of membership is consistent with RCW.

Name of Agency Personnel Responsible for Drafting and Enforcement: B. Anne Pulitano, 1400 Evergreen Park Drive S.W., Suite 100, (206) 753-5597; and Implementation: David Marchetti, 1400 Evergreen Park Drive S.W., Suite 100, (206) 753-5597.

Name of Proponent: Division of Credit Unions, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Clarification of the WAC will aid credit unions in understanding the expectations of the law. This will simplify compliance for the credit unions.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Financial Institutions, 1400 Evergreen Park Drive S.W., Suite 100, Olympia, WA 98502, on September 15, 1994, at 10:30 a.m.

Submit Written Comments to: Division of Credit Unions, P.O. Box 41204, Olympia, WA 98504-1204, by September 15, 1994.

Date of Intended Adoption: October 15, 1994.

June 7, 1994

B. Anne Pulitano  
Assistant Director

**AMENDATORY SECTION** (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-010 Purpose.** This chapter is adopted by the ~~((supervisor))~~ director for the purpose of establishing the application process for a credit union to expand its field of membership to include a separate group with a common bond of occupation~~(s))~~ or association, or community ~~((which each have a common bond))~~.

**AMENDATORY SECTION** (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-015 Definitions.** Unless the context clearly requires otherwise, as used in this chapter:

(1) "Common bond of occupation" has the same meaning as in WAC 419-70-030.

(2) "Common bond of association" has the same meaning as in WAC 419-70-040.

(3) ~~((("Common bond of community" has the same meaning as in WAC 419-70-050))~~ "Community" means a

group residing within a well-defined neighborhood, community, or rural district.

(4) "Credit union" means a credit union organized and operating under chapter 31.12 RCW.

(5) "Director" means the director of the Washington state department of financial institutions.

**AMENDATORY SECTION** (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-020 Expansion ~~((of))~~ for a group with a common bond of occupation.** If a credit union wants to include a separate group with a common bond of occupation in its field of membership it shall make application to the ~~((supervisor))~~ director to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as ~~((set forth in WAC 419-72-095))~~ prescribed by the director and shall be submitted to the ~~((supervisor))~~ director in duplicate along with an application as described in WAC 419-72-025.

**AMENDATORY SECTION** (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-025 Application.** The application to include a separate group with a common bond of occupation shall include at least the following information:

(1) ~~((The name of the credit union;~~

~~(2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;~~

~~(3))~~ A description of the enterprise including its name, number of employees, and the geographic location of those employees, ~~((and the degree of employee support to be made available, i.e., payroll deduction, access to employer premises)).~~ If other related individuals specified in WAC 419-70-030 are included, they must be separately identified;

~~((4))~~ (2) A statement from ~~((the enterprise's managing officer))~~ an officer of the enterprise that the enterprise desires membership for its employees in the applicant credit union and that they are not currently eligible for membership ~~((in an existing credit union, either state or federally chartered, because of their employment)),~~ based upon their employment, in an existing credit union either state or federally chartered. If the employees of the enterprise are eligible for membership in another credit union the applicant credit union must provide a statement of non-objection from the other credit union;

~~((5))~~ (3) If the proposed group consists of more than two hundred potential members for the credit union, then the following information is also to be submitted:

(a) A copy of the applicant credit union's most recent financial statement;

~~((6))~~ (b) A copy of the applicant credit union's ~~((business))~~ plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.

Upon receipt of the above application, the ~~((supervisor))~~ director may request such additional information as is necessary to clarify the application.

PROPOSED

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-030 Consolidation.** If a credit union submits multiple bylaw amendments for groups in excess of two hundred potential members either simultaneously or within the same six month period, the requirements of ~~((subsection (5) and (6) of))~~ WAC 419-72-025 (3)(a) and (b) can be satisfied by reference to the first application submitted during the semi-annual period.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-035 Other information.** If a separate group with a common bond of occupation exceeds ~~((700))~~ one thousand individuals, the applicant credit union shall provide the following additional information with its application:

- (1) An analysis that explains why the group does not have sufficient size or resources to form a credit union of its own;
- (2) Documentation to what extent (percentage wise) that the applicant credit union is serving its current potential field of membership ~~((or has plans in place to do so within a reasonable period of time;))~~;
- ~~(3) Documentation that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located))~~ and, if the penetration of the current potential field is less than twenty percent, what plans, if any, are being implemented to increase the level of penetration.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-040 Overlap justification.** If a credit union cannot obtain the letter of ~~((non-objection))~~ nonobjection required in WAC 419-72-025~~((4))~~ (2), after having made a best efforts attempt to do so, it may submit documentation that:

- (1) At least 30% of the employees of the enterprise desire membership in the applicant credit union, or
- (2) The ~~((other))~~ objecting credit union has failed to adequately serve the group after a reasonable period of time, as attested to by at least 30% of the proposed group, and
- (3) How the applicant credit union plans to improve that service.

A copy of the information required in subsections (1), (2), and (3) above will be supplied to the other credit union. That credit union will be given 60 days during which to respond or raise objections to the overlap.

Overlaps will be approved if approval is consistent with WAC 419-72-075 and at least 30% of the employees of the enterprise desire membership in the applicant credit union; or if, in the opinion of the ~~((supervisor))~~ director, (a) the other credit union is not adequately serving the group, (b) the group itself desires membership in the applicant credit union and (c) the applicant credit union has reasonable plans to ~~((do so))~~ improve upon the services currently offered. More consideration will be given to the quality of service rather than variety of services.

Overlaps will not be granted if the result, in the opinion of the ~~((supervisor))~~ director, might reasonably threaten the viability of the other credit union.

This section is intended to establish procedures to deal with unavoidable conflicts; it is not intended to encourage overlaps. Overlaps will not be granted if, in the opinion of the ~~((supervisor))~~ director, an applicant credit union is using this section as a marketing ~~((device))~~ strategy to preempt expansion by other credit unions.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-045 Expansion ~~((of))~~ for a group with a common bond of association.** If a credit union wants to include a separate group with a common bond of association into its field of membership it shall make application to the ~~((supervisor))~~ director to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as ~~((set forth in WAC 419-72-095))~~ prescribed by the director and shall be submitted to the ~~((supervisor))~~ director in duplicate along with an application as described in WAC 419-72-050.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-050 Application.** The application to include a separate group with a common bond of association shall contain at least the following information:

- (1) ~~((The name of the credit union;))~~
- ~~(2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;~~
- ~~(3))~~ A detailed description of the group including its charter or articles of incorporation, its bylaws, the qualifications and requirements for membership, and the number and geographic location of its current members;
- ~~((4))~~ (2) A resolution from the petitioning group's governing body that the members of the group are not currently eligible for membership in an existing credit union and have been informed of the proposal to affiliate with the applicant credit union and that those members desire to be associated with the applicant credit union ~~((and are willing to support its objectives));~~
- ~~((5))~~ (3) A statement by the applicant credit union that its marketing efforts will be directed toward active members of the group and that the group will not be used as a vehicle ~~((to create))~~ for opening eligibility for credit union membership to the general public;
- ~~((6))~~ (4) If the proposed associational group consists of more than two hundred members, then the following information is also to be submitted:

- (a) A copy of the applicant credit union's most recent financial statement;
- ~~((7))~~ (b) A copy of the applicant credit union's ~~((business))~~ plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.

Upon receipt of the above application the ~~((supervisor))~~ director may request such other information as is necessary to clarify the application.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-055 Other information.** If group has more than ~~((700))~~ one thousand members the applicant credit union shall provide the following additional information to the ~~((supervisor))~~ director with its application:

(1) Documentation that explains why the group does not have sufficient size or resources to form a credit union of its own. A statement from the group that it lacks sufficient size or its resources are not sufficient to satisfy this requirement;

(2) Documentation that the applicant credit union is actively serving its current field of membership or has plans in place to do so within a reasonable period of time;

(3) Documentation that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, ~~((doing business))~~ having staffed offices in the county in which the applicant credit union is located.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-060 Expansion ~~((of))~~ for a group with a common bond of community.** If a credit union wants to include a group ~~((with a common bond of community))~~ within a well defined neighborhood, community, or rural district into its field of membership it shall make application to the ~~((supervisor))~~ director to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as ~~((set forth in WAC 419-72-095))~~ prescribed by the director and shall be submitted to the ~~((supervisor))~~ director in duplicate along with an application as described in WAC 419-72-065.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-065 Application.** The application to include a community shall contain at least the following information:

(1) ~~((The name of the credit union;~~

~~(2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;~~

~~(3)) A ~~((detailed))~~ well defined, description of the community, neighborhood or rural district including a map setting forth the geographic boundaries of the community and the current population of the proposed community;~~

~~((4) Documentation satisfactory to the supervisor describing how the proposed community meets the definition of common bond as set forth in WAC 419-70-050;~~

~~(5))~~ (2) Documentation satisfactory to the ~~((supervisor))~~ director that the community does not have adequate credit union financial services available to it;

~~((6))~~ (3) Letters of support from community organizations and/or residents of the area demonstrating their desire to be associated with the applicant credit union and their willingness to support its objectives;

~~((7))~~ (4) Any other information that demonstrates the community's desire to have the services of a community based credit union;

~~((8))~~ (5) A copy of the applicant credit union's most recent financial statement;

~~((9))~~ (6) A copy of the applicant credit union's ~~((business))~~ plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels. The plan should include active participation in community activities;

~~((10) A copy of the credit union's current loan underwriting standards describing adequate safeguards for its lending activities;~~

~~((11))~~ (7) Evidence that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, ~~((doing business in the county in which the applicant credit union is located))~~ having staffed offices in or within 5 miles of the border defining said community.

Upon receipt of the above application the ~~((supervisor))~~ director may request such other information as necessary to clarify the application.

NEW SECTION

**WAC 419-72-068 Provisions for objection.** Credit unions having staffed offices within the geographic area defining the proposed community field of membership will be given forty days following the issuance of the notification (WAC 419-72-065(7)) to present to the director their justifications for any objection they may have to the granting of the proposed community membership field to the applicant credit union. The advice of objection should include, but not necessarily be limited to discussion of:

(1) The impact that the granting of a community charter would have on their operation.

(2) Their perspective on the need for a community charter.

(3) The current penetration they have in the proposed community area.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-070 Application deemed complete.** An application to expand ~~((its))~~ the field of membership shall be deemed complete when the ~~((supervisor))~~ director has received the information required in this chapter except when the applicant credit union is required to give notice to other credit unions. Such an application will not be deemed complete until at least ~~((30))~~ forty days from the date such notification was given. When an application involves an overlap dispute, such application will not be deemed complete until 60 days from the date that information required in WAC 419-72-040 has been supplied to the affected credit union. If an application is received that is not complete the ~~((supervisor))~~ director will give written notice to the credit union that further information is necessary no later than ~~((30))~~ sixty days from the date the original application was received.

AMENDATORY SECTION (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-075 Approval.** The ~~((supervisor))~~ director shall give written approval or denial of a request made in conformance with this regulation within 30 days from the date it is deemed complete. ~~((The supervisor's~~

~~decision will be based on the following general criteria:))~~  
The decision will take into consideration the following general criteria and other issues or facts that may be relevant to the question:

(1) The application is consistent with the provisions of chapter 31.12 RCW and this regulation;

(2) The credit union is currently operating in conformance with the provisions of chapter 31.12 RCW, applicable rules in Title 419 WAC, and written supervisory orders, directives and agreements;

(3) The proposed new group possesses a common bond as defined in chapter 419-70 WAC ~~((-))~~ or satisfies the criteria for recognition as a valid "community." The strongest consideration will be given to groups on the lowest organizational level;

~~(4) ((The application is economically feasible and advisable;~~

~~(5))~~ (5) The proposed new group does not have sufficient size ~~((or))~~ and resources to form a credit union of its own;

~~((6) The proposed new group is composed of individuals who work or reside within a reasonable distance from an operating office of the applicant credit union;~~

~~(7))~~ (7) The applicant credit union is financially sound and possesses the financial resources and management capability to provide credit union service to the proposed group in a safe and sound manner;

~~((8) The applicant credit union is providing adequate service to its existing eligible membership or has plans to do so in a reasonable time period;~~

~~(9))~~ (6) The applicant credit union has achieved at least twenty percent penetration of its existing field of membership;

(7) The proposal will make credit union service available to individuals who wish to have it;

~~((40))~~ (8) Approval of the request will not create ~~((a))~~ undue financial hardship on another credit union or ~~((threaten))~~ significant threat to its viability.

Approval of a request for a ~~((group with a common bond of))~~ community group expansion will be based on the following additional general criteria:

~~((1))~~ (a) The geographic boundaries of the proposed community, set it off as distinct and recognizable;

~~((2) The common bond of community is the most viable common bond available to provide credit union services to the residents or workers in the subject area;~~

~~(3) The proposed community has a total population of 60,000 or less.)~~ (b) A group defined in terms of community represents the most viable means of providing credit union services to the residents in the subject area.

(9) The granting of a community membership field to one credit union will not preclude the granting of the same field to another credit union.

(10) The granting of membership expansions for groups having a common bond of association will be considered and approved on an individual county basis.

**AMENDATORY SECTION** (Amending Order 89-3, filed 12/6/89, effective 1/6/90)

**WAC 419-72-080 Special circumstances.** An applicant credit union may request that one or more of the provisions of this regulation be waived if an emergency

exists which requires immediate expansion in order to preserve the viability of the applicant credit union. The request for waiver may be granted if, in the opinion of the ~~((supervisor))~~ director, the expansion request has a reasonable probability of remedying an emergency situation or is otherwise in the public interest.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 419-72-090	Adoption of form.
WAC 419-72-095	Appendix 1—Request for by-law amendment.

**WSR 94-13-048**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
 [Filed June 7, 1994, 4:55 p.m.]

Original Notice.

Title of Rule: Location restricted compensation.

Purpose: To clarify provisions of chapter 177, Laws of 1994, providing that certain types of standby pay constitute earnable compensation.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.40.010 (8) and (9) as amended by chapter 177, Laws of 1994.

Summary: The proposed rule clarifies what constitutes "standby status" under section 8, chapter 177, Laws of 1994.

Reasons Supporting Proposal: Employees and employers need clear guidance regarding what compensation is reportable to the Department of Retirement Systems.

Name of Agency Personnel Responsible for Drafting: Paul Neal, 1025 East Union Avenue, Olympia, 586-3368; Implementation and Enforcement: Jack Bryant, 1025 East Union Avenue, Olympia, 753-3109.

Name of Proponent: Department of Retirement Systems, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule addresses the circumstances under which an employee's pay for time not actually worked qualifies as earnable compensation under RCW 41.40.010(8). Further, the rule states that pay for time not actually worked is not reportable for members of the Teachers' Retirement System.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Retirement Systems, 1025 East Union Avenue, Capital Plaza Building, 2nd Floor Boardroom, Olympia, WA 98504-8380, on July 27, 1994, at 3:00-5:00 p.m.

Submit Written Comments to: Paul Neal, Department of Retirement Systems, by July 27, 1994.

Date of Intended Adoption: July 28, 1994.

June 8, 1994  
Paul Neal  
Rules Coordinator

NEW SECTION

**WAC 415-112-409 Standby pay.** Payments made from employers to employees that are not pay for time actually worked are not earnable compensation under RCW 41.32.010 (10)(a) or (b).

NEW SECTION**WAC 415-108-461 Location restricted compensation.**

(1) Payments made from employers to employees that are not pay for time actually worked are not compensation earnable under RCW 41.40.010 (8)(a) or (b) except as provided in those sections and further described in this section. The name applied to compensation by the employer is not determinative of whether the payment is compensation earnable. Rather, the department will look to whether the compensation is earned for time actually worked.

(2) As used in RCW 41.40.010 (8)(a) and (b), this section and WAC 415-108-462, with regard to compensation that a member receives for time not actually worked:

(a) "Specific location" means the job site or the employee's residence;

(b) "Immediate vicinity" means property owned or leased by the employer or employee. A person is not within the immediate vicinity of a specific location if he or she is free to travel;

(c) "Location pay" means pay that an employee receives, not for time actually worked, but rather in consideration for being required to:

(i) Remain at, or in the immediate vicinity of, a specific location; and

(ii) Report immediately to work should the need arise, although the need may not arise.

Location pay is the pay earned by a member when he or she is in standby status, as defined in RCW 41.40.010(8).

(3) Payment received by a member for time not actually worked is not considered location pay if the member is allowed to leave the immediate vicinity of a specific location and is required to report to work only after being notified by pager or other similar notification device.

NEW SECTION**WAC 415-108-462 Location restricted compensation—Employer policy.**

(1) Payment received by a member for time not actually worked will only be considered location pay as defined in WAC 415-108-461 if the employer adopts a written policy identifying location pay as earned:

(a) For time not actually worked; where

(b) The member is limited to a specific location or in the immediate vicinity of a specific location as defined in WAC 415-108-461; and

(c) The employer requires the employee to be prepared to report immediately to work if the need arises, although the need may not arise.

(2) If an employer does not adopt a policy as described in subsection (1) of this section, the department will presume that the employee is not restricted to a specific location or the immediate vicinity of a specific location and that any payment received for time not actually worked is not earnable compensation under RCW 41.40.010 (8)(a) or (b).

**WSR 94-13-051  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Institutions)**

[Filed June 8, 1994, 10:49 a.m.]

Original Notice.

Title of Rule: WAC 275-16-030 Schedule of charges.

Purpose: Removes the detailed per diem rates and ancillary rates per relative value unit (RVU) from the WAC and adds a reference indicating schedules of current charge rates are available at each hospital. Enables the hospitals to more timely revise rates to keep them more concurrent with changing operating costs. This better enables the hospitals to fulfill the requirement of RCW 43.20B.325 that "charges for hospitalization of patients in state mental health hospitals be based on the cost of operations."

Statutory Authority for Adoption: RCW 43.20B.325.

Statute Being Implemented: RCW 43.20B.325.

Summary: Removes the detailed per diem rates and ancillary rates per RVU from WAC. Adds a reference indicating schedules of current charge rates to be available at each hospital upon request. Improves the efficiency of hospital billings by the department's billing office without jeopardizing patient financial circumstances, because the charge rates will remain cost based per RCW terms.

Reasons Supporting Proposal: RCW 43.20B.325 requires that charges for hospitalization of patients in state mental health hospitals be based on the cost of operations. Federal Medicare and Medicaid rules mandate the presence of charges as a precondition to payment. Enables hospitals to more timely revise rates to keep them in line with the changing costs. Does not change the RCW intent to keep charges based on the cost of operations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ronald Peterson, Mental Health Division, 756-2772.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by July 12, 1994. TDD 753-4595 or SCAN 234-4595.

PROPOSED

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 8, 1994  
 Dewey Brock, Chief  
 Office of Vendor Services  
 Administrative Services Division

**AMENDATORY SECTION** (Amending Order 3659, filed 10/27/93, effective 11/27/93)

**WAC 275-16-030 Schedule of charges.** Under RCW 43.20B.325, the department shall base hospitalization charges for patients in state hospitals on the actual operating costs of such hospitals. The department shall require patient's hospitalization charges due and payable on or before the tenth day of each calendar month for services rendered to department patients during the preceding month(~~(, based on the following schedule:~~

~~(1) COSTING AND BILLING RATES~~

	Child Study and Western State Hospital	Treat- ment Center	Eastern State Hospital
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~~(a) INPATIENT SERVICES~~

Hospital Costs Per Day	\$ 286.20	342.30	293.70
Physician Costs	*	N/A	*

~~\*The department shall bill the client for physician costs on a fee-for-service basis.~~

~~(b) OUTPATIENT SERVICES~~

~~Per diem~~

Outpatient Day Treatment			
Per Day		37.26	
Per Hour		6.21	

~~(c) ANCILLARY SERVICES~~

~~Per relative value unit<sup>1/2</sup>~~

Radiology	14.09	14.09	13.20
Laboratory	.86	.86	.60
Medical Clinics	15.07	15.07	4.40
Electroencephalography	2.11	2.11	
Electrocardiology	.39	.39	1.10
Physical Therapy	10.18	10.18	17.23
Occupational Therapy	71.23	71.23	27.36
Speech Therapy			28.69
Dental	39.81	39.81	46.03
Podiatry			1.50

~~(d) RESIDENTIAL SERVICES~~

	Pals	Portal
Costs Per Day	171.00	94.35

~~(2) The department shall purchase services required by the patient, not provided by hospital staff, from private~~

~~sources and the patient shall be charged actual cost of services.~~

~~<sup>1/2</sup>California Medical Association. *Relative Value Studies*. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp. Dental relative value units are calculated based on the American Dental Association Survey of 1990 national dental fees). A schedule of each hospital's charge rates will be computed under this section based on actual operating costs of the hospital for the previous year. The schedule will be prepared by the secretary's designee, from financial and statistical information contained in hospital records. The schedule will be updated at least annually. All changes under this section shall be prepared in advance of the effective date. Each hospital will make available the schedule of current charge rates upon request.~~

**WSR 94-13-052  
 PROPOSED RULES  
 DEPARTMENT OF  
 SOCIAL AND HEALTH SERVICES  
 (Public Assistance)  
 [Filed June 8, 1994, 10:52 a.m.]**

Original Notice.

Title of Rule: Chapter 388-97 WAC, Nursing homes.

Purpose: Replaces two rule chapters with a single new chapter to simplify and clarify state regulations and ensures rules are consistent with federal requirements; allows deeming Medicaid-certified facilities which meet federal requirements to meet designated state requirements. New construction requirements have been strengthened to provide and enhance resident quality of life, and allows more flexibility for alterations which benefit residents.

Statutory Authority for Adoption: RCW 18.51.070 and 74.42.620.

Statute Being Implemented: RCW 18.51.070 and 74.42.620.

Summary: Nursing home rules and regulations reflect new federal OBRA standards which place greater emphasis on resident rights, dignity and choice, and residence in a home-like environment. Conflicts and duplication with other state and federal requirements are eliminated. The federal regulatory structure is followed to allow Medicaid-certified facilities meeting federal requirements to be deemed to meet specified state requirements. There are a very few new requirements and these are designed to be cost neutral for the 294 Medicaid-certified facilities.

Reasons Supporting Proposal: Major rewrite of nursing home regulations into a new chapter to simplify and clarify state regulations and ensure they are consistent with federal requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Fay Helmon, 438-8978, and Judy Johnson, 493-2626, Aging and Adult Services Administration.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

PROPOSED

PROPOSED

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on August 23, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by August 9, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by August 16, 1994.

Date of Intended Adoption: August 25, 1994.

June 8, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

**Reviser's note:** The material contained in this filing will appear in the 94-14 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

**WSR 94-13-053**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
(Board of Pharmacy)  
[Filed June 8, 1994, 11:12 a.m.]

Continuance of WSR 94-11-089.

Title of Rule: Model procedural rules for boards.

Purpose: Creates a new section for common rules adopted by the Board of Pharmacy and adopts the Department of Health model rules for disciplinary boards.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: This creates a new section for common rules for the authorization holders of the Board of Pharmacy and adopts the model rules for boards.

Reasons Supporting Proposal: Adoption of these model rules for boards will standardize the procedures by boards in the Department of Health quality assurance division boards follows. Also creates a section for adopting common rules for all authorization holders, which will simplify location of common rules in the WAC.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald Williams, 1300 Quince S.E., Olympia, WA 98504-7863, (206) 753-6834.

Name of Proponent: Board of Pharmacy, 1300 Quince S.E., P.O. Box 47863, Olympia, WA 98504-7863, governmental.

Explanation of Rule, its Purpose, and Anticipated Effects: This creates a section of WAC for common rules adopted for all authorization holders of the Board of Pharmacy, making it easier to locate those rules which commonly apply. Adopting these model rules would standardize the procedures used by the boards in the health professions quality assurance division, thereby simplifying the processes used within the division.

Proposal does not change existing rules.

This proposal sets up a section for common rules and adopts a set of rules new to the Board of Pharmacy.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

This is a change in procedures of the Board of Pharmacy, which does not affect small business.

Hearing Location: Senate Hearing Room 2, John A. Cherberg Building, Capitol Campus, 304 15th Avenue, Olympia, WA, on July 20, 1994, at 9:30 a.m.

Submit Written Comments to: Donald H. Williams, P.O. Box 47863, Olympia, WA 98504-7863, by July 13, 1994.

Date of Intended Adoption: July 20, 1994.

June 8, 1994  
Donald H. Williams  
Executive Director

NEW SECTION

**WAC 246-856-001 Purpose.** The purpose of this chapter is to combine the common rules adopted by the Board of Pharmacy for all holders of licenses, registrations and certifications, as well as any other authorizations, issued by the Board of Pharmacy.

[NEW SECTION]

**WAC 246-856-020 Adjudicative proceedings—Procedural rules for the board of pharmacy.** The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in Chapter 246-11, including subsequent amendments.

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

**WSR 94-13-054**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed June 8, 1994, 11:42 a.m.]

Original Notice.

Title of Rule: WAC 388-217-3150 Transfer of property—Establishing intent to qualify for public assistance.

Purpose: Implements section 31 of HB 2798. A child is allowed to transfer or accumulate up to \$4,000 of that child's income or resources into one irrevocable educational trust which is earmarked for that child's future educational use.

Statutory Authority for Adoption: RCW 74.12.350.

Statute Being Implemented: RCW 74.12.350.

Summary: Allows a child to transfer or accumulate income or resources into an irrevocable educational trust when the trust funds are earmarked for the child's future educational use.

Reasons Supporting Proposal: Implements a provision in HB 2798.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sandy Jstates, Division of Income Assistance, 438-8313.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by July 12, 1994. TDD 753-4595 or SCAN 234-4595.

Submit Written Comments to: Identify WAC number, Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, Olympia, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 8, 1994  
Dewey Brock, Chief  
Office of Vendor Services  
Administrative Services Division

AMENDATORY SECTION (Amending Order 3696, filed 1/27/94, effective 2/27/94)

**WAC 388-217-3150 Transfer of property—Establishing intent to qualify for public assistance.** (1) The client shall have the opportunity to demonstrate that the transfer was for reasons other than to qualify or maintain eligibility for public assistance.

(2) Reasons (noninclusive) below shall, if verified, establish that the transfer was not for the purpose of qualifying or maintaining eligibility for public assistance:

(a) The client was the victim of fraud, misrepresentation or coercion and the transfer was based upon such fraud, misrepresentation or coercion; provided that the client has been attempting and continues to attempt to recover the property or its equivalent value;

(b) At the time of the transfer, the client was not receiving assistance and did not consider any probable need for assistance in the foreseeable future;

(c) The property was transferred to a spouse pursuant to a divorce or legal separation settlement approved by or ordered by a court of competent jurisdiction;

(d) The client held title only as a trustee for the use and benefit of another person with no beneficial interest himself or herself;

(e) The transfer was to clear title to a resource in which the client had no real beneficial enforceable interest; ((or))

(f) The client can show that his or her eligibility for assistance would not have been affected if he or she had retained, rather than transferred, the transferred property; or

(g) Within an assistance unit, up to four thousand dollars of each child's income or resources may be transferred or accumulated into one irrevocable educational trust

per child without penalty when the educational trust is adequately earmarked for that child's future educational use. The department shall provide the client with clear and simple information regarding the creation of irrevocable educational trusts, including all relevant state and federal regulations governing the creation of such trusts.

**WSR 94-13-059**  
**PROPOSED RULES**  
**BOARD OF ACCOUNTANCY**  
[Filed June 8, 1994, 3:26 p.m.]

Original Notice.

Title of Rule: WAC 4-25-410 Definitions.

Purpose: Defines terms used throughout the board's rules, chapter 4-25 WAC.

Statutory Authority for Adoption: RCW 18.04.055(11).

Statute Being Implemented: RCW 18.04.055(11).

Summary: General housekeeping—reorganized WAC section numbering (previous cite WAC 4-25-020); and defines terms used throughout the board's rules for clarity.

Reasons Supporting Proposal: Recodification improves referencing; and defining terms adds to clarity of terms used throughout the board's rules which are specific to the accounting profession.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carey L. Rader, Executive Director, 210 East Union, Suite H, (206) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 4-25-410 defines terms used throughout the board's rules.

Proposal Changes the Following Existing Rules: Adds terms to existing WAC 4-25-020 for audit, review, and compilation; certificate; continuing professional education; holding out; public practice; quality assurance review; quality review; reciprocity; rules of professional conduct; and statement on standards for attestation engagements. Deletes terms to existing rule for he, his, him; and public communication.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Bank of California Building, 900 4th Avenue, 5th Floor, Building Conference Room, on August 25, 1994, at 9:30 a.m.

Submit Written Comments to: Carey L. Rader, Executive Director, Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, by August 25, 1994.

Date of Intended Adoption: August 25, 1994.

June 8, 1994  
Carey L. Rader  
Executive Director

PROPOSED

NEW SECTION

**WAC 4-25-410 Definitions.** For purposes of these rules the following terms have the meanings indicated:

(1) "Act" means the Public Accountancy Act codified as chapter 18.04 RCW.

(2) "Audit," "review," and "compilation" are terms reserved by the public accountancy profession to identify forms of reports on financial statements that express differing levels of assurance. Professional standards setting bodies, such as the American Institute of Certified Public Accountants (AICPA), specify form and content of these reports

(3) "Board" means the board of accountancy created by RCW 18.04.035

(4) "Certificate" means a certificate as a certified public accountant issued under this chapter, or a corresponding certificate issued by another state or foreign jurisdiction that is recognized in accordance with the reciprocity provisions of RCW 18.04.180 and 18.04.183. "Valid CPA certificate" means the holder has fully complied with continuing professional education requirements or the board has granted specific exemption from continuing professional education requirements, with or without restricting use of the CPA title.

(5) "Client" means the person or entity that retains a CPA, through other than an employer/employee relationship, for the performance of professional services.

(6) "CPE" means continuing professional education (See also "Interactive CPE").

(7) "Enterprise" means any person or entity, whether organized for profit or not, with respect to which a CPA performs professional services.

(8) "Firm" means a sole proprietorship, a corporation, a limited liability company, or a partnership.

(9) "Generally accepted accounting principles" (GAAP) is a technical accounting term that encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. It includes not only broad guidelines of general application, but also detailed practices and procedures. Those conventions, rules, and procedures provide a standard by which to measure financial presentations.

(10) "Generally accepted auditing standards" (GAAS) are broad conceptual guidelines, promulgated by the American Institute of Certified Public Accountants (AICPA), for conducting individual audits of historical financial statements. They include general standards, standards of field work, and reporting standards.

(11) "Holding out" means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person or firm that the person or firm is a certified public accountant and that the person or firm offers to perform any professional services to the public as a certified public accountant. "Holding out" shall not affect or limit a person not required to hold a certificate under this chapter or a person or firm not required to hold a license under this chapter from engaging in practices identified in RCW 18.04.350(6).

(12) "Interactive self-study program" means a CPE program designed to use interactive learning methodologies that simulate a classroom learning process by employing

software or administrative systems that provide significant ongoing interactive feedback to learners regarding their learning progress.

(13) "Licensee" means the holder of a valid license issued under chapter 18.04 RCW.

(14) "Professional services" means any services performed or offered to be performed by a CPA while using the CPA title.

(15) "Public practice" or the "practice of public accounting" means performing or offering to perform by a person or firm holding itself out to the public as a licensee, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "audit reports," "review reports," "compilation reports," or "attestation reports" on financial statements, or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters.

(16) "Quality assurance review" (QAR) means a process, established by and conducted at the direction of the board, of study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person or persons who hold certificates and who are not affiliated with the person or firm being reviewed.

(17) "Quality review" means a study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person or persons who hold certificates and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures but not including a "quality assurance review."

(18) "Reciprocity" means board recognition of certificates or other professional accounting credentials that the board will rely upon in full or partial satisfaction of CPA certification requirements. This board may grant reciprocity, by rule, to CPAs from other states or to certain professional accountants from countries whose credentials are recognized by this board. Board recognition of professional credentials issued by other state accountancy boards or foreign credentialing bodies is conditioned on those bodies' agreements to grant reciprocity to this Board's licensees.

(19) "Reports on financial statements" means any reports or opinions prepared by certified public accountants, based on services performed in accordance with generally accepted auditing standards, standards for attestation engagements, or standards for accounting and review services, as to whether the presentation of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private, or governmental, conforms with generally accepted accounting principles or other comprehensive bases of accounting. The term does not include incidental financial data included in management advisory services reports to support recommendations to a client.

(20) "Rules of professional conduct" means principles and rules adopted by the Board to govern CPAs' conduct while representing themselves to others as CPAs. The rules apply to CPAs whether engaged in public practice or

otherwise engaged in providing professional services while using the CPA title.

(21) "Statements on Standards for Accounting and Review Services" (SSARS) are standards, promulgated by the American Institute of Certified Public Accountants (AICPA), to give guidance to CPAs who are associated with the financial statements of nonpublic companies and issue compilation or review reports.

(22) "Statements on Standards for Attestation Engagements" are guidelines, promulgated by the American Institute of Certified Public Accountants (AICPA), for use by CPAs in attesting to assertions involving matters other than historical financial statements and for which no other standards exist.

**WSR 94-13-060**  
**PROPOSED RULES**  
**BOARD OF ACCOUNTANCY**  
 [Filed June 8, 1994, 3:28 p.m.]

Original Notice.

Title of Rule: Repeal of WAC 4-25-020 Definitions, 4-25-030 Unlawful acts, 4-25-080 Commissions, referral fees, and contingent fees, and 4-25-270 Enforcement actions against licensees.

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.055 (1) and

(2).

Summary: Repeal sections of chapter 4-25 WAC that are being recodified. Part of a complete agency rules recodification.

Reasons Supporting Proposal: Sections of chapter 4-25 WAC being repealed are recodified to improve referencing.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carey L. Rader, Executive Director, 210 East Union, Suite H, (206) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 4-25 WAC, sections repealed are recodified to new sections.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Bank of California Building, 900 4th Avenue, 5th Floor, Building Conference Room, on August 25, 1994, at 9:30 a.m.

Submit Written Comments to: Carey L. Rader, Executive Director, Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, by August 25, 1994.

Date of Intended Adoption: August 25, 1994.

June 8, 1994  
 Carey L. Rader  
 Executive Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 4-25-020 Definitions.
- 4-25-030 Unlawful acts.
- 4-25-080 Commissions, referral fees, and contingent fees.
- 4-25-270 Enforcement actions against licensees.

**WSR 94-13-061**  
**PROPOSED RULES**  
**BOARD OF ACCOUNTANCY**

[Filed June 8, 1994, 3:30 p.m.]

Original Notice.

Title of Rule: WAC 4-25-910 Bases for imposing discipline.

Purpose: General housekeeping, reorganizes WAC section numbering (previous cite WAC 4-25-270); and lists specific acts which are examples of prohibited activities that constitute grounds for discipline under RCW 18.40.295 [18.04.295].

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.295.

Summary: Provides examples of acts that constitute grounds for discipline of certified public accountants.

Reasons Supporting Proposal: Recodification improves referencing; expanded list of examples informs CPAs of hazardous behaviors.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carey L. Rader, Executive Director, 210 East Union, Suite H, (206) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 4-25-910, provides examples of acts that constitute grounds for discipline under RCW 18.04.295.

Proposal Changes the Following Existing Rules: Adds examples to existing WAC 4-25-270 for unlawful sales of securities; unlawfully acting as a securities broker-dealer or salesperson; discharging trustee's duties negligently; liquidating retainer or deposit while fee dispute with client remains unresolved; trustee self-dealing; and borrowing funds from a client.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Bank of California Building, 900 4th Avenue, 5th Floor, Building Conference Room, on August 25, 1994, at 9:30 a.m.

Submit Written Comments to: Carey L. Rader, Executive Director, Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, by August 25, 1994.

Date of Intended Adoption: August 25, 1994.

June 8, 1994  
 Carey L. Rader  
 Executive Director

PROPOSED

NEW SECTION

**WAC 4-25-910 Bases for imposing discipline.** RCW 18.04.295 specifies sanctions the board may impose based on a listing of general causes. The following specific acts are examples of prohibited activities that constitute grounds for discipline under RCW 18.04.295. The board does not intend this listing to be all inclusive.

(1) Fraud or deceit in obtaining a certificate as a certified public accountant, or in obtaining a license, within the meaning of RCW 18.04.295(1), includes but is not limited to making a false or misleading statement in support of another's application for certificate or license.

(2)(a) Dishonesty, fraud, or negligence while representing oneself as a CPA, within the meaning of RCW 18.04.295(2), includes but is not limited to:

(i) Practicing public accountancy in this state prior to obtaining a license;

(ii) Making misleading, deceptive, or untrue representations while representing oneself as a CPA;

(iii) Engaging in acts of fiscal dishonesty while representing oneself as a CPA;

(iv) Purposefully, knowingly, or negligently failing to file a report or record, or filing a false report or record, required by local, state, or federal law while representing oneself as a CPA;

(v) Unlawfully selling unregistered securities while representing oneself as a CPA;

(vi) Unlawfully acting as an unregistered securities salesperson or broker-dealer while representing oneself as a CPA;

(vii) Discharging a trustee's duties in a negligent manner or breaching one's fiduciary duties while representing oneself as a CPA;

(viii) Withdrawing or liquidating, as fees earned, funds received by a CPA from a client as a deposit or retainer when the client contests the amount of fees earned, until such time as the dispute is resolved.

(b) The following shall be prima facie evidence that a certified public accountant has engaged in dishonesty, fraud, or negligence while representing himself or herself as a CPA:

(i) An order of a court of competent jurisdiction finding the CPA to have committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on a CPA's fitness to represent himself or herself as a CPA.

(ii) An order of a federal, state, or local regulatory body finding the CPA to have committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on a CPA's fitness to represent himself or herself as a CPA.

(3) A conflict of interest, within the meaning of RCW 18.04.055(2), includes but is not limited to:

(a) Self dealing as a trustee, including, but not limited to: Investing trust funds in entities controlled by or related to the trustee; borrowing from trust funds, with or without disclosure; employing persons or entities related to the trustee to provide services to the trust (unless specifically authorized by the trust creation document);

(b) Borrowing funds from any client unless the client is in the business of making loans of the type obtained by the licensee and the loan terms are not more favorable than loans extended to other persons of similar credit worthiness.

(4) A violation of a rule of professional conduct promulgated by the board, within the meaning of RCW 18.04.295(4), includes but is not limited to:

(a) Violation of one or more of the rules of professional conduct included in chapter 4-25 WAC;

(b) Violation of one or more of the administrative rules included in chapter 4-25 WAC;

(c) Concealing another's violation of the accountancy act or board rules.

A CPA's adjudication as mentally incompetent is prima facie evidence that the CPA lacks the professional competence required by the rules of professional conduct.

**WSR 94-13-062****PROPOSED RULES****BOARD OF ACCOUNTANCY**

[Filed June 8, 1994, 3:32 p.m.]

Original Notice.

Title of Rule: WAC 4-25-625 Commissions and referral fees and 4-25-627 Contingent fees.

Purpose: General housekeeping, reorganizes WAC section numbering (previous cite WAC 4-25-080).

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.055(2).

Summary: Renumbers sections. Part of a complete agency rules recodification.

Reasons Supporting Proposal: Recodification will improve referencing.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carey L. Rader, Executive Director, 210 East Union, Suite H, (206) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 4-25-625, continues the prohibition against CPAs paying or receiving commissions or referral fees; and WAC 4-25-627, continues the prohibition against CPAs charging fees for professional services contingent on results of such services and the exception for fees receiving substantive consideration by tax authorities.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Bank of California Building, 900 4th Avenue, 5th Floor, Building Conference Room, on August 25, 1994, at 9:30 a.m.

Submit Written Comments to: Carey L. Rader, Executive Director, Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, by August 25, 1994.

Date of Intended Adoption: August 25, 1994.

June 8, 1994

Carey L. Rader  
Executive Director

NEW SECTION

**WAC 4-25-625 Commissions and referral fees.** A licensee shall not pay a commission to obtain a client, receive a commission for referral of a client, or accept a commission for a referral to a client of products or services of others. This rule does not prohibit payments for the purchase of all, or a material part, of an accounting practice, or payment to an employee for referral of a client, or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of such persons.

NEW SECTION

**WAC 4-25-627 Contingent fees.** A licensee shall not agree to perform or perform professional services for a fee which is contingent on the findings or results of such professional services, except that contingent fees are allowed in situations where the licensee can reasonably expect that the findings or results, on which the contingent fees are to be based, are to receive substantive consideration by tax authorities.

**WSR 94-13-064**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed June 8, 1994, 4:35 p.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Amend Puget Sound trawl fishing rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Amends trawl fishing rules to eliminate targeted rockfish fishery.

Reasons Supporting Proposal: Conservation of rockfish and reduction of sport/commercial conflict.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1100 Washington Street, Olympia, 902-2930; Implementation: Mary Lou Mills, 1100 Washington Street, Olympia, 902-2834; and Enforcement: Dayna Matthews, 1100 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 220-48-015, closes Strait of Juan de Fuca to trawl in less than 300 feet of water to protect rockfish stocks. Closes eastern end of strait except to beam trawl. These measures will protect rockfish stocks that are depleted; and WAC 220-88A-080, clarify areas open to beam trawl for shrimp. These areas were opened by reference to chapter 220-48 WAC, but closures in these areas to protect rockfish would prohibit acceptable shrimp trawl fisheries.

Proposal Changes the Following Existing Rules: As above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

These proposals affect the 46 licensees who hold Puget Sound foodfish trawl licenses, out of approximately 3,400 commercial fishing licenses sold to date in 1994. These proposals do not affect 20 percent of all small businesses or 10 percent of the businesses in any one three-digit industrial classification.

Hearing Location: The department will hold public hearings on these proposals at 10:00 a.m., on August 9, 1994, Auditorium, Building 9, Western Regional Center NOAA, 7600 Sandpoint Way, Seattle, WA; and at 7:00 p.m., on August 9, 1994, Little Theater, Peninsula Community College, 1502 East Lauridsen, Port Angeles, WA.

Submit Written Comments to: Hearings Officer, Department of Fish and Wildlife, 600 Capitol Way, Olympia, 98501, by August 9, 1994.

Date of Intended Adoption: August 19, 1994.

June 8, 1994

Robert Turner  
Director

AMENDATORY SECTION (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

**WAC 220-48-015 Beam trawl and bottom trawl—Seasons.** (1) It is lawful to fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 22A, 22B, ~~((23A, 23B;))~~ 23C, ~~((25A, 25B;))~~ and 29 the entire year with the following exceptions:

(a) Those waters of Area 20A east of a line projected from Point Whitehorn to Sandy Point are closed the entire year.

(b) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and from the southwest corner of Point Roberts to Point Whitehorn to where these two lines are intersected by a line south from Kwomais Point in British Columbia and a line from Lilly Point to the north Alden Bank Buoy are closed April 15 through May 31.

(c) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and Lilly Point to the north Alden Bank buoy to where those lines are intersected by a line projected approximately 230 degrees south from Birch Point to Alden Point on Patos Island are closed June 1 through June 30.

(d) Areas 20A, 20B, 21A, 22A, and 22B are closed to trawl fishing in waters less than 30 feet deep.

(e) ~~((Those waters of))~~ Areas 23C ((between a line projected due north from Slip Point to a line projected due north from Kydaka Point)) and 29 are closed to otter trawl fishing the entire year in waters shallower than ((60)) 50 fathoms, and are closed to beam trawl fishing in waters less than 60 feet deep.

(2) It is lawful to fish for and possess bottomfish taken with beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 25A and 25B the entire year with the following exceptions:

~~((e))~~ (a) All of Area 25A is closed February 1 through April 15 of each year((-and)).

(b) Those waters of Area 25A lying southerly and westerly of a line projected from Kipat Point to Gibson Spit (Sequim Bay) are closed the entire year.

(c) Areas 23A, 25A and 25B are closed to beam trawl fishing in waters less than 60 feet deep.

(3) It is unlawful to fish or possess bottomfish taken with otter trawl gear in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 25A and 25B the entire year.

~~((2))~~ (4) It is unlawful to take fish for or possess bottomfish taken with bottom trawl or beam trawl gear for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 21B, 23D, 24A, 24B, 24C, 24D, 25C, 25D, 25E, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D the entire year.

~~((3) It is unlawful to take, fish for or possess bottomfish taken with bottom trawl in waters less than 60 feet in depth in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 25A, 25B, or 29, and it is unlawful to operate bottom trawl or beam trawl in waters less than 30 feet deep in all other waters of Puget Sound east of the mouth of the Sekiu River.)~~

**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 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.

**AMENDATORY SECTION** (Amending Order 94-14, filed 3/17/94, effective 4/17/94)

**WAC 220-88A-080 Emerging commercial fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear.** It is unlawful to fish for shrimp for commercial purposes in Puget Sound using trawl gear except as provided for in this section:

(1) Seasons - ~~((All waters of Puget Sound are))~~ Open ((to trawl gear)) April 16 through October 15 in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 22A, 22B, 23A, 23B, 23C, 25A, 25B, and 29, except closed in:

(a) Those waters of Area 20A east of a line projected from Point Whitehorn to Sandy Point the entire year.

(b) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and from the southwest corner of Point Roberts to Point Whitehorn to where these two lines are intersected by a line south from Kwomais Point in British Columbia and a line from Lilly Point to the north Alden Bank Buoy from April 16 through May 31.

(c) Those waters of Area 20A within an area bounded by lines from Lilly Point to Birch Point and Lilly Point to the north Alden Bank buoy to where those lines are intersected by a line projected approximately 230 degrees south from Birch Point to Alden Point on Patos Island from June 1 through June 30.

~~((a))~~ (d) Shrimp Districts 1, 2, 3((;)) and 4((, 5 and 6)).

~~((b) Waters closed to trawl fishing in WAC 220-48-015.)~~

(2) Gear restrictions - Beam trawl gear only. Otter trawl gear may not be used.

**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 94-13-085**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
[Filed June 14, 1994, 10:16 a.m.]

Original Notice.

Title of Rule: Satellite system management agencies. Regulations governing water system purveyors and other entities wishing to be approved to own and/or operate more than one public water system.

Purpose: To establish a program and set up criteria for designating individuals or water purveyors as qualified satellite system management agencies (SMAs).

Statutory Authority for Adoption: RCW 70.116.134.

Statute Being Implemented: RCW 70.116.134.

Summary: Establishing new WAC chapter to implement SMA program. Rules needed to establish criteria for designating qualified SMAs. Department will approve SMAs and make list available to local health jurisdictions.

Reasons Supporting Proposal: Required by RCW.

Name of Agency Personnel Responsible for Drafting: Michele Vazquez, 1500 West 4th Avenue, Spokane, (509) 456-2774; Implementation: Richard Siffert, Building 3, Airdustrial Park 7822, (206) 753-4299; and Enforcement: John Aden, Building 3, Airdustrial Park 7822, (206) 664-0441.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will establish a program by which the department can set up criteria and review and approve water purveyors and other individuals to own and/or operate more than one water system for the purpose of improving management and operations of small systems who might otherwise be unable to meet the monitoring and operational requirements imposed by the federal Safe Drinking Water Act and chapter 246-290 WAC. The purpose of the rule is to also discourage the proliferation of small nonviable public water systems. This will be a voluntary program, with only those entities wishing to be approved as SMAs needing to comply with established criteria. The rule will effect any water purveyor or individual wishing to be approved as an SMA.

Proposal does not change existing rules.

There are no current rules specifically addressing SMAs. This rule is intended to complement other drinking water rules currently found in the following chapters: Chapters 246-290, 246-291 (currently being filed for adoption), 246-292, 246-293, and 246-294 WAC.

Has a Small Business Economic Impact Statement Been Prepared under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to John Aden, Divi-

sion of Drinking Water, Airdustrial Center Building #3, P.O. Box 47822, Olympia, WA 98504-7822 or by phone (206) 664-0441, or FAX (206) 586-5529.

Hearing Location: Airdustrial Park, Building 2 Conference Room, Tumwater, Washington, on August 5, 1994, at 1 p.m.

Assistance for Persons with Disabilities: Contact John Aden, (206) 664-0441, by July 29, 1994.

Submit Written Comments to: Ann Foster, Department of Health, Rules Coordinator, P.O. Box 47890, Olympia, WA 98504-7890, by August 1, 1994.

Date of Intended Adoption: August 5, 1994.

June 10, 1994  
Bruce Miyahara  
Secretary

## Chapter 246-295 WAC

### SATELLITE SYSTEM MANAGEMENT AGENCIES

#### NEW SECTION

**WAC 246-295-001 Purpose.** (1) The purpose of these rules is to:

- (a) Establish criteria for approving satellite system management agencies hereafter referred to as satellite management agencies (SMAs) pursuant to RCW 70.116.134;
  - (b) Delineate the process organizations and/or individuals must follow to be considered an approved SMAs; and
  - (c) Outline procedures for coordination between water users, purveyors, SMAs, local government and the department.
- (2) This chapter is specifically designed to ensure:
- (a) The enhancement of public health through the use of SMAs;
  - (b) SMAs are capable of providing high quality drinking water in a reliable manner and in a quantity suitable for intended use;
  - (c) SMAs are capable of meeting the requirements of the federal Safe Drinking Water Act, P.L. 93-523 and P.L. 99-339; and
  - (d) Uniformity in the SMAs determination and compliance processes.
- (3) Other statutes relating to this chapter are:
- (a) Chapter 43.20 RCW, State board of health;
  - (b) RCW 43.20B.020 Fees for services—Department of health and department of social and health services;
  - (c) Chapter 43.70 RCW, Department of health;
  - (d) Chapter 70.116 RCW, Public Water System Coordination Act of 1977;
  - (e) Chapter 70.119 RCW, Public water supply systems—Certification and regulation of operators; and
  - (f) Chapter 70.119A, Public water systems—Penalties and compliance.

#### NEW SECTION

**WAC 246-295-010 Definitions.** Abbreviations:

- "IOU" - Investor owned utility;  
 "SMA" - Satellite management agency;  
 "UTC" - Utilities and transportation commission; and  
 "WSP" - Water system plan.

"**Certified operator**" means a person certified in accordance with chapter 246-292 WAC.

"**Contract**" means a written agreement between a SMA and a public water system identifying the responsibilities of system operation and management.

"**Department**" means the Washington state department of health.

"**Investor owned utility**" means a corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, operating or managing any public water system for hire.

"**Public water system**" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any:

Collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with such system; and

Collection or pretreatment storage facilities not under control of the purveyor primarily used in connection with such system.

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

"**Satellite management agency (SMA)**" means an individual, purveyor, or entity that is approved by the secretary to own or operate more than one public water system on a regional or county-wide basis, without the necessity for a physical connection between such systems.

"**Satellite management and operation services**" means all day-to-day responsibilities of a water system. Management responsibilities shall include planning and policy decision making. Operational responsibilities shall include normal day-to-day operations, preventative maintenance, water quality monitoring, troubleshooting, emergency response, response to complaints, public/press contact, and recordkeeping.

"**Secretary**" means the secretary of the department of health or their designee.

"**Service area**" means a specific area for which satellite management and operation services may be provided by a SMA.

"**Service area policies**" means pertinent policies that impact the provision of water and water system growth.

#### NEW SECTION

**WAC 246-295-020 Applicability.** The rules of this chapter shall apply to SMAs and all counties, and to public water system purveyors, individuals, or other entities requesting SMA approval.

#### NEW SECTION

**WAC 246-295-030 Potential satellite management agencies (SMAs).** (1) Pursuant to RCW 70.116.134(2), each county shall identify and submit a list of potential SMAs to the department by January 1, 1995, for areas within the county:

(a) Which are not within the designated future service area of any utility pursuant to the Water System Coordination Act; or

(b) Where an existing purveyor has agreed or where a legal determination has been made that an existing purveyor is unable or unwilling to provide service.

(2) After January 1, 1995, counties may submit names of additional potential SMAs to the department on an ongoing basis.

#### NEW SECTION

**WAC 246-295-040 SMA submittal and approval process.** (1) An individual, purveyor or other entity seeking approval as an SMA, shall:

(a) Submit an application to the department on a form provided by the department;

(b) Participate in a "presubmittal conference" to discuss the SMA plan content, and, if applicable, the water system plan;

(c) Submit an SMA plan which shall include all information required under WAC 246-295-050 or 246-295-060 at the level of detail agreed upon at the presubmittal conference.

(2) The department shall forward the SMA plan to affected counties for review and comment. To ensure consideration, the county must submit its comments to the department within sixty days.

(3) When all conditions listed in subsection (1) of this section have been completed, the secretary shall either approve or deny the proposed SMA based on the secretary's review and evaluation of information presented and comments received from the county.

(4) The secretary shall maintain a list of approved SMAs and make it available to counties, purveyors, individuals or other entities on request. A listing shall be distributed to each county at least annually and on approval of new SMAs by the secretary. The approved listing shall include a service area for each SMA and designate which SMAs are approved for:

(a) Ownership; and

(b) Management and operation only.

#### NEW SECTION

**WAC 246-295-050 SMA plan content for ownership.** The SMA plan shall address the following elements at a minimum in a manner acceptable to the department. A department guideline titled *Satellite Management Planning Handbook* is available to assist the potential SMA in adequately addressing these elements:

(1) SMA ownership, including at a minimum:

(a) A statement of intent to own public water systems;

(b) Current organizational structure of the SMA, legal authority, mailing address, responsible party, and contact person;

(c) Identification of existing public water systems the applicant currently owns, and/or manages and operates. The identification shall include the number of connections in each system, the department identification number and the system location.

(d) Documentation showing that at least one staff person has, at a minimum, three years of water utility ownership and/or management experience.

(2) SMA service area information, including at a minimum:

(a) A map of the SMA service area;

(b) A general written description of the SMA service area; and

(c) Future service area agreement(s) of systems owned by SMA if applicable.

(3) Service area policies/conditions of service where applicable, including at a minimum:

(a) Annexation policies consistent with local comprehensive plans;

(b) Ownership versus management and operation decision criteria;

(c) Policies related to new and existing public water systems, including the method of determining financial feasibility of adding new or existing systems to the SMA;

(d) Ordinances, resolutions and agreements related to the provision of drinking water;

(e) Service request process overview flowchart, including time frames; and

(f) A list of available services.

(4) System design standards for new and existing systems;

(5) Financial viability, including at a minimum:

(a) A written description of available revenue sources;

(b) A budget; and

(c) General financial policies.

(6) Operation and maintenance program, including at a minimum:

(a) Documentation that at least one staff person will, at a minimum, be certified at a water distribution manager 2 level or above and meet any additional department required certified operator requirements;

(b) Overall SMA routine and preventive maintenance program, including an emergency response plan;

(c) A copy of model contract for operation and maintenance services, if applicable; and

(d) Two copies of all applicable operations contracts in effect.

(7) Documentation from affected counties that the SMA plan is consistent with their plans and policies;

(8) Documentation that all Group A systems owned by the potential SMA on the date of request have obtained their operating permit and are not classified in the red operating permit category pursuant to chapter 246-294 WAC. If Group B systems are also owned by the potential SMA, provide documentation that such systems are in compliance with chapter 246-291 WAC. A special provision pursuant to WAC 246-295-110 may be utilized in the determination of compliance.

(9) A current water system plan or department approved plan development schedule, if applicable.

#### NEW SECTION

**WAC 246-295-060 SMA plan content for management and operation only.** The SMA plan shall address the following elements at a minimum in a manner acceptable to the department. A department guideline titled *Satellite*

*Management Planning Handbook* is available to assist purveyors, individuals or other entities in adequately addressing these elements:

(1) SMA ownership, including at a minimum:

(a) A statement of intent to manage and operate public water systems;

(b) Current organizational structure of SMA, legal authority, mailing address, responsible party, and contact person;

(c) Documentation showing that at least one staff person has, at a minimum, three years of water utility ownership and/or management experience; and

(d) Identification of existing public water systems the applicant currently operates. The identification must include the number of connections in each system, the department identification number and the system location.

(2) SMA service area information, including at a minimum:

(a) A map of the SMA service area; and

(b) A general written description of the SMA service area.

(3) Conditions of service, including at a minimum:

(a) Operation decision criteria;

(b) Service request process overview flowchart including time frames; and

(c) A list of available services.

(4) Operation and maintenance program, including at a minimum:

(a) Documentation that at least one staff person will, at a minimum, be certified at a water distribution manager 2 level or above and meet any additional department required certified operator requirements;

(b) Overall SMA routine and preventive maintenance program, including an emergency response plan;

(c) A copy of model contract for operation and maintenance services; and

(d) Two copies of all applicable operations contracts in effect.

(5) Documentation that all Group A systems operated by the potential SMA on the date of request have obtained their operating permit and are not classified in the red operating permit category pursuant to chapter 246-294 WAC. If Group B systems are also operated by the potential SMA, provide documentation that such systems are in compliance with chapter 246-291 WAC. A special provision pursuant to WAC 246-295-110 may be utilized in the determination of compliance.

#### NEW SECTION

**WAC 246-295-070 Requests for water service.** The county or city agency responsible for determining water availability shall direct an individual or other entity proposing a new system or requesting water service to contact one or more qualified SMAs designated for the service area where the new system is proposed. Such contact shall take place prior to construction of a new public water system and shall be documented in writing to the appropriate county or city.

#### NEW SECTION

**WAC 246-295-080 Management and operations agreements.** (1) An SMA providing satellite management and operation services only shall have a written agreement with each public water system being served, which shall, at a minimum, address the necessary requirements to comply with applicable regulations regarding management and operation of a public water system; and

(2) The SMA shall submit two copies of all new and renewed agreements to the department within thirty days of the effective date of the contract.

#### NEW SECTION

**WAC 246-295-090 Periodic review.** The SMA shall ensure that a SMA plan is submitted to the department for review and approval every five years or more frequently as required by the secretary. The secretary shall review each approved SMA for compliance with the elements identified in WAC 246-295-050 and 246-295-060. The secretary may request that additional information be submitted to assist in the evaluation of the SMA.

#### NEW SECTION

**WAC 246-295-100 SMA compliance.** (1) An SMA:

(a) Shall comply with all statutes and regulations governing public water systems including but not limited to chapters 70.116, 70.119 and 70.119A RCW and chapters 246-290, 246-291, 246-292, 246-293 and 246-294 WAC and the requirements of this chapter; and

(b) Shall adhere to its SMA plan.

(2) The department may revoke, suspend, modify or deny the certification or application of any SMA or applicant which:

(a) Fails to timely submit required information;

(b) Has been subject to departmental enforcement action for violation of statutes or regulations governing public water systems;

(c) Violates or has violated statutes or regulations governing public water systems;

(d) Fails to comply with its SMA plan;

(e) Fails to have or maintain required staff;

(f) Fails to comply with all applicable local ordinances, regulations, plans and policies;

(g) Fails to demonstrate financial viability whether at the time of application or subsequently;

(h) Fails to bring a noncomplying system into regulatory compliance within the time frame established under WAC 246-295-110; or

(i) Operates in a manner that threatens public health.

(3) Any SMA or applicant aggrieved by the department's decision to revoke, suspend, modify or deny a certification or application may appeal such decision in accordance with chapter 246-10 WAC and chapter 34.05 RCW.

(4) A certified SMA that files a timely appeal of a decision to revoke, suspend or modify its certification under chapter 246-10 WAC and/or chapter 34.05 RCW may continue to operate until a final departmental decision is issued, unless protection of the public health, safety and welfare requires summary action.

(5) If a SMA is removed from the approved list and desires reinstatement, the SMA must submit a new request and follow the process outlined in WAC 246-295-040, provided that the reapplication shall be subject to any limitations imposed by final departmental order or if applicable, order on judicial review.

#### NEW SECTION

**WAC 246-295-110 Special provisions.** (1) SMAs willing to take ownership of systems which have not obtained their operating permit or are classified in the red operating permit category pursuant to chapter 246-294 WAC, may be allowed a "special provision" whereby they are given time to bring the system into regulatory compliance. This "special provision" is subject to an agreement among the SMA, the department and, if applicable, the public water system that documents how and within what time frame the SMA will bring the noncomplying system into compliance.

(2) Extensions to the time frame may be granted if agreed upon between the SMA and the secretary. If the agreed upon time frame passes and no extension has been granted, the system at issue shall remain out of compliance and the SMA may be removed from the approved SMA list.

#### NEW SECTION

**WAC 246-295-120 Fees.** The secretary is authorized to assess reasonable fees to process applications for initial approval and for periodic review of SMAs.

#### NEW SECTION

**WAC 246-295-130 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, shall not be affected.

**WSR 94-13-086**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (By the Code Reviser's Office)  
 [Filed June 14, 1994, 3:49 p.m.]

WAC 246-851-540, proposed by the Department of Health in WSR 93-24-026, appearing in issue 93-24 of the State Register, which was distributed on December 15, 1993, 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 94-13-087**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (By the Code Reviser's Office)  
 [Filed June 14, 1994, 3:51 p.m.]

WAC 246-11-320, proposed by the Department of Health in WSR 94-24-105, appearing in issue 93-24 of the State Register, which was distributed on December 15, 1993, 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 94-13-088**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (By the Code Reviser's Office)  
 [Filed June 14, 1994, 3:52 p.m.]

WAC 246-10-303, proposed by the Department of Health in WSR 93-24-106, appearing in issue 93-24 of the State Register, which was distributed on December 15, 1993, 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 94-13-089**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
 (By the Code Reviser's Office)  
 [Filed June 14, 1994, 3:53 p.m.]

WAC 458-61-450 and 458-61-548, proposed by the Department of Revenue in WSR 93-24-115, appearing in issue 93-24 of the State Register, which was distributed on December 15, 1993, 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 94-13-090**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
 [Filed June 14, 1994, 3:54 a.m.]

The Personnel Resources Board hereby withdraws proposed new rule WAC 359-09-070 filed as part of WSR 93-24-080 on November 30, 1993. If you have any questions regarding the above withdrawal, please contact Sandra Brownrigg, Rules Coordinator, at 753-0381.

Dennis Karras  
 Secretary

**WSR 94-13-101**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed June 15, 1994, 3:51 p.m.]

Continuance of WSR 94-10-005.

Title of Rule: WAC 230-20-103 Bingo cards to be sold upon the premises—Exceptions.

Purpose: New rule will allow bingo operators to presell an entry guarantee to persons desiring to reserve the right to participate in special bingo games.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: New rule will allow bingo operators to presell an entry guarantee to persons desiring to reserve the right to participate in special bingo games.

Name of Agency Personnel Responsible for Drafting: Shanna Lingel, Rules Coordinator, Lacey, 438-7685; Implementation: Frank L. Miller, Director, Lacey, 438-7640; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, 438-7690.

Name of Proponent: [Gambling Commission], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: New section to allow bingo operators to presell an entry guarantee to persons desiring to reserve the right to participate in special bingo games.

Proposal Changes the Following Existing Rules: Allows bingo operators to presell an entry to guarantee to persons desiring to reserve the right to participate in special bingo games.

Has a Small business Economic Impact Statement been Prepared Under Chapter 19.85 RCW? No. The agency has considered whether these rule changes would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there are no economic impacts to small business as a result of these proposals for the following reasons: No cost or expenditure of resources; no affect on industry; and no substantive change in existing regulatory scheme.

Hearing Location: Silverdale on the Bay/West Coast Hotel, 3037 Bucklin Hill Road, Silverdale, WA 98310, on July 15, 1994, at 10:00 a.m. Assistance for Persons with Disabilities: Contact Shanna Lingel by July 13, 1994, TDD (206) 438-7638, or (206) 438-7685.

Submit Written Comments to: Shanna Lingel, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (206) 438-8608, by July 13, 1994.

Date of Intended Adoption: July 15, 1994.

June 15, 1994  
 Shanna R. Lingel  
 Rules Coordinator

games. Such shall not be deemed sales of bingo cards for purposes of this title if licensees comply with the following restrictions:

(1) Entry guarantee events are limited to four sessions each calendar year: *Provided*, That each separate event shall be completed in its entirety, including all refunds authorized by subsection (6)(b) of this section, prior to beginning sales for another event;

(2) Tickets must be used to document the sale of an entry guarantee. All requirements of WAC 230-20-101 (2)(a), (b), and (d) shall be followed. The following additional information must be imprinted on the tickets:

(a) The name of the organization sponsoring the event;

(b) The time, date, and location of the event;

(c) The total number of tickets available for the event;

and  
 (d) Any conditions or contingencies related to redemption of the ticket, refunds if available, or cancellation of the event;

(3) The number of tickets sold shall not exceed the seating capacity of the premises;

(4) The value of an entry guarantee ticket shall not exceed fifty percent of the minimum "buy-in" for the event;

(5) Tickets shall not be sold prior to sixty days in advance of the event;

(6) Tickets shall only be redeemed for bingo cards upon the licensed premises immediately preceding start of the session: *Provided*, That unredeemed tickets may, at the organization's option, be refunded after the event is completed and net proceeds for the session have been deposited. If refunds are allowed, the following procedures apply:

(a) All restrictions or conditions must be printed on the ticket;

(b) Refunds must be made within thirty days following the event. After thirty days all unredeemed tickets shall be written off as contributions to the organization;

(c) The name, address, and phone number of the person receiving the refund shall be recorded on the back of the ticket; and

(d) All refunded tickets shall be retained as a part of the records for the event;

(7) Tickets shall be closely controlled. Tickets that are unaccounted for shall be treated as a cash shortage at the redemption value;

(8) Tickets redeemed for bingo cards shall be immediately canceled by use of a hand stamp that imprints "REDEEMED" on each ticket. Daily bingo records shall be modified to document the number and dollar value of tickets sold and redeemed. The reconciliation of gross gambling receipts to "cash on hand" shall include an entry documenting the dollar value of tickets redeemed; and

(9) Gross receipts from the sale of tickets shall be deposited separately into the gambling account no later than two banking days after receipt.

NEW SECTION

**WAC 230-20-103 Bingo cards to be sold upon the premises—Exceptions.** Bingo cards shall be sold upon the licensed premises during or immediately preceding the session for which the cards are intended for play: *Provided*, That licensees may sell an entry guarantee to persons desiring to reserve the right to participate in special bingo

**WSR 94-13-107**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed June 16, 1994, 10:50 a.m.]

Original Notice.

Title of Rule: WAC 392-121-187 Technical college direct-funded enrollment.

Purpose: To establish the process of providing basic education funding directly to technical colleges.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.150.275.

Summary: See above.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting: Richard Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: Thomas Case, Superintendent of Public Instruction, Olympia, 753-6708; and Enforcement: David Moberly, Superintendent of Public Instruction, Olympia, 753-6742.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not applicable.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504, on July 29, 1994, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Richard Wilson by July 28, 1994, TDD (206) 664-3631, or (206) 753-2298.

Submit Written Comments to: Richard Wilson, P.O. Box 47200, Olympia, WA 98504, FAX (206) 753-4201, by July 28, 1994.

Date of Intended Adoption: August 1, 1994.

June 15, 1994  
 Judith A. Billings  
 Superintendent of  
 Public Instruction

**NEW SECTION**

**WAC 392-121-187 Technical college direct-funded enrollment.** Enrollment in a technical college pursuant to an interlocal agreement with a school district as provided in RCW 28B.50.533 may be counted as course of study generating state moneys payable directly to the technical college as provided in this section.

(1) The technical college shall submit a written request to the superintendent of public instruction and for each school district whose students are to be claimed by the college shall provide a copy of the interlocal agreement signed by the school district superintendent and the technical college president or authorized officials of the school district and college.

(2) The technical college shall report enrolled students monthly (October through June) to the superintendent of public instruction pursuant to this chapter and instructions

provided by the superintendent. A separate report shall be submitted for each school district whose students are reported. Reports of students eligible for state basic education support shall show the total number of students served and total nonvocational and vocational FTE students on the monthly count date. Reports shall also show the name of each student, hours of enrollment per week on the monthly count date, and the nonvocational and vocational full-time equivalent reported for the student on the count date. Technical colleges claiming direct state handicapped funding under the interlocal agreement shall also report the number of enrolled handicapped students by handicapping category on the count dates of October through May pursuant to WAC 392-122-160 and chapter 392-171 WAC.

(3) The technical college shall report monthly to each school district whose students are served pursuant to this section. The report shall include at a minimum the data reported to the superintendent of public instruction pursuant to subsection (2) of this section.

(4) The technical college shall report only students who:

(a) Were under twenty-one years of age at the beginning of the school year;

(b) Are enrolled tuition-free;

(c) Are enrolled in a school district with which the technical college has a signed interlocal agreement on file with the superintendent of public instruction pursuant to subsection (1) of this section;

(d) Are enrolled in the school district for the purpose of earning a high school diploma or certificate; and

(e) Have actually participated in instructional activity at the technical college during the current school year.

(5) Enrollments claimed for state basic education funding by the technical college:

(a) Shall be for courses for which the student is earning high school graduation credit through the school district or the technical college; and

(b) Shall not include:

(i) Enrollment which is claimed by the school district for state funding; or

(ii) Enrollment which generates state or federal moneys for higher education, adult education, or job training for the technical college.

(6) Full-time equivalent students reported by the technical college for state basic education funding shall be determined pursuant to WAC 392-121-106 through 392-121-183 except that the enrollment count dates shall be for the months of October through June. If a student is enrolled in courses provided by the school district as well as courses provided by the technical college, the combined full-time equivalents reported by the school district and the technical college are limited by WAC 392-121-136.

(7) The superintendent of public instruction shall make quarterly payments to the technical college as follows:

(a) Basic education allocations shall be determined pursuant to chapter 392-121 WAC based on average enrollments reported by the technical college for each school district times the average allocation per full-time equivalent high school student of the school district: *Provided*, That allocations for students enrolled in school districts with no more than two high schools with enrollments of less than three hundred annual average full-time equivalent students shall be at the incremental rate generated by students in

excess of sixty annual average full-time equivalent students. Allocations for nonvocational and vocational full-time equivalent enrollments shall be calculated separately.

(b) Handicapped allocations shall be determined pursuant to WAC 392-122-100 through 392-122-165 based on average handicapped enrollments and the school district's average allocation per handicapped student in each handicapping category.

(c) Quarterly payments shall provide the following percentages of the annual allocation:

December	30%
March	30%
June	20%
August	20%

**WSR 94-13-112**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed June 16, 1994, 3:39 p.m.]

Original Notice.

Title of Rule: WAC 230-40-050 Fees for card playing.

Purpose: Allow cardroom operators to raise the fee which may be charged to card players from \$2.00 to \$3.00 per half hour.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Allow cardroom operators to raise the fee which may be charged to card players from \$2.00 to \$3.00 per half hour.

Name of Agency Personnel Responsible for Drafting: Shanna Lingel, Rules Coordinator, Lacey, 438-7685; Implementation: Frank L. Miller, Director, Lacey, 438-7640; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, 438-7690.

Name of Proponent: [Gambling Commission], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Allow cardroom operators to raise the fee which may be charged to card players from \$2.00 to \$3.00 per half hour.

Proposal Changes the Following Existing Rules: Allow cardroom operators to raise the fee which may be charged to card players from \$2.00 to \$3.00 per half hour.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The agency has considered whether these rule changes would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there are no economic impacts to small business as a result of these proposals for the following reasons: No cost or expenditure of resources; no affect on industry; and no substantive change in existing regulatory scheme.

Hearing Location: Campbell's Resort, 104 West Woodin Avenue, Chelan, WA 98816, on August 12, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Shanna Lingel by August 10, 1994, TDD (206) 438-7638, or (206) 438-7685.

Submit Written Comments to: Shanna Lingel, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (206) 438-8608, by August 10, 1994.

Date of Intended Adoption: August 12, 1994.

June 16, 1994

Shanna R. Lingel  
 Rules Coordinator

**AMENDATORY SECTION** (Amending Order 153, filed 8/12/85)

**WAC 230-40-050 Fees for card playing.** No fee shall be charged a person, directly or indirectly, to play in a card game in excess of those fees set forth below:

(1) For all card games, except as provided in (2) below, the fee shall not exceed (~~(\$2.00)~~) \$3.00 per half hour, or portion thereof, per player.

The fee charged shall be collected by the licensee in cash, or in wagering chips, directly from the player upon each half hour only. No player shall be required to pay for or purchase any other goods or services as a condition of playing cards beyond the (~~(\$2.00)~~) \$3.00 per half hour per player except under section (3) below. The fee schedule applicable to the type of games and number of tables in the card room shall be conspicuously posted on the premises where it can be clearly seen by the players in the card games.

(2) A person requesting a new deck of cards beyond those regularly furnished by the operator as required by WAC 230-40-070(2) may be charged a fee not to exceed the actual cost to the licensee of the deck. Further, Class D licensees may charge a fee not to exceed actual cost to the licensee per deck for each deck of playing cards furnished to a table as required by these rules, or as requested by any player at the table. The fee shall be collected in cash directly from the players, or the player requesting the deck, at the time the deck is introduced into the game.

(3) This rule shall not prevent a bona fide nonprofit or charitable organization which has been established and operated for purposes other than card playing from charging its usual membership fee to belong to the organization.

(4) The licensee shall collect the same fee from all players at a table except licensed card room employees or the licensed owner. If he elects to allow free play, then all players at a table must be allowed to play for free.

The amount collected each half hour shall be recorded by the licensee immediately following the collection of the fees on a standard card room format prescribed and supplied by the commission to the licensee. All records required by this rule shall be maintained for a period of three years from the end of the licensee's fiscal year for which the record is kept.

PROPOSED

**WSR 94-13-113**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed June 16, 1994, 3:41 p.m.]

Original Notice.

Title of Rule: WAC 230-20-246 Manner of conducting bingo.

Purpose: Amendment would allow bingo licensees to place symbols and/or numbers not relevant to a game on the flashboard for viewing without calling the symbols and/or numbers to the participants.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Amendment would allow bingo operators to place symbols and/or numbers not relevant to a game on the flashboard for viewing without calling the symbols and/or numbers to the participants.

Name of Agency Personnel Responsible for Drafting: Shanna Lingel, Rules Coordinator, Lacey, 438-7685; Implementation: Frank L. Miller, Director, Lacey, 438-7640; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, 438-7690.

Name of Proponent: Washington State Federation of Clubs, P.O. Box 2016, Edmonds, WA 98020, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amendment would allow bingo licensees to place symbols and/or number not relevant to a game on the flashboard for viewing without calling the symbols and/or numbers to the participants.

Proposal Changes the Following Existing Rules: Allows bingo operators to place symbols and/or numbers not relevant to a game on the flashboard for viewing without calling the symbols and/or numbers to the participants.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The agency has considered whether these rule changes would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there are no economic impacts to small business as a result of these proposals for the following reasons: No cost or expenditure of resources; no affect on industry; and no substantive change in existing regulatory scheme.

Hearing Location: Campbell's Resort, 104 West Woodin Avenue, Chelan, WA 98816, on August 12, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Shanna Lingel by August 10, 1994, TDD (206) 438-7638, or (206) 438-7685.

Submit Written Comments to: Shanna Lingel, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (206) 438-8608, by August 10, 1994.

Date of Intended Adoption: August 12, 1994.

June 16, 1994  
 Shanna R. Lingel  
 Rules Coordinator

AMENDATORY SECTION (Amending Order 240, filed 6/17/93, effective 7/18/93)

**WAC 230-20-246 Manner of conducting bingo.** The conducting of a bingo game shall include, but is not limited to, the following rules:

(1) All sales of bingo cards shall take place upon the licensed premises during or immediately preceding the session for which the card is being sold;

(2) Bingo cards shall be sold and paid for prior to selection of the first symbol or number for a specified game or specified number of games: *Provided*, That cards may be sold after the start of a game, or number of games, if the late sale does not allow any player an advantage over any other player. Hard cards purchased or exchanged after the first symbol or number is selected may only be used during subsequent games. Any sales method that allows a player to select a specific disposable or throwaway card shall be deemed to allow the player an advantage;

(3) No operator shall reserve, or allow to be reserved, any bingo card for use by players except braille cards or other cards for use by visually impaired or disabled players;

(4) Visually impaired players may use their personal braille cards when a licensee does not provide such cards. The licensee shall have the right to inspect, and to reject, any personal braille card. A visually impaired or disabled person may use a braille card or reserved hard card in place of a purchased throwaway;

(5) All cards sold to participate for a specific prize or set of prizes shall be sold for the same price and be distinct and readily distinguished from all other cards in play: *Provided*, That similar cards used to participate for the same prize or set of prizes may be sold at a discount which is based solely on volume if each separate discount price is recorded using a separate sales identification code and records provide for an audit trail;

(6) All symbols and/or numbers shall be selected on the premises and in the presence of players paying to participate in the game. Immediately following the drawing of each ball in a bingo game, the caller shall display the symbol and/or number on the ball to the participants;

(7) The symbol and/or number on the ball shall be called out prior to the drawing of any other ball;

(8) After the symbol and/or number is called, the corresponding symbol and/or number on the licensee's flashboard, if any, shall be lit for participant viewing. In a game where a symbol and/or number on the ball is not applicable to the game being played, it is not necessary to call that number and/or symbol to the participants before placing it for viewing on the flashboard;

(9) A game ends when a specific pattern has been achieved by a player or a specific number of symbols and/or numbers has been called. Each game shall be played using a separate selection process: *Provided*, That the same or a continuing selection process may be used to play the following games:

(a) Interim or "on-the-way" games; and

(b) Games for which cards are sold for different prices and players win a different prize depending on the price they pay to play.

(10) No bingo game shall be conducted to include a prize determined other than by the matching of symbols and/

PROPOSED

or numbers on a bingo card with symbols and/or numbers called by the licensee, in competition among all players in a bingo game except as authorized by WAC 230-20-242;

(11) The minimum amount of a prize or prizes available for each bingo game shall be established and disclosed to bingo game players prior to their purchase of a chance to participate in a bingo game. The minimum prize may be increased by the primary bingo manager prior to the start of a game or through the following schemes during the game:

(a) Schemes using standard bingo equipment and cards such as:

(i) Number of symbols or numbers called prior to a winner;

(ii) The specific number or symbol called;

(iii) The specific letter called;

(iv) Position of winning combinations on the card;

(v) Position of the card on the sheet of cards; and

(vi) Odd or even numbers or symbol.

(b) Schemes preprinted on disposable cards that rely on a number or symbol called during a game; or

(c) Second element of chance schemes authorized by WAC 230-20-242(4).

(12) Immediately upon a bingo player declaring a winning combination of letters and numbers, the winning card shall be verified by a game employee and at least one neutral player;

(13) Upon a bingo player declaring a winning bingo, the next ball out of the machine shall be removed from the machine prior to shutting the machine off and shall be the next ball to be called in the event the declared winning bingo is not valid;

(14) After a winning bingo is validated, the prize shall be awarded using the following procedures:

(a) Each winner shall be required to provide proof that they have purchased the winning bingo card. The licensee shall review the prize winner's income receipt and determine that the player has properly purchased all cards played during the games, including the winning card;

(b) Each prize winner shall be positively identified. The licensee shall require such proof of identification as is necessary to establish the prize winner's identity prior to paying any prize. The winner is responsible for furnishing proof to the licensee that all information required by this rule is true and accurate. Prizes may be withheld until the winner has provided adequate identification;

(c) The prize shall be awarded and a record made by completing a prize receipt as required by WAC 230-08-080 and 230-20-102. A complete address and tax payer identification number should be recorded for each prize valued at \$1,200 or more;

(d) All prizes for a particular game must be available prior to starting the game and shall be awarded by the end of the related session;

(e) All merchandise offered as prizes to bingo players shall have been paid in full, without lien or interest of others, prior to the merchandise being offered as a prize: *Provided*, That the licensee may enter into a contract to immediately purchase the merchandise when it is awarded as a prize, with the contract revocable if prize winners are allowed to exercise an option to receive a cash prize or the prize is no longer offered.

(15) No operator shall engage in any act, practice, or course of operation as would operate as a fraud to affect the outcome of any bingo game.

### WSR 94-13-123

#### PROPOSED RULES

#### DEPARTMENT OF LICENSING

[Filed June 20, 1994, 9:10 a.m.]

#### Original Notice.

Title of Rule: WAC 308-96A-005 Terminology, 308-96A-175 Ride-share, and 308-56A-160 Model year—How determined.

Purpose: To delete definitions of ride-share and motor truck; to implement chapter 488, Laws of 1993; and to amend rules to be compatible with federal rules.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapter 488, Laws of 1993, chapter 46.12 RCW.

Summary: Definitions of ride-share and motor truck are repealed. Definitions defined in RCW. Amends WAC to incorporate RCW amendments enacted by chapter 488, Laws of 1993. Amends WAC to be compatible with National Highways Traffic Safety Administration, Federal Trade Commission, and American Association of Motor Vehicle Administrators.

Name of Agency Personnel Responsible for Drafting: Jack Lince, General Administration Building, Olympia, (206) 753-7379; Implementation: Nancy Kelly, General Administration Building, Olympia, (206) 753-6920; and Enforcement: Deb McCurley, General Administration Building, Olympia, (206) 753-0554.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: No new rules.

Proposal Changes the Following Existing Rules: Amending WAC 308-96A-005, definitions of ride-share and motor truck are repealed. Terms are defined in RCW; WAC 308-96A-175, describes the list of riders required to qualify as a ride-share vehicle. Changes special license plate from van pool to ride share. Redefines requirements for renewal of registration for ride-share license plate; and WAC 308-56A-160, amends rule to be compatible with National Highway Traffic Safety Administration (NHTSA), Federal Trade Commission (FTC), and American Association of Motor Vehicle Administrators (AAMVA) findings and adopted rules pertaining to assigning model year.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rules proposed herein will have a negligible impact and are exempt from filing of a small business economic impact statement under provisions of RCW 19.85.060(2).

Hearing Location: Conference Room 3B, General Administration Building, 210 11th Avenue Southwest, Olympia, WA, on July 28, 1994, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Jack Lince by July 22, 1994, TDD (206) 664-8885, or (206) 753-7379.

Submit Written Comments to: Jack Lince, P.O. Box 2957, Mailstop 48021, Olympia, WA 98507-2957, FAX (206) 586-5748, by July 22, 1994.

Date of Intended Adoption: July 31, 1994.

June 20, 1994  
Nancy Kelly  
Administrator

**AMENDATORY SECTION** (Amending WSR 93-14-083, filed 6/30/93, effective 7/31/93)

**WAC 308-96A-005 Terminology.** Terms used in chapter 46.16 RCW and this chapter shall have the following meanings except where otherwise defined, and unless where used the context thereof clearly indicate to the contrary:

(1) The terms "licensing" and "registering" are synonymous for a transaction in which either the vehicle's registration expiration or the gross weight license or both is updated on the department's records. A registration certificate and current validation tabs are issued to the applicant unless the vehicle has current tabs or a permanent registration certificate and validation tabs, such as permanent fleet, Disabled American Veteran, or government owned vehicles.

(2) The terms "tonnage," "gross weight license," "license based on gross weight," and "gross weight fees" are used interchangeably when referring to license fees that are collected annually from owners of motor trucks, truck tractors, road tractors, tractors, bus, auto stage, or for hire vehicles with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight.

(3) "Capacity fee" is used to refer to the load license for stages and for-hire vehicles with seating capacity of six or less and for fixed load vehicles including circus and tow.

(4) The term "no bill" refers to the notice to renew a license which is mailed by the department to the registered owner in lieu of a prebill. The no bill requires additional information prior to the registration for the current year license.

(5) A "prebill" is the notice to renew a vehicle license which is mailed by the department to the registered owner.

(6) References to "current year" mean the current registration year unless otherwise stated.

(7) "Month of expiration" or "expiration month" is the calendar month during which a registration year ends.

(8) A "fleet" is a group of vehicles registered in the same owner name and which have been assigned the same fleet identifier code by the department.

(a) "Perm or permanent fleet" means a fleet of one hundred or more commercial vehicles licensed to one registered owner where each vehicle is issued nonexpiring tabs and registration.

(b) "Regular fleet" means a fleet licensed to one registered owner where each vehicle is issued year and month tabs.

(9) "License fee" means and is limited to the fees required for the act of licensing a vehicle as set forth in chapter 46.16 RCW. License fee excludes the fees required for special vehicle license plates authorized by chapter 46.16 RCW.

(10) (~~"Ride sharing van" for purposes of RCW 82.08.0287, 82.12.0282, and 82.44.015 means a passenger~~

~~vehicle with a seating capacity of no fewer than seven nor more than fifteen persons including the driver. The seating capacity may not be fewer than five persons including the driver when at least three passengers are confined to a wheelchair.~~

~~(11)) "Day of expiration" is the day of the month that the registration, gross weight license, and tabs expire.~~

~~((12) "Motor truck" or "truck" means any motor vehicle designed or used for the transportation of properties which includes commodities, merchandise, produce, freight, or animals.))~~

**AMENDATORY SECTION** (Amending Order TL/RG 39, filed 12/7/87)

**WAC 308-96A-175 Ride-sharing vehicles.** (1) Any ~~(van which is)~~ passenger motor vehicle used ~~((regularly))~~ primarily as a commute ride-sharing vehicle pursuant to chapter 46.74 RCW may be issued a special license plate designating ~~((van pool))~~ **ride share** by satisfying the provisions of ~~((section 2, chapter 175, Laws of 1987))~~ RCW 46.16.023. Any person, organization or ~~((governmental))~~ government agency desiring the special license plate shall make application with the department:

(a) On a form provided by the department ((and));

(b) Pay all initial licensing fees and the special **ride share** license plate fee; and

(c) For privately owned vehicles qualifying under chapter 46.74 RCW, provide a list of the riders registered to use the ride-sharing vehicle, including the names, addresses and signatures thereof. For five and six passenger vehicles being used in a commute trip reduction program, the list shall be a copy of the certification of registration in a commute trip reduction program either with a public transportation agency or a major employer; or

(d) For a vehicle operated by a public transportation agency or by a major employer in its commute trip reduction program, a written statement the vehicle is primarily used as a ride-sharing vehicle.

(2) A ~~((van))~~ passenger motor vehicle owned, rented or leased by a ~~((governmental))~~ government agency will be issued a special license plate in the ~~((van pool))~~ **ride share** configuration for the ~~((van))~~ vehicle described on the approved ride-sharing application ((if the van is regularly used as a ride-sharing vehicle)). The license plate may not be transferred to any other vehicle without ~~((prior))~~ obtaining an approved ride-sharing application for ~~((exemption on))~~ the other ~~((van))~~ passenger motor vehicle and payment of a five dollar license plate transfer fee and appropriate licensing fees.

(3) When ~~((the))~~ a special ~~((van pool))~~ **ride share** license plate is removed from or transferred to another vehicle, a replacement license plate fee and vehicle excise tax ~~((prorated on))~~ abated for the remaining ~~((months for which the van is licensed shall be collected on))~~ license registration period for the vehicle from which exemption is being removed shall be collected. If the ~~((transfer))~~ exemption is being ~~((made))~~ removed within thirty-six consecutive months from ~~((initial registration))~~ obtaining the exemption, the full use or sales tax amounts originally exempted shall be due and payable to the department of revenue. An application for exemption for the vehicle on which the special

license plate is to be transferred must be filed pursuant to subsection (1) ~~((above))~~ of this section with payment of a five dollar license plate transfer fee.

(4) When a ride-sharing ~~((tax exempt))~~ vehicle is sold or transferred to another person who will continue to ~~((regularly))~~ use the ~~((van))~~ passenger motor vehicle primarily as a ride-sharing vehicle pursuant to chapter 46.74 RCW, the new owner shall make application for certificate of ownership pursuant to chapter 46.12 RCW, and ride-sharing exemption as provided herein and pay all required fees and taxes including the special license plate fee.

(5) Upon application for registration renewal, the owner of a privately owned **ride share** plated vehicles must recertify that the vehicle is primarily used as a ride-sharing vehicle to continue to be exempt from chapters 82.08, 82.12, and 82.44 RCW. The department will provide recertification forms to ride-sharing vehicle registered owners for filing with registration renewal applications. A completed recertification form, including names, addresses, and signatures of current passengers and drivers, is required to renew the registration of a ride-sharing vehicle. Failure to file a completed recertification form will cause the **ride share** plates to be canceled and replacement plates will need to be purchased and applicable taxes paid to complete registration renewal. Government owned ride-sharing vehicles are exempt from annual recertification.

**AMENDATORY SECTION** (Amending WSR 93-14-084, filed 6/30/93, effective 7/31/93)

**WAC 308-56A-160 Model year—How determined.** Model year is the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced so long as the actual production period is less than two years.

(1) The model year for a vehicle is the model year assigned by the manufacturer ~~((when the vehicle is manufactured or assembled))~~. The manufacturer shall adopt a standard for assigning model year based on either the date of manufacture or features of the vehicle. The standard must be such that all vehicles assigned a model year which are manufactured on the same date with the same features are assigned the same model year. The model year shall be designated on the manufacturer's certificate of origin (MCO) or similar documents provided by the ~~((actual))~~ completed vehicle manufacturer.

(2) Manufacturers of chassis or incomplete vehicles sold to motor home or recreational vehicle manufacturers who issue separate MCOs need not assign model year to these vehicles. The final stage manufacturer of these vehicles shall assign the model years as provided in subsection (1) of this section. In the event a model year is assigned by both the incomplete vehicle manufacturer and the final stage manufacturer, the final stage manufacturer assigned model year shall be used on the certificates of ownership and registration.

(3) In the event an original manufacturer has not assigned a model year or the vehicle is rebuilt, assembled, or is a kit, the Washington state patrol or other person authorized by the director to make vehicle inspections will use the following criteria to establish the model year:

(a) The model year for a homemade vehicle will be the year of inspection for the purpose of making an application for title.

(b) When possible, the model year will be determined from the vehicle identification number (VIN). When the VIN does not identify the production date, corresponding production records of the original manufacturer shall be used.

~~((If there is a difference in the VINs on a manufactured motor home chassis and body, the model year will be the year the chassis and body were combined.~~

~~((d))~~ The model year for assembled vehicles, kit vehicles, and replicas without an MCO will be determined by the Washington state patrol based on the date of manufacture of the vehicle which the assembled vehicle most closely resembles.

~~((3))~~ (4) For purposes of this section ~~((“manufacturer”))~~ the following terms shall have the meanings indicated:

(a) “Manufacturer” means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles. Manufacture shall include the assembling, altering, or converting of a ~~((new))~~ vehicle ~~((from that of the primary manufacturer))~~ to the extent the vehicle qualifies for a change in the series and body type appearing on its title ~~((or))~~, MCO or similar document.

(b) “Incomplete vehicle” means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operation, other than the additions of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

(c) “Model” means a name which a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

**WSR 94-13-125**  
**WITHDRAWAL OF PROPOSED RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed June 20, 1994, 11:01 a.m.]

The Washington State Liquor Control Board has decided to withdraw proposed new WAC 314-12-190 as filed on May 3, 1994, as WSR 94-10-066.

Joseph McGavick  
 Chairman

**WSR 94-13-130**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed June 20, 1994, 11:29 a.m.]

Original Notice.  
 Title of Rule: WAC 388-49-460 Income—Unearned.

PROPOSED

Purpose: 7 CFR 273.11(k) states that a household's food stamp benefits cannot increase resulting from money withheld to repay an intentional noncompliance overpayment from a federal, state, or local means-tested program. Such repayments must be counted. However, WAC 388-49-460 (1)(p) limits.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Incorporates the CFR language into WAC 388-49-460.

Reasons Supporting Proposal: 7 CFR 273.11(k) instructs to consider funds withheld to repay an intentional noncompliance overpayment from a federal, state, or local means tested program. WAC 388-49-460 limits such consideration to public assistance.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Ohlson, Division of Income Assistance, 438-8326.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, 7 CFR 273.11(k).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This change affects only food stamp recipients; it does not affect small businesses.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by July 12, 1994, TDD (206) 753-4595, or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Franklin Street, Olympia, Washington 98504, Identify WAC Numbers, FAX (206) 586-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 20, 1994

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 2911, filed 12/1/89, effective 1/1/90)

**WAC 388-49-460 Income—Unearned.** (1) The department shall consider unearned income to include, but not be limited to:

- (a) An annuity, pension, or retirement;
- (b) Veteran or disability benefits;
- (c) Workmen or unemployment compensation;
- (d) Old-age, survivors, or social security benefits;
- (e) Strike benefits;
- (f) Payment from federally aided assistance programs based on need;
- (g) Support and alimony payments made directly to the household from a person residing outside the household;
- (h) Child support refund payments received by AFDC recipients from office of support enforcement;

- (i) Adult foster care payments;
- (j) Child foster care payments provided the foster child is a food stamp household member;
- (k) Educational benefits less excluded amounts (see income exclusions in WAC 388-49-470):

- (i) Scholarships;
- (ii) Educational grants including loans where repayment is deferred;
- (iii) Fellowships; and
- (iv) Veteran benefits.

- (l) Payments from government-sponsored programs;
- (m) Cash prizes, awards, lottery winnings, or gifts;
- (n) Dividends, interest, or royalties;
- (o) Gross income minus the cost of doing business from rental property if a household member is not managing the property at least twenty hours a week;

(p) Money withheld (~~from public assistance~~) to recoup an intentional noncompliance overpayment (~~for intentional failure to comply with the public assistance program requirements~~) from a federal, state, or local means-tested program;

- (q) Direct money payments, such as interest, dividends, and royalties which are a gain or benefit;
- (r) Money legally obligated and otherwise payable to the household, but diverted by the provider of the payment to a third party, for a household expense; and
- (s) Deemed income from an alien's sponsor.

(2) The department shall disregard the following as unearned income:

(a) Money from any source voluntarily returned by a household member to repay a prior overpayment from the same source;

(b) Child support payments assigned to office of support enforcement received by AFDC recipients.

(3) The department shall verify gross nonexempt unearned income except for expedited service households:

- (a) Before initial certification;
- (b) At recertification if amount changes more than twenty-five dollars; and
- (c) On a monthly basis for households subject to monthly reporting if the income changes.

**WSR 94-13-131**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed June 20, 1994, 11:30 a.m.]

Original Notice.

Title of Rule: WAC 388-49-210 Alcohol and drug treatment centers.

Purpose: Allows children who reside in a drug and alcohol treatment facility with a parent to be included in the food stamp household with the parent when the parent is otherwise eligible for food stamps as described under Section 13932 of Public Law 103-66 (Mickey Leland Act of 1990).

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Allows children living in a drug and alcohol treatment facility with a parent to be included in the food

stamp household when the parent is otherwise eligible for food stamps.

Reasons Supporting Proposal: Public Law 103-66 allows children who reside in a drug and alcohol treatment facility with a parent to be included in the food stamp household with the parent when the parent is otherwise eligible for food stamps.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, Division of Income Assistance, 438-8323.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 103-66, AN 94-01, AN 94-02, AN 94-03.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The amendment to WAC 388-49-210 does not affect small businesses; it only affects food stamp recipients.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by July 12, 1994, TDD (206) 753-4595, or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Franklin Street, Olympia, Washington 98504, Identify WAC Numbers, FAX (206) 586-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 20, 1994

Dewey Brock, Chief  
Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 2575, filed 12/31/87)

**WAC 388-49-210 Alcohol and drug treatment centers.** (1) Persons participating in a drug or alcohol treatment program on a resident basis may apply for food stamps provided the treatment program is administered by a public or private nonprofit organization certified by a state agency.

(2) The department shall determine ~~((the))~~ a person's eligibility:

(a) As a one-person household, ~~((and))~~ or

(b) As a household consisting of the resident and resident's child when:

(i) The resident's child resides in the facility with the parent; and

(ii) The resident is otherwise eligible for food stamps.

(3) The department shall determine a household's eligibility through an authorized representative who is an employee of and designated by the treatment center.

~~((3))~~ (4) The authorized representative shall:

(a) Be aware of the person's circumstances;

(b) Receive and use the food coupon allotment for meals served to the ~~((resident))~~ household; and

(c) Notify the department of changes in a household's income, resources, or circumstances within ten days of the change.

~~((4))~~ (5) The treatment facility shall:

(a) Be responsible for any misrepresentation or intentional program violation,

(b) Assume total liability for food coupons held on behalf of ~~((resident))~~ the household, and

(c) Send a monthly list of participating ~~((residents))~~ households signed by a center official to the CSO.

**WSR 94-13-132**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed June 20, 1994, 11:31 a.m.]

Original Notice.

Title of Rule: WAC 388-49-190 Household concept.

Purpose: Allows adult children living with parents and adult siblings living together to be separate households for food stamps when they purchase and prepare meals separately. Deletes requirement that they must be one household regardless of purchase and prepare arrangements.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: This revision allows separate household status to adult children twenty-two years of age or older when they live with a parent or siblings living together when they purchase and prepare meals separately.

Reasons Supporting Proposal: Section 13931 of Public Law 103-66 (Mickey Leland Act) changes the household concept allowing adult children (age twenty-two years of age or older) living with a parent or siblings living together to be separate food stamp households when they purchase and prepare meals separately.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, Division of Income Assistance, 438-8323.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 103-66, AN 94-01, AN 94-02, AN 94-03.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business economic Impact Statement been Prepared under Chapter 19.85 RCW? No. This change does not affect small businesses; it only affects food stamp recipients.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by July 12, 1994, TDD (206) 753-4595, or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Franklin Street,

PROPOSED

Olympia, WA 98504, Identify WAC Numbers, FAX (206) 586-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 20, 1994

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3172, filed 5/1/91, effective 6/1/91)

**WAC 388-49-190 Household concept.** (1) The department shall consider the following as households:

(a) A person living alone;  
(b) A ~~((person))~~ group of persons living ~~((with others))~~ together and purchasing and preparing meals ~~((separate and apart from the others))~~ together;

~~((A group of persons who live together and purchase and prepare meals together))~~ A person living with others and purchasing and preparing meals separate from the others;

(d) A permanently disabled~~((r))~~ and elderly person unable to prepare meals provided the:

(i) Person's spouse shall be included in the household; and

(ii) Income of other individuals, except the person's spouse, living with the person does not exceed one hundred sixty-five percent of the poverty level.

(e) A person ~~((who is the parent of a))~~ spouse, and child ~~((seventeen years of age or younger, along with that person's child and spouse, if the person and the person's child are:~~

~~((i)) living with the person's parent ((or sibling, and ((ii) Purchasing and preparing)) when the person, spouse, and child purchase and prepare meals separate from the parent ((or sibling-));~~

(f) ~~((A person who is a parent or sibling living with the person described in WAC 388-49-190 (1)(e) or (h);~~

~~((g) A person living with the person's natural, adoptive, or stepchild, or the child living with parents when one parent is:~~

~~((i) Elderly or disabled, and~~

~~((ii) Purchasing and preparing meals separate from the child.~~

~~((h))~~ A person twenty-two years of age or older living with a parent when the person purchases and prepares meals separate from the parent; or

~~((g) A person, living with a sibling, who ((is:~~

~~((i) Elderly or disabled, and~~

~~((ii) Purchasing and preparing)) purchases and prepares meals separate from the sibling when the sibling is not under parental control of the person.~~

(2) The department shall ~~((not grant separate household status to))~~ consider the following as households regardless of the purchase and prepare arrangements:

(a) A ~~((child))~~ person seventeen years of age or younger~~((and))~~ who is under parental control of a member of the household and the person who is maintaining the control;

(b) A parent ~~((living with the parent's))~~ and the parent's natural, adoptive, or stepchild~~((, or the child living with the parent unless the child and parent qualify as separate households as described under WAC 388-49-190 (1)(d), (e), (f), or (g))~~ twenty-one years of age or younger; or

(c) A person and the person's spouse ~~((of a household member;~~

~~((d) Siblings unless they qualify as separate households as described under WAC 388-49-190 (1)(d), (e), (f), or (h); (e) A boarder)).~~

(3) The department shall consider the following persons living with the household as nonhousehold members who, if otherwise eligible, may qualify as a separate household:

(a) Roomers~~((r))~~;

(b) Live-in attendants~~((r))~~; or

(c) Persons sharing living quarters with the household who purchase food and prepare meals separately from the household.

(4) The department shall consider the following persons living with the household as ineligible household members:

(a) Persons disqualified for intentional program violation;

(b) Persons disqualified because of noncompliance with work requirements as described under WAC 388-49-360;

(c) Persons who are ineligible aliens;

(d) Persons disqualified for failure to apply for or provide a Social Security number;

(e) Persons who are ineligible students; or

(f) Persons who fail to sign the application attesting to their citizenship or alien status.

#### WSR 94-13-133

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed June 20, 1994, 11:33 a.m.]

Original Notice.

Title of Rule: WAC 388-49-020 Definitions.

Purpose: Adds persons coming out of institutionalization to the "homeless individual" definition. Adds an exception to the "nonhousehold member" and changes a rule reference in the "under parental control" definition.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Allows persons coming out of an institution into a halfway house to receive food stamps.

Reasons Supporting Proposal: Adds persons coming out of institutionalization to the "homeless individual" definition. Adds an exception to the "nonhousehold member" and changes a rule reference in the "under parental control" definition.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, Division of Income Assistance, 438-8323.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This change

does not affect small businesses; it only affects food stamp recipients.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on July 26, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by July 12, 1994, TDD (206) 753-4595, or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Franklin Street, Olympia, Washington 98504, Identify WAC Numbers, FAX (206) 586-8487, by July 19, 1994.

Date of Intended Adoption: July 27, 1994.

June 20, 1994

Dewey Brock, Chief  
Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 3551, filed 5/12/93, effective 7/1/93)

**WAC 388-49-020 Definitions.** (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not a person committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by:

(a) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(b) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult nonhousehold member sufficiently aware of household circumstances designated, in writing, by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), (c), or (d) who is a:

(a) Person paying reasonable compensation to the household for lodging and meals; or

(b) Foster child.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone seventeen years of age or younger, and under parental control.

(14) "Collateral contact" means oral contact in person or by telephone with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

(16) "Department" means the department of social and health services.

(17) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(18) "Destitute household" means a household with a migrant or seasonal farmworker with little or no income at the time of application and in need of immediate food assistance.

(19) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran:

(i) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC); or

(ii) Considered in need of regular aid and attendance, or permanently housebound under Title 38 of the USC.

(d) Is a surviving:

(i) Spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or

(ii) Child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

(e) A surviving spouse or child of a veteran and:

(i) Entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC; and

(ii) Has a disability considered permanent under section 221(i) of the Social Security Act.

(f) Receives disability retirement benefits from a federal, state, or local government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

PROPOSED

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(20) "Documentary evidence" means written confirmation of a household's circumstances.

(21) "Documentation" means the process of recording the source, date, and content of verifying information.

(22) "Elderly person" means a person sixty years of age or older.

(23) "Eligible food" means:

(a) For a homeless food stamp household, meals prepared and served by an authorized homeless meal provider; or

(b) For a blind or a disabled resident, meals prepared and served by a group living arrangement facility.

(24) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(25) "Equity value" means fair market value less encumbrances.

(26) "Expedited services" means providing food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(i) Standard utility allowance as set forth in WAC 388-49-505; or

(ii) Actual utility costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farmworker.

(27) "Fair hearing" means an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(28) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(29) "Food coupon" means food stamps and the two terms are interchangeable.

(30) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(31) "Food stamp monthly reporting cycle" means the three-month reporting cycle consisting of the budget month, the process month, and the payment month.

(32) "Gross income eligibility standard" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(33) "Group living arrangement" means a public or private nonprofit residential setting which:

(a) Serves ~~(no)~~ not more than sixteen blind or disabled residents as defined under WAC 388-49-020(19); and

(b) Is certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(34) "Head of household" means:

(a) The person designated by the household to be named on the case file, identification card, and FCA card;

(b) For employment services or the voluntary quit provision, the household member who is the principal wage earner with the greatest source of earned income in the two months prior to the month of violation, including members not required to register, provided:

(i) The employment involves at least twenty hours per week; and

(ii) The person is not living with a parent or a person fulfilling that role who is:

(A) Registered for work,

(B) Exempt from work registration because of registration in a Title IV-A or IV-C work program of the Social Security Act, as amended, or the receipt of unemployment compensation, or

(C) Employed or self-employed and working a minimum of thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

(35) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(36) "Homeless individual" means a person lacking a fixed and regular nighttime residence or a person whose primary nighttime residence is a:

(a) Supervised shelter designed to provide temporary accommodations;

(b) Halfway house or similar institution providing temporary residence for persons needing or coming out of institutionalization;

(c) Temporary accommodation in the residence of another person; or

(d) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(37) "Homeless meal provider" means a public or private nonprofit establishment (for example, soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by the division of income assistance (DIA) and authorized by food and nutrition service (FNS).

(38) "Household" means the basic client unit in the food stamp program.

(39) "Household disaster" means when food coupons, food purchased with food coupons, or food coupon authorization cards are destroyed by a natural disaster, such as flood, fire, etc.

(40) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(41) "Inadvertent household error overissuance" means any overissuance caused by either:

(a) Misunderstanding or unintended error by a household:

(i) Not determined categorically eligible under WAC 388-49-180(1); or

(ii) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

(b) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

(42) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;  
 (b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work requirements as described under WAC 388-49-360;

(d) Status as an ineligible alien;

(e) Status as an ineligible student; or

(f) Failure to sign the application attesting to the member's citizenship or alien status.

(43) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(44) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(45) "Intentional program violation," after August 8, 1983, means intentionally:

(a) Making a false or misleading statement;

(b) Misrepresenting, concealing, or withholding facts; or

(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

Intentional program violation which ended before August 8, 1983, consists of any action by a person or persons to knowingly, willfully, and with deceitful intent:

(a) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;

(b) Conceal information to obtain benefits to which the household is not entitled;

(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;

(d) Use coupons to buy expensive or conspicuous nonfood items;

(e) Use or possess improperly obtained coupons or authorization cards; and

(f) Trade or sell coupons or authorization cards.

(46) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(47) "Live-in attendant" means a person residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(48) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

(a) Income tax refunds,

(b) Rebates,

(c) Retroactive payments, and

(d) Insurance settlements.

(49) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(50) "Migrant farmworker" means a person working in seasonal agricultural employment who is required to be absent overnight from the person's permanent residence.

(51) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(52) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as a:

(a) Roomer;

(b) Live-in attendant; or

(c) Person who does not purchase and prepare meals with the food stamp household except for persons described under WAC 388-49-190(2).

(53) "Nonstriker" means any person:

(a) Exempt from work registration the day before the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed to employees by employer in order to resist demands of employees, e.g., a lockout.

(54) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(55) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(56) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(57) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(58) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(59) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(60) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(61) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(62) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

(63) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(64) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(65) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(66) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(67) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(68) "Resident of an institution" means a person residing in an institution that provides the person with the majority of meals as part of the institution's normal service.

(69) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(70) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(71) "Roomer" means a person to whom a household furnishes lodging, but not meals, for compensation.

(72) "Seasonal farmworker" means a person working in seasonal agricultural employment who is not required to be absent overnight from the person's permanent residence.

(73) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) Continuing charges leading to shelter ownership such as loan repayments for the purchase of a mobile home including interest on such payments.

(74) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(75) "Sibling" means a natural or an adopted brother, sister, half brother, half sister, or stepbrother or stepsister.

(76) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.

(77) "Sponsored alien" means an alien lawfully admitted for permanent residence who has an affidavit of support or similar agreement executed by a person on behalf of the alien as a condition of the alien's admission into the United States as a permanent resident.

(78) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(79) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(80) "Student" means any person:

(a) At least eighteen but less than fifty years of age;

(b) Physically and mentally fit for employment; and

(c) Enrolled at least half time in an institution of higher education.

(81) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(82) "Temporary disability" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

(83) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

(84) "Under parental control" means living with the parent or any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an AFDC grant as the person's own payee;

(b) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under (~~WAC 388-29-100(3)(b))~~ WAC 388-250-1400(2); or

(c) Married.

(85) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(86) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(87) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

#### WSR 94-13-135

#### PROPOSED RULES

#### BENTON FRANKLIN COUNTIES

#### CLEAN AIR AUTHORITY

[Filed June 20, 1994, 11:50 a.m.]

#### Original Notice.

Title of Rule: Regulation 1 of the Benton Franklin Walla Walla Counties Air Pollution Control Authority.

Purpose: Update Article 4, "Air Operating Permits" which is currently inconsistent with the new state rule.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: The proposed regulation changes will update Article 4, "Air Operating Permits" as there are inconsistencies with the new state law on air operating permits. The authority will continue to implement the air operating permit program using the local fee structure and the state law (chapter 173-401 WAC).

Reasons Supporting Proposal: To bring the local regulation up-to-date and make it consistent with state law, chapter 70.94 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David A. Lauer, Benton Franklin Counties Clean Air Authority, 650 George Washington Way, Richland, WA 99352, (509) 943-3396.

Name of Proponent: Benton Franklin Counties Clean Air Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Regulation 1 establishes general and specific requirements for the control of air pollution within Benton and Franklin counties. The proposed changes are to update Article 4, "Air Operating Permits" so the authority can function under the new state law, chapter 173-401 WAC, Air operating permits, and be consistent with the rest of the state in implementing this program. The proposed changes will provide consistency, clarification, and corrections to the existing Regulation 1.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Kennewick Annex, Meeting Room, 5600 West Canal Place, Kennewick, WA 99336, on August 4, 1994, at 6:00 p.m.

Submit Written Comments to: David A. Lauer, Benton Franklin Counties Clean Air Authority, 650 George Washington Way, Richland, WA 993529 [99352], by August 4, 1993 [1994].

Date of Intended Adoption: August 4, 1994.

June 15, 1994  
David A. Lauer  
Control Officer

## ARTICLE 4

### Air Operating Permits

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

#### Section 4.01 Intent to Implement

This article is a statement of intent to implement the Air Operating Permits program of Washington State pursuant to RCW 70.94 as amended and all regulations promulgated from RCW 70.94 and adopted on or before the effective date of this regulation (Regulation 1). Implementation of this program will be contingent on delegation of authority from the U.S. Environmental Protection Agency and the Washington State Department of Ecology.

#### Section 4.02 Applicability

I. Operating permits shall apply to all sources where:  
A. It is required by the Federal Clean Air Act, and;  
B. For any source that may cause or contribute to air pollution in such quantity as to create a threat to public health and welfare. This subsection shall not apply to small businesses except when both of the following limitations are satisfied:

1. That source is in an area exceeding or threatening to exceed federal or state air quality standards.

2. The Authority provides reasonable justification that requiring a source to have a permit is necessary in order to meet federal or state air quality standards.

#### Section 4.03 Program Delegation

The delegation order authorizing the Benton Franklin Walla Walla Counties Air Pollution Control Authority to administer an air operating permit program shall become effective ninety days after approval by the United States Environmental Protection Agency.

#### Section 4.04 Permit Application

A. Within one hundred eighty days after EPA approval of the Authority's permitting program, any source required to have a permit shall submit to the Authority a compliance plan and a permit application, signed by a responsible official, certifying the accuracy of the information submitted. Until permits are issued, existing sources shall be allowed to operate under presently applicable standards and conditions provided such sources submit complete and timely permit applications.

B. New Sources which commence operation after EPA approval of the Authority's permitting program and which are required to have a permit shall file a complete permit application within twelve months after commencing operation.

C. Unless the Authority determines that an application is not complete within sixty days of receipt of the application, such application shall be deemed to be complete.

#### Section 4.05 Permit Content

A. Each air operating permit shall state the origin of the specific legal authority for each requirement included therein. Every requirement in an operating permit shall be based upon the most stringent of the following requirements:

1. The Federal Clean Air Act and rules implementing that act, including provisions of the approved state implementation plan, and;

2. RCW 70.94 and the rules adopted thereunder, and;

3. The requirements of any order or regulation adopted by the Authority, and;

4. Chapter 70.98 RCW and rules adopted thereunder, and;

5. Chapter 80.50 RCW and rules adopted thereunder.

B. The Authority shall issue permits for a fixed term of five years.

#### Section 4.06 Permit Issuance, Renewal, Reopenings, and Revisions

A. A proposed permit must be reviewed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the Benton Franklin Walla Walla Counties Air Pollution Control Authority or the Department of Ecology.

B. The Authority shall take final action on each permit application within eighteen months of receiving a complete application except during a transition period (not to exceed three years) that will begin the effective date of the permit program. During the transition period the Authority shall

~~take final action on at least one-third of all operating permit applications annually.~~

~~C. A source shall submit an application for permit renewal no later than six months prior to the expiration date of the permit.~~

~~D. A permit may be modified or amended during its term at the request of the permittee, or for any reason allowed by the Federal Clean Air Act.~~

~~Section 4.07 Public Involvement~~

~~All proposed permits shall be subject to public notice and comment. The Authority shall respond to comments received from interested parties prior to the time that the proposed permit is submitted to the EPA for review pursuant to Section 505(a) of the Federal Clean Air Act. In the event that the EPA objects to a proposed permit pursuant to Section 505(a) of the Federal Clean Air Act, the Authority shall not issue the permit, unless the permittee consents to the changes required by the EPA.~~

~~Section 4.08 Fee Assessment~~

~~All eligible sources under this chapter shall be subject to the interim and subsequent annual fees described in Article 10, Section 10.08 of this Regulation.~~

Section 4.01 Fee Assessment

All eligible sources under WAC 173-401 shall be subject to the interim and subsequent annual fees described in Article 10, Section 10.08 of this Regulation.

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.

**WSR 94-13-182  
PROPOSED RULES  
COUNTY ROAD  
ADMINISTRATION BOARD**  
[Order 94-G—Filed June 21, 1994, 1:42 p.m.]

Original Notice.

Title of Rule: Repealing chapter 136-160 WAC, Allocation of RATA funds to approved RAP projects; and new chapter 136-161 WAC, Project submittal, selection and initial allocation of RATA funds to projects.

Purpose: Chapter 136-160 WAC is being repealed due to extensive revisions. The creation of chapter 136-161 WAC adds provisions for preliminary prospectuses, CRAB field reviews, evaluation of final prospectuses, preliminary regional priority arrays, full funding of prior biennium partially funded projects, and initiating advance project programming.

Other Identifying Information: This is a repeal of an existing rule and creation of a new one.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: The new rule creation will include all pertinent material from the repealed chapter 136-160 WAC and adds additional materials to more clearly describe the selection and allocation process. The project program period is changed from the following biennium to two years past the following biennium.

Reasons Supporting Proposal: Current text does not adequately describe the submittal and selection process. Adding provisions for fully funding earlier, partially funded projects and changing to a second biennium advance project selection will reduce trust fund balance.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, Olympia, Washington, (206) 753-5989; Implementation and Enforcement: Vern Wagar, Olympia, Washington, (206) 753-5989.

Name of Proponent: County Road Administration Board, 2404 Chandler Court S.W. #240, Olympia, WA 98502, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The repealing of chapter 136-160 WAC and the creation of chapter 136-161 WAC more clearly describes the project selection and fund allocation process and adds provisions for fully funding partially funded projects and for the advance project selection process two years beyond the current project selection process. This will allow projects to be selected an additional two years in advance so that counties will have an earlier commitment to funds. Fully funding partially funded projects will result in more viable projects. Net result will be a reduction in the RATA fund balance.

Proposal Changes the Following Existing Rules: Chapter 136-160 WAC does not clearly or completely describe the project selection and fund allocation process nor does it include provisions for fully funding partially funded projects or for the advance programming of new projects.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

A small business economic impact statement has not been prepared under chapter 19.85 RCW because there is no cost of compliance, no reporting requirements, and no applicable performance or design standards as the proposed rule does not involve any small businesses.

Hearing Location: Red Lion, 1507 North First Street, Yakima, WA, on July 29, 1994, at 10:00 a.m.

Submit Written Comments to: Vern Wagar, Director, by July 28, 1994.

Date of Intended Adoption: July 29, 1994.

June 21, 1994  
Vern E. Wagar  
Executive Director

**PROJECT SUBMITTAL, SELECTION AND INITIAL ALLOCATION OF RATA FUNDS TO PROJECTS**

NEW SECTION

**WAC 136-161-010 Purpose.** RCW 36.79.050, 36.79.090, 36.79.140, and 36.79.150 provide for the submittal of, selection of, and RATA allocations to, eligible projects within each of the regions by the CRABoard. This chapter describes the manner in which counties may request RATA funds for specific rural arterial projects and the manner in which the CRABoard will select projects and allocate RATA funds to such projects.

PROPOSED

NEW SECTION**WAC 136-161-020 RAP program cycle - General.**

The RAP biennial program cycle consists of the following basic steps:

(1) Each county prepares and submits a preliminary prospectus to CRAB;

(2) CRAB staff conducts a field review of each preliminary prospectus and provides to each submitting county an evaluation and scoring of all priority elements which are based on a visual examination, using that region's priority rating process;

(3) Each county prepares and submits a final prospectus to CRAB;

(4) For each final prospectus submitted, CRAB staff computes the total priority rating score and assembles all projects into rank-ordered arrays by region; and

(5) The CRABoard reviews the rank-ordered arrays in each region and, based upon the RATA funds projected to be available for the next project program period (see WAC 136-161-070), selects and approves specific projects for RATA funding.

NEW SECTION**WAC 136-161-030 RAP program cycle - Preliminary prospectus.**

By March 1 of each even-numbered year, each eligible county shall, for each project for which it seeks RATA funds estimated to be available in the next project program period, submit a preliminary prospectus to CRAB. The format and content of the preliminary prospectus shall be prescribed by CRAB. Each preliminary prospectus shall be signed by the County Engineer. The number of preliminary prospectuses submitted and the total amount of RATA funds requested by each eligible county shall be sufficient to assure that, based upon such prospectuses, each county will be able to compete up to its county limit within its region.

NEW SECTION**WAC 136-161-040 RAP program cycle - CRAB field review.**

After all preliminary prospectuses are received, CRAB will schedule and conduct an on-site field review of each project. During the field review, conducted jointly with the county engineer or his/her designee (unless waived by the county engineer), the assigned CRAB staff person will review the overall project scope with the county representative and, using that region's priority rating process, determine the rating score of all priority elements which are based on a visual examination. To ensure both uniformity and professional judgement in the visual ratings, the assigned CRAB staff person shall be a licensed professional civil engineer in the state of Washington, and the same person shall review and rate all projects within a region. All field reviews will be completed, and the visual rating scores returned to each submitting county, by July 1 of each even-numbered year.

NEW SECTION**WAC 136-161-050 RAP program cycle - Final prospectus.**

By September 1 of each even-numbered year, each eligible county shall submit a final prospectus for each project for which it seeks RATA funds. Each final prospec-

tus shall be submitted on forms provided by CRAB and shall include a vicinity map, a typical cross section (existing and proposed), and, if a design deviation is required, an evaluation and determination by the county engineer. If a project is for the improvement of a road which continues into an adjacent county and the project terminus is within 1000 feet of the county line, the prospectus shall include a statement signed by the county engineer of the adjacent county certifying that the adjacent county will cooperate with the applicant county to the extent necessary to achieve a mutually acceptable design. All final prospectuses shall indicate that the construction of the project shall begin not later than six years from the date of project approval by the CRABoard. All final prospectuses shall come from the pool of preliminary prospectuses submitted and field reviewed as specified in WAC 136-161-030 and 136-161-040.

NEW SECTION

**WAC 136-161-060 RAP program cycle - Total project rating and priority array.** CRAB staff will review all final prospectuses and ensure that:

(1) All necessary information is included;

(2) The project is from the pool of preliminary prospectuses;

(3) The project is eligible for RATA funding;

(4) The project is on the current, adopted six-year program;

(5) The project schedule indicates that the construction of the project will begin not later than six years from the date of project approval by the CRABoard; and

(6) The total project priority rating is mathematically correct and the visual rating scores determined during the CRAB field review are included.

After CRAB staff review, all accepted final prospectuses within each region will be placed in a declining total project rating array in accordance with procedures specified in 136-130 WAC. After review by the CRABoard at its next regular meeting, the priority array for each region will be provided to each county in the region. These arrays will be preliminary only and will be provided to the counties to assist them in their internal budgeting and programming. No notations as to whether a particular project will or will not be funded will be included.

**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.

NEW SECTION**WAC 136-161-070 RAP program cycle - Selection and approval of projects for RATA funding.**

(1) At its last regular meeting before the beginning of each biennium, the CRABoard will select projects and allocate anticipated RATA funds to projects in each region. The preliminary priority arrays as developed in WAC 136-161-060 will be updated to exclude any county which is ineligible under 136-150 WAC, and projects will be selected from these arrays. Selections will be made in each region in declining priority rank order, provided that (a) no county shall be allocated RATA funds in excess of its regional county limit as specified in WAC 136-161-080, and (b) any projects which

were partially funded in the prior biennium shall, unless otherwise requested by the county, be fully funded before new projects are selected. Ties in total rating points will be broken by the CRABoard in favor of the county having the lesser total amount of previously allocated RATA funds.

(2) The statewide net amount of RATA funds available for allocation to projects in the project program period will be based on the most recent state fuel tax revenue forecast prepared quarterly by the department of transportation, less estimated administrative costs, and less any amounts set aside for emergent projects as described in WAC 136-161-100. The total amount of RATA funds available for allocation to projects in a region (i.e., "forecasted regional apportionment amount") will be based on the regional apportionment percentages of the statewide net amount as determined in 136-110 WAC.

(3) For the biennium beginning July 1, 1995 the project program period will be the next four state fiscal years (1996, 1997, 1998 and 1999, beginning July 1, 1995 and ending June 30, 1999). For the biennium beginning July 1, 1997, the project program period will begin July 1, 1999 and end June 30, 2001. For each biennium thereafter, the project program period will be two years in length, beginning and ending two years later than the preceding project program period.

(4) The RATA amounts allocated to projects in the first year of the biennium are limited to 90% of the net amount estimated to be available to each region for the project program period, with the remaining 10% allocated at such time as deemed appropriate by the CRABoard.

(5) Acceptance of the RATA allocation for a project by the full execution of a CRAB/County contract as described in 136-170 WAC constitutes agreement to complete the project in compliance with the scope, design and project limits in the final prospectus. All material changes to the scope, design or project limits must be approved by the CRABoard prior to the commencement of construction.

NEW SECTION

**WAC 136-161-080 Limitations on allocations of RATA funds to counties.** For any project program period, no county shall receive a RATA fund allocation greater than the following maximum project RATA contribution, or percentage of the forecasted regional apportionment amount:

(1) PSR: Maximum project RATA contribution is \$500,000; no limit on percentage of the forecasted regional apportionment amount;

(2) NWR: Maximum project RATA contribution is \$500,000; 25% limit on percentage of the forecasted regional apportionment amount;

(3) NER: No maximum project RATA contribution; 12.5%;

(4) SWR: No maximum project RATA contribution; 15%;

(5) SER: No maximum project RATA contribution; percentage varies by county as follows:

Asotin County	10%
Benton County	14%
Columbia County	11%
Franklin County	13%
Garfield County	10%

Kittitas County	13%
Klickitat County	14%
Walla Walla County	14%
Yakima County	20%

NEW SECTION

**WAC 136-161-090 Limitations on use of RATA funds.** RATA funds requested and allocated to a project are limited to 80% in the PSR and NWR, and 90% in the SWR, NER and SER, of the total eligible project development costs, which include preliminary engineering and construction costs in all regions, and right of way costs in the PSR, NWR, NER and SER. Even though additional and eligible project development costs may be incurred by a county for a specific project, the maximum amount of RATA funds for that project is limited to the amount allocated and shown in the CRAB/County contract (see 136-170 WAC), unless the allocation is increased pursuant to 136-165 WAC.

NEW SECTION

**WAC 136-161-100 Use of RATA funds for emergent projects.** If unallocated regional RATA funds are available, the CRABoard may, as provided in RCW 36.79.140, approve emergent RAP projects and allocate RATA funds for such projects beyond any county limit as defined in WAC 136-161-080. Such approval shall require a clear and conclusive showing by the submitting county that the proposed project is of an emergent nature and that its need was unable to be anticipated at the time the current six year program of the county was developed.

**WSR 94-13-183  
PROPOSED RULES  
COUNTY ROAD**

**ADMINISTRATION BOARD**

[Order 94-1—Filed June 21, 1994, 1:43 p.m.]

Original Notice.

Title of Rule: New chapter 136-167 WAC, Withdrawals, early termination, and lapsing of approved projects.

Purpose: Provides guidance and procedures for RATA funded project withdrawals, early termination and lapsing of RATA fund authorization.

Other Identifying Information: This is a new rule.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: This new rule describes the process, procedures and effects of a county's request to withdraw or terminate an approved RAP project. Provisions are also included for lapsing of RATA authorization when timely progress of a project is not made by a county.

Reasons Supporting Proposal: This rule specifies the administrative procedures for processing county requests for withdrawals and early terminations of approved RAP projects. By inclusion of lapsing provisions, counties will be encouraged to proceed with projects in a timely manner or lose RATA funds. Present procedures do not include lapsing of RATA authorization.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, Olympia, Washington, (206) 753-5989;

PROPOSED

Implementation and Enforcement: Vern Wagar, Olympia, Washington, (206) 753-5989.

Name of Proponent: County Road Administration Board, 2404 Chandler Court S.W. #240, Olympia, WA 98502, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This new rule specifies the procedures and resultant actions regarding county requests to withdraw or early terminate approved RAP projects. Prior to this rule, these issues were dealt with by CRAB on an ad hoc basis; the proposed new rule will standardize the processes. The new rule also adds provisions and resultant actions regarding counties making timely progress to construct approved RAP projects; failure to make timely progress, unless an exemption is granted by CRAB, will result in loss of RATA funds for a project.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

A small business economic impact statement has not been prepared under chapter 19.85 RCW because there is no cost of compliance, no reporting requirements, and no applicable performance or design standards as the proposed rule does not involve any small businesses.

Hearing Location: Red Lion, 1507 North First Street, Yakima, WA, on July 29, 1994, at 10:00 a.m.

Submit Written Comments to: Vern Wagar, Director, by July 28, 1994.

Date of Intended Adoption: July 29, 1994.

June 21, 1994  
Vern E. Wagar  
Executive Director

### **WITHDRAWALS, EARLY TERMINATION, AND LAPSING OF APPROVED PROJECTS**

#### NEW SECTION

**WAC 136-167-010 Purpose.** RCW 36.79.060 provides for the CRABoard to adopt rules relating to the allocation of funds in the rural arterial trust account. This chapter describes the manner in which the CRABoard will administer project withdrawals, early termination, and lapsing of approved projects.

#### NEW SECTION

**WAC 136-167-020 Withdrawal of approved project before RATA reimbursement.** At any time after the submittal of a final prospectus and prior to the time the first RATA reimbursement has been sent to the county, a county may withdraw a RATA funded project. Withdrawal may occur either before or after the CRABoard has allocated RATA funds to the project. The statement of withdrawal must be in writing and signed by the chairman of the board of county commissioners or the county executive, as appropriate. The withdrawal shall be effective upon receipt by the CRABoard. If RATA funds have been allocated to the project and a CRAB/County contract has been executed, the contract will be voided and, at the next regular CRABoard

meeting, the RATA funds will be allocated to other projects within the region.

#### NEW SECTION

**WAC 136-167-030 Termination of approved project after RATA reimbursement.** (1) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made and is prepared to repay the RATA for all RATA funds received, the county shall, by means of a letter signed by the chairman of the board of county commissioners or the county executive as appropriate, inform the CRABoard of its termination of the project. The letter shall state the reasons for termination and commit to repaying all RATA funds received for the project. Upon acknowledgement of such termination by the CRABoard, the county shall repay the CRABoard for all RATA funds paid to the county on that project within 60 days of such CRABoard acknowledgement. Upon receipt of the RATA repayment, the CRABoard will void the CRAB/County contract and, at the next regular CRABoard meeting, allocate the RATA funds to other projects within the region.

(2) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made and does not want to be required to repay the CRABoard for all RATA funds received, a letter of request signed by the chairman of the board of county commissioners or the county executive as appropriate must be sent to the CRABoard. The request must include (a) an explanation of the reasons that the project will not proceed to completion, (b) a statement of the amount of RATA funds which the county does not want to repay, and (c) an explanation of why the county believes full repayment should not be made. If the CRABoard grants the request, the county shall repay all RATA funds not exempted from repayment by the CRABoard, the CRAB/County contract will be amended, and the remaining RATA funds will be allocated to other projects within the region. If the CRABoard denies the request, full repayment shall be made as provided in subsection (1).

#### NEW SECTION

**WAC 136-167-040 Lapsing of RATA allocation for approved projects.** To encourage timely development and construction of approved projects, all projects for which RATA funds have been allocated must meet certain project development milestones. Failure to meet the milestones will result in CRABoard action to withdraw RATA funds from the project. This provision will only apply to those projects for which RATA funds have been allocated after July 1, 1995.

For the purposes of this section, a project will be subject to lapsing and withdrawal of its RATA allocation if (a) the project has not begun the preliminary engineering phase within four years of project approval by the CRABoard, or (b) the project has not begun construction within six years of the date of project approval by the CRABoard. A project shall be considered in preliminary engineering if authorization to expend funds for preliminary engineering has been granted by the county legislative authority as provided for in RCW 36.75.050. A project shall be considered in construction if (a) the construction contract for the work has been

advertised for bids as provided for in RCW 36.77.020, (b) a contract has been awarded under the provisions of the small works roster contract award process, or (c) if done by day labor, the work has commenced.

If an approved project does not meet a required project development milestone, the CRABoard will, at its next regular meeting, withdraw RATA funds from the project. At any time up to 10 days before such meeting, the county may, in writing, request an extension of the lapse date. The CRABoard may grant such an extension if it finds that the delay in project development was for reasons that were both unanticipated and beyond the control of the county.

**WSR 94-13-184  
PROPOSED RULES  
COUNTY ROAD**

**ADMINISTRATION BOARD**

[Order 94-H—Filed June 21, 1994, 1:44 p.m.]

Original Notice.

Title of Rule: New chapter 136-165 WAC, Increased allocations of RATA funds to projects.

Purpose: Provides guidance and procedures for increasing RATA funding to projects approved after July 1, 1995.

Other Identifying Information: This is a new rule.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: This new rule will permit counties to receive additional RATA funding for projects based upon specific criteria and with an offsetting eligibility reduction in the next biennium. When increases are approved, the CRAB/county contract must be amended.

Reasons Supporting Proposal: Unanticipated circumstances during development of a project can cause significant increases in the total project cost. This rule provides the procedures and guidance necessary to request and receive such increases when conditions warrant. The ability to amend the project RATA funds will avoid counties being restricted to insufficient funding under certain conditions.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, Olympia, Washington, (206) 753-5989; Implementation and Enforcement: Vern Wagar, Olympia, Washington, (206) 753-5989.

Name of Proponent: County Road Administration Board, 2404 Chandler Court S.W. #240, Olympia, WA 98502, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This new rule will allow increases in RATA funding under certain circumstances. The rule provides specific guidance as to how increases are requested, what supportive information is necessary, and how CRAB will evaluate and act on the requests. Current procedures do not provide for increases in RATA over the amount approved from the original prospectus at the time the project is first authorized. This rule will reflect financial consideration of unanticipated, changed conditions.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

A small business economic impact statement has not been prepared under chapter 19.85 RCW because there is no cost of compliance, no reporting requirements, and no applicable performance or design standards as the proposed rule does not involve any small businesses.

Hearing Location: Red Lion, 1507 North First Street, Yakima, WA, on July 29, 1994, at 10:00 a.m.

Submit Written Comments to: Vern Wagar, Director, by July 28, 1994.

Date of Intended Adoption: July 29, 1994.

June 21, 1994

Vern E. Wagar

Executive Director

**INCREASED ALLOCATIONS  
OF RATA FUNDS TO PROJECTS**

NEW SECTION

**WAC 136-165-010 Purpose and effective date.** RCW 36.79.150 provides for increasing the amount of RATA funds allocated to a project. This chapter describes the manner in which counties may request an increase in the amount of RATA funds allocated to a project and the manner in which the CRABoard will respond to such requests. This chapter will apply only to projects for which RATA funds have been allocated after July 1, 1995.

NEW SECTION

**WAC 136-165-020 Requirements for consideration of RATA fund increases.** (1) When a county submits its final prospectus as described in WAC 136-161-050, CRAB presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation only twice in the course of a project's development: At the completion of preliminary engineering, and prior to commencing construction. All cost increases during the course of construction shall be the responsibility of the county. Requests for increases in excess of 50% of the original RATA allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits.

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

(a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) below;

(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) below;

(c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation; and

(d) The request is not to pay for an expansion of the originally approved project.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgement and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which a county is expected to consider includes, but is not limited to, the following:

- (a) The availability at the needed time of matching funds and other supplementary funds;
- (b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;
- (c) Required permits, including pre-project scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;
- (d) Required right of way or other easements, and the time and cost of acquisition;
- (e) Availability of qualified contractors to perform the work;
- (f) Ownership, type, amount, and time requirements of any required utility relocation;
- (g) Historical and projected labor, equipment and material costs; and
- (h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The CRABoard will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

- (a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;
- (b) Project permit requirements were substantially changed, or new permits were required;
- (c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;
- (d) Design or other standards applicable to the project were changed; and/or
- (e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds.

#### NEW SECTION

**WAC 136-165-030 CRABoard evaluation, consideration and action.** (1) In deciding whether to grant a request for a RATA allocation increase submitted under the provisions of WAC 136-165-020, the CRABoard will consider the following factors:

(a) Whether the county, at the time of preparing its final project prospectus, considered the factors listed in WAC 136-165-020(4);

(b) Whether the county's request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in WAC 136-165-020(5);

(c) Whether it is feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) Whether the request is to pay for an expansion of the project; and

(e) Whether the increased allocation will have an adverse effect on other approved or requested RATA funded projects.

(2) Where the requested increase is less than or equal to 25% of the original RATA allocation, and \$100,000, the request may be acted upon by the Executive Director; all approvals or denials will be appropriately documented and described to the CRABoard at its next quarterly meeting. Where the requested increase is more than 25% of the original RATA allocation, or \$100,000, the request will be acted upon by the CRABoard.

(3) If the CRABoard finds that an increase in RATA funds for a previously approved project is justified, some or all of the requested increase may be allocated.

#### NEW SECTION

**WAC 136-165-040 Effect of receiving RATA increase.** A county's increased RATA funds for a project program period shall correspondingly reduce the amount of any RATA funds for which it is eligible to compete in the next project program period; provided that the CRABoard may grant a county's request to decrease such a reduction by the total amount of increased but unexpended RATA funds.

All reductions and reduction adjustments as described shall be effective in the project program period following the period in which the increase in the RATA funds is approved.

#### NEW SECTION

**WAC 136-165-050 Amendment of CRAB/county contract.** All changes in approved RATA allocations and other CRABoard actions taken under the provisions of this chapter shall be reflected by amending the CRAB/County contract. Failure of a county to execute an amended CRAB/County contract within 45 days of receipt shall nullify all allocation increases and other CRABoard actions.

**WSR 94-13-185**

**PROPOSED RULES**

**COUNTY ROAD**

**ADMINISTRATION BOARD**

[Order 94-J—Filed June 21, 1994, 1:45 p.m.]

Original Notice.

Title of Rule: Chapter 136-170 WAC, Execution of a CRAB/county contract for a RAP project.

Purpose: Amends existing rule to add provisions to all CRAB/county contracts for projects after July 1, 1995, related to payments, amendments, reimbursements and status

reporting and housekeeping revisions for contracts before July 1, 1995. Adds a new section regarding combining of projects into one contract.

Other Identifying Information: This is an amendment to an existing rule.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: Amendments will make all CRAB/county contracts after July 1, 1995, include provisions related to new chapters 136-165 and 136-167 WAC. Addition of section for combining adjacent projects will simplify recordkeeping for applicable projects.

Reasons Supporting Proposal: This amendment will insure clarity in the CRAB/county contract as to the various terms and conditions. Enactment of chapters 136-165 and 136-167 WAC for all projects approved after July 1, 1995, creates additional contract provisions. Procedures for combining of adjacent projects into a single contract are also specified.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, Olympia, Washington, (206) 753-5989; Implementation and Enforcement: Vern Wagar, Olympia, Washington, (206) 735-5989.

Name of Proponent: County Road Administration Board, 2404 Chandler Court S.W. #240, Olympia, WA 98502, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendment modifies all CRAB/county contracts for projects approved after July 1, 1995, to include appropriate provisions elsewhere adopted. For all new contracts, adds provisions related to insufficient RATA funds being available. The contract amendments and additions will provide clarity as to mutual responsibilities of the county and CRAB. The new section regarding combining of RAP projects codifies the current ad hoc procedures and provides specific guidance to all counties.

Proposal Changes the Following Existing Rules: The amendment adds minor housekeeping provisions to all new contracts; for new contracts for projects approved after July 1, 1995, adds new provisions related to RATA reimbursements, contract amendments, and periodic project development progress reports. Adds specific provisions for combining of adjacent RAP projects into a single contract.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

A small business economic impact statement has not been prepared under chapter 19.85 RCW because there is no cost of compliance, no reporting requirements, and no applicable performance or design standards as the proposed rule does not involve any small businesses.

Hearing Location: Red Lion, 1507 North First Street, Yakima, WA, on July 29, 1994, at 10:00 a.m.

Submit Written Comments to: Vern Wagar, Director, by July 28, 1994.

Date of Intended Adoption: July 29, 1994.

June 21, 1994  
Vern E. Wagar  
Executive Director

## EXECUTION OF A CRAB/COUNTY CONTRACT

AMENDATORY SECTION (Amending Order 56, filed 7/30/84)

**WAC 136-170-010 Purpose.** RCW 36.79.050 and 36.79.060 (~~((Section 5, chapter 49, Laws of 1983, 1st ex- sess-))~~) provide(~~((s that the))~~) for CRABoard (~~((shall))~~) administ((er))ration of the rural arterial program (RAP). This chapter describes the individual project contract between the CRABoard and a county (CRAB/county contract) to be used to administer each approved RAP project.

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 Order 56, filed 7/30/84)

**WAC 136-170-030 Terms of CRAB/county contract.** (1) For projects for which RATA funds are allocated before July 1, 1995, (~~((F))~~) the CRAB/county contract shall include, but not be limited to, the following provisions:

(a) ((F)) The ((Such)) contract shall be valid and binding (and the county shall be entitled to receive RATA funds) only if such contract is signed and returned to the CRABoard within forty-five days of its mailing to the CRABoard.

(b) ((2)) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) ((3)) The project will be constructed in accordance with ((a)) the scope, design and project limits as described in the final prospectus and in accordance with (~~((information furnished to the CRABoard, and~~ (b))) the plans and specifications approved (~~((prepared))~~) by the county engineer.

(d) ((4)) The county will notify the CRABoard when a construction contract has been awarded and/or when construction has commenced (~~((started))~~), and when the project has been completed.

(e) ((5)) The CRABoard will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the CRAB office, (~~((and))~~) subject to the availability of RATA funds apportioned to the region; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied.

(f) ((6)) The county will reimburse the RATA in the event a project postaudit reveals improper expenditure of RATA funds.

(2) For projects for which RATA funds are allocated on or after July 1, 1995, the CRAB/County contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding, and the county shall be entitled to receive RATA funding in accordance with the vouchering/payment process as described in WAC 136-180, only if the contract is properly signed and returned to the CRABoard within 45 calendar days of its mailing by the CRABoard.

(b) The county certifies that it is in compliance with the provisions of 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer.

(d) The county will notify the CRABoard when a construction contract has been awarded and/or when construction has commenced, and when the project has been completed.

(e) The CRABoard will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the CRAB office, subject to the availability of RATA funds apportioned to the region; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied.

(f) The county will reimburse the RATA in the event a project postaudit reveals improper expenditures of RATA funds.

(g) The county may be required to reimburse the RATA in the event of early termination in accordance with the provisions of 136-167 WAC.

(h) The county agrees to amend the contract in cases where: (a) additional RATA funds have been requested and approved under 136-165 WAC; (b) other relief from the original scope, design or project limits has been approved by the CRABoard under 136-165 WAC; or (c) a project has been terminated without full RATA reimbursement under WAC 136-167-030(2).

(i) The county agrees to provide periodic project development progress reports as requested by the CRABoard.

**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 136-170-040 Combining of CRAB/county contracts.** In those cases where a county desires to combine two or more adjacent RATA funded projects into a single construction contract, the county, prior to advertising for the construction contract, or prior to commencing construction should any of the projects be prosecuted by day labor, may request the CRABoard to combine the projects into a single project, regardless of the applicable maximum project RATA contribution. Upon receipt of a letter of request to combine, a revised CRAB/County contract will be prepared and sent to the county for its execution and return in the same manner as for the original contracts. Projects shall be considered adjacent if they have a common terminus.

**WSR 94-13-192  
PROPOSED RULES  
SPOKANE COUNTY AIR  
POLLUTION CONTROL AUTHORITY**  
[Filed June 21, 1994, 1:56 p.m.]

Original Notice.

Title of Rule: Regulation I, Article VIII, Solid Fuel Burning Device Standards.

Purpose: To amend the regulation to incorporate Federal Clean Air Act requirements for contingency measures.

Statutory Authority for Adoption: RCW 70.94.141, 70.94.477(2).

Statute Being Implemented: Chapter 70.94 RCW and 42 USC 7502.

Summary: Amends the regulation to incorporate a ban on uncertified solid fuel burning devices in the Spokane smoke control zone in the event of future violations of federal air quality standards.

Reasons Supporting Proposal: The Federal Clean Air Act requires such contingency measures.

Name of Agency Personnel Responsible for Drafting: Eric Skelton, Spokane, (509) 456-4727; Implementation and Enforcement: Mabel Caine, Spokane, (509) 456-4727.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

Rule is necessary because of federal law, 42 USC 7502.

Explanation of Rule, its Purpose, and Anticipated Effects: The regulation controls the sale and use of solid fuel burning devices (woodstoves, etc.) as a means of protecting ambient air quality.

Proposal Changes the Following Existing Rules: The proposal commences the ban on the use of uncertified solid fuel burning devices when the United States Environmental Protection Agency makes a finding that Spokane has failed to attain federal air quality standards or has failed to make reasonable further progress towards attainment.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The regulation impacts individuals, not businesses. The Spokane County Air Pollution Control Authority, as a municipal corporation, is not required to prepare small business economic impact statements.

Hearing Location: Hearing Room, Spokane County Public Works Building, 1026 West Broadway, Spokane, WA, on August 4, 1994, at 9:00 a.m.

Submit Written Comments to: Eric Skelton, Spokane County Air Pollution Control Authority, 1101 West College, Suite 403, Spokane, WA 99201, FAX (509) 459-6828, by August 1, 1994.

Date of Intended Adoption: August 4, 1994.

June 15, 1994  
Eric Skelton  
Director

**REGULATION I**

**ARTICLE VIII**

**SOLID FUEL BURNING DEVICE STANDARDS**

**ADOPTED: April 7, 1988**  
**REVISED: January 6, 1994**  
**EFFECTIVE: February 6, 1994**

PROPOSED

AMENDATORY SECTION**REGULATION I, SECTION 8.03 DEFINITIONS**

Unless a different meaning is clearly required by context, words and phrases used in this article shall have the following meaning:

A. Adequate Source of Heat means a permanently installed furnace or heating system, connected or disconnected from its energy source, designed to heat utilizing oil, natural gas, electricity, or propane and to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a residence or commercial establishment.

B. Certified means:

1. a solid fuel burning device, other than a fireplace, has received certification or an exemption certificate from the United States Environmental Protection Agency pursuant to Title 40, Part 60, Subpart AAA of the Code of Federal Regulations, "Standards of Performance for New Residential Wood Heaters"; or

2. a solid fuel burning device has been determined by Ecology to meet emission performance standards, pursuant to RCW 70.94.457.

C. Coalstove means an enclosed, coal burning appliance capable of and intended for residential space heating, domestic water heating, or indoor cooking, which has substantially all the following characteristics:

1. An opening for loading coal which is located near the top or side of the appliance;

2. An opening for emptying ash which is located near the bottom or the side of the appliance;

3. A system which admits air primarily up and through the fuel bed;

4. A grate or other similar device for shaking or disturbing the fuel bed; and

5. Listing by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes.

D. Cookstove means an appliance designed with the primary function of cooking food and containing an integral built in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate ashpan and an ash cleanout below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cookstove.

E. Ecology means the Washington State Department of Ecology.

F. EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.

((F)) G. Fireplace means a permanently installed masonry fireplace; or a factory-built solid fuel burning device designed to be used with an air-to-fuel ratio greater than or equal to thirty-five to one and without features to control the inlet air-to-fuel ratio other than doors or windows such as may be incorporated into the fireplace design for reasons of safety, building code requirements, or aesthetics.

((G)) H. Furnace means a device which is designed and installed to heat an entire multiple room structure by forcing heated air through permanently installed ducts or by forcing

heated water or steam through pipes which result in convective or direct radiation of heat into the rooms.

I. Reasonable Further Progress has the same meaning as in Section 171(1) of the Federal Clean Air Act (42 USC 7501).

((H)) J. Seasoned Wood means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.

((I)) K. Solid Fuel Burning Device (same as solid fuel heating device) means a device that is designed to burn wood, coal, or any other nongaseous or nonliquid fuels, and includes woodstoves, coalstoves, cookstoves and fireplaces, or any similar device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour.

((J)) L. Smoke Control Zone means the geographic area, impacted by solid fuel combustion smoke, surrounding the Spokane/Spokane Valley Metropolitan area and, after consideration of the contribution of noncertified solid fuel burning devices, population density and urbanization, and impact to the public health (RCW 70.94.477 (2)(a), (b) and (c)), is defined as follows:

Sections 1 through 6, Township 24 N, Range 42 E; Townships 25 and 26 N, Range 42 E; Sections 1 through 24, Township 24 N, Range 43 N; Townships 25, 26 and 27 N, Range 43 E; Sections 19 through 36, Township 28 N, Range 43 E; Sections 1 through 24, Township 24 N, Range 44 E; Township 25 N, Range 44 E; Sections 19 through 36, Township 26 N, Range 44 E; Township 25 N, Range 45 E; Sections 1 through 4, 9 through 16 and 19 through 36, Township 26 N, Range 45 E; Sections 33 through 36, Township 27 N, Range 45 E; Sections 6, 7, 18, 19, 30, and 31, Township 25 N, Range 46 E; Sections 6, 7, 18, 19, 30 and 31, Township 26 N, Range 46 E; Section 31, Township 27 N, Range 46 E.

((K)) M. Substantially Remodeled means any alteration or restoration of a building exceeding sixty percent of the appraised value of such building within a twelve-month period (RCW 70.94.455).

((L)) N. Treated Wood means wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, fungus or weathering.

((M)) O. Woodstove means a wood fueled appliance other than a cookstove with a closed fire chamber which maintains an air-to-fuel ratio of less than thirty-five to one during the burning of ninety percent or more of the fuel mass consumed at the minimum burn rate achievable. Any combination of parts, typically consisting of but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

**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****REGULATION I, SECTION 8.07 CURTAILMENT**

A. Except as provided in Section 8.08, no person shall operate a solid fuel burning device within a defined geographical area under any of the following conditions:

1. Whenever Ecology has declared curtailment under an air pollution episode for the geographical area pursuant to chapter 173-435 WAC and RCW 70.94.715.

2. Whenever Ecology or the Authority has declared curtailment under a first stage of impaired air quality for the Smoke Control Zone or other geographical area, and the solid fuel burning device is not a certified device.

A first stage of impaired air quality is reached and curtailment may be declared when particulates ten microns and smaller in diameter (PM10) are measured at any location inside Spokane County at an ambient level of seventy five micrograms per cubic meter of air by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.

3. Whenever Ecology or the Authority has declared curtailment under a second stage of impaired air quality for the Smoke Control Zone or other geographical area. A second stage of impaired air quality is reached and curtailment may be declared when particulates ten microns and smaller in diameter (PM10) are measured at any location inside Spokane County at an ambient level of one hundred five micrograms per cubic meter of air by a method which has been determined by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.

4. After July 1, 1995, if the ~~((Authority exercises the))~~ limitation in RCW 70.94.477(2) is exercised, following the procedure in Section 8.09, and Ecology or the Authority has declared curtailment under a single stage of impaired air quality for the Smoke Control Zone or other geographical area. A single stage of impaired air quality is reached and curtailment may be declared when particulates ten microns and smaller in diameter (PM10) are measured at any location inside Spokane County at an ambient level of ninety micrograms per cubic meter of air by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.

5. After July 1, 1995, if the ~~((Authority exercises the))~~ limitation in RCW 70.94.477(2) is exercised, following the procedure in Section 8.09, and the solid fuel burning device is not a certified device or a fireplace.

B. In consideration of declaring curtailment under a stage of impaired air quality, the Authority shall consider the anticipated beneficial effect on ambient levels of particulates ten microns and smaller in diameter (PM10), taking into account meteorological factors, the contribution of emission sources other than solid fuel burning devices, and any other factors deemed to have an impact.

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

the episode or impaired air quality. Smoke visible from a chimney, flue or exhaust duct after a time period of three hours has elapsed from the time of declaration of curtailment under an episode or a stage of impaired air quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that smoke was not caused by an applicable solid fuel burning device.

D. The Authority, Ecology, Spokane County Health District, fire departments, fire districts, Spokane County Sheriff's Department, or local police having jurisdiction in the area may enforce compliance with solid fuel burning device curtailment after a time period of three hours has elapsed from the time of declaration of curtailment under an episode or a stage of impaired air quality.

**AMENDATORY SECTION****REGULATION I, SECTION 8.09 PROCEDURE TO GEOGRAPHICALLY LIMIT SOLID FUEL BURNING DEVICES**

A. After July 1, 1995, if the EPA finds that the Spokane PM10 Nonattainment Area, as defined in CFR Title 40, Part 81, has failed to make Reasonable Further Progress or has failed to timely attain ((exceeds)) a National Ambient Air Quality Standard for particulates ten microns and smaller in diameter (PM10), as defined in CFR title 40, Part 50.6, or has violated a National Ambient Air Quality Standard for PM10 after redesignation as an attainment area, and emissions from solid fuel burning devices are determined by the EPA, in consultation with Ecology and the Authority, to be a contributing factor to such failure or violation, ((more than once in any calendar year during the months of January, February, March, October, November, and December,)) then ((within 90 days of the first such occurrence, the Board of the Authority shall hold a public hearing to consider geographically limiting)) one year after such determination, the use of solid fuel burning devices not meeting the standards set forth in RCW 70.94.457, is restricted to areas outside the Smoke Control Zone.

B. Within 30 days of the determination pursuant to Section 8.09.A., the Authority shall publish a public notice in a newspaper of general circulation, informing the public of such determination and of the date by which such restriction on the use of solid fuel burning devices becomes effective.

~~((and other geographical areas as appropriate In consideration of this limitation, the Board shall consider the following factors:~~

~~1. The contribution of solid fuel burning devices, not meeting the standards set forth in RCW 70.94.457, to nonattainment of National Ambient Air Quality Standards.~~

~~2. The population density of geographical areas within the Authority's jurisdiction, giving greater consideration to urbanized areas.~~

~~3. The public health effects of use of solid fuel burning devices, not meeting the standards set forth in RCW 70.94.457.))~~

B. If the Board, in consultation with Ecology, determines that solid fuel burning devices cause or contribute significantly to exceedance of a National Ambient Air

Quality Standard for particulates ten microns and smaller in diameter (PM10), then the Board shall establish, by regulation, a schedule for prohibition, within the Smoke Control Zone and other geographical areas as appropriate, of the use of solid fuel burning devices, not meeting the standards set forth in RCW 70.94.457.)

C. Nothing in Section 8.09 shall apply to the use of fireplaces or to persons who have obtained an exemption pursuant to Section 8.08.A.1.

**WSR 94-13-193**  
**PROPOSED RULES**  
**SPOKANE COUNTY AIR**  
**POLLUTION CONTROL AUTHORITY**

[Filed June 21, 1994, 1:57 p.m.]

Original Notice.

Title of Rule: Regulation I, Article VI, Section 6.15 Standards for Control of Particulate Matter on Unpaved Roads.

Purpose: To incorporate a contingency measure, as required by the Federal Clean Air Act, into Spokane County Air Pollution Control Authority's regulations.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: Chapter 70.94 RCW and 42 USC 7502.

Summary: Adds a new section to Article VI to require dust controls on specified sections of unpaved roads in the Spokane PM10 nonattainment area in the event of future violations of federal air quality standards.

Reasons Supporting Proposal: The Federal Clean Air Act requires such contingency measures.

Name of Agency Personnel Responsible for Drafting: Eric Skelton, Spokane, (509) 456-4727; Implementation and Enforcement: Ron Edgar, Spokane, (509) 456-4727.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

Rule is necessary because of federal law, 42 USC 7502.

Explanation of Rule, its Purpose, and Anticipated Effects: The regulation provides the means to control dust on heavily traveled unpaved roads in the Spokane PM10 nonattainment area in order to protect ambient air quality.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The regulation primarily impacts city and county governments, not businesses. The Spokane County Air Pollution Control Authority, as a municipal corporation, is not required to prepare small business economic impact statements.

Hearing Location: Hearing Room, Spokane County Public Works Building, 1026 West Broadway, Spokane, WA, on August 4, 1994, at 9:00 a.m.

Submit Written Comments to: Eric Skelton, Spokane County Air Pollution Control Authority, 1101 West College, Suite 403, Spokane, WA 99201, FAX (509) 459-6828, by August 1, 1994.

Date of Intended Adoption: August 4, 1994.

June 15, 1994  
Eric Skelton  
Director

NEW SECTION

**REGULATION I**  
**SECTION 6.15 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON UNPAVED ROADS**

A. Applicability. The provisions of Section 6.15 shall apply to:

1. The City of Spokane, the Town of Millwood, Spokane County, and other governmental entities responsible for the maintenance of unpaved public roads within the PM10 Nonattainment Area; and

2. Those specific unpaved public roads which have been identified by Ecology or the Authority for inclusion in an implementation plan or a maintenance plan for control of PM10 emissions.

B. Definitions.

1. Authority means the Spokane County Air Pollution Control Authority.

2. Ecology means the Washington Department of Ecology.

3. EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.

4. Implementation Plan has the same meaning as in Section 110 of the Federal Clean Air Act (42 USC 7410).

5. Maintenance Plan has the same meaning as in Section 175A of the Federal Clean Air Act (42 USC 7505).

6. Palliative means salts and other hygroscopic materials, petroleum resins, asphalt emulsions, adhesives, chemical soil stabilizers or other surface treatment materials acting as a method of dust control, and not prohibited for use by any local, state, or federal law, rule, or regulation.

7. Paved means application of concrete, asphaltic concrete, asphalt, or combination thereof as a means of forming a permanent surface for a road.

8. PM10 Nonattainment Area means the Spokane County PM10 Nonattainment Area as defined in CFR Title 40, Part 81.

9. Reasonable Further Progress has the same meaning as in Section 171(1) of the Federal Clean Air Act (42 USC 7501).

C. Emission Reduction and Control Plan. Each applicable governmental entity shall submit an Emission Reduction and Control Plan for approval by the Authority, which includes the following for each applicable unpaved road:

1. A schedule for paving, periodic application of palliative, or implementation of other control measures.

2. Specification of the type of palliative to be applied and its application rate, paving specifications, or specifications of other control measures with sufficient detail for the Authority to determine emission reductions.

D. Emission Reduction Contingency Plan. Each applicable governmental entity shall submit an Emission Reduction Contingency Plan for approval by the Authority, which includes the following for each applicable unpaved road:

1. A schedule for paving, periodic application of palliative, or implementation of other control measures.

2. Specification of the type of palliative to be applied and its application rate, paving specifications, or specifica-

tions of other control measures with sufficient detail for the Authority to determine emission reductions.

E. Effective dates. The applicable governmental entities shall comply with the following effective dates whenever an unpaved road is identified by Ecology or the Authority for control of PM10 emissions as part of an implementation plan:

1. For any unpaved road so identified prior to the effective date of Section 6.15 of this regulation, the entity shall submit the Emission Reduction and Control Plan or Emission Reduction Contingency Plan, whichever applies, within 60 days after the effective date.

2. For any unpaved road so identified after the effective date of Section 6.15 of this regulation, the entity shall submit the Emission Reduction and Control Plan or Emission Reduction Contingency Plan, whichever applies, within 60 days after such identification.

F. Approval and Implementation.

1. The Authority shall review the Emission Reduction and Control Plan submitted pursuant to Section 6.15.C. of this Regulation and within 60 days after approval by the Authority, the applicable governmental entity shall implement the plan.

2. The Authority shall review the Emission Reduction Contingency Plan submitted pursuant to Section 6.15.D of this Regulation and upon approval by the Authority and within 60 days after the EPA makes the findings in Section 6.15.G of this Regulation, the applicable governmental entity shall implement the plan.

3. The Authority will not approve an Emission Reduction and Control Plan or an Emission Reduction Contingency Plan unless the Authority finds that the plans will achieve the total emission reductions required by the implementation plan. If the Authority finds that a plan will not achieve the required reductions, then the applicable governmental entity shall revise the plan to achieve the required reductions and resubmit the plan for review by the Authority.

G. Findings by EPA. In the event the EPA determines that the Spokane PM10 Nonattainment Area has failed to make Reasonable Further Progress or has failed to timely attain a National Ambient Air Quality Standard for PM10 or has violated a National Ambient Air Quality Standard for PM10 after redesignation as an attainment area, and emissions from unpaved roads are determined by the EPA, in consultation with Ecology and the Authority, to be a contributing factor to such failure or violation, the applicable governmental entities shall comply with the requirements of Section 6.15.F.2 of this Regulation.

H. Reporting. Within 6 months after the effective date of Section 6.15 of this Regulation, and annually thereafter as determined by the Authority, each applicable governmental entity shall submit a written report to the Authority which demonstrates compliance with the Emission Reduction and Control Plans and the Emission Reduction Contingency Plans.

I. Failure to comply. Failure to comply with Section 6.15 of this Regulation will subject affected entities to penalties as provided in Article II of this Regulation.

**WSR 94-13-196**  
**PROPOSED RULES**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**

[Filed June 21, 1994, 4:39 p.m.]

Original Notice.

Title of Rule: Title 286 WAC.

Purpose: Housekeeping, the changes will correct obsolete addresses; clarify existing language; eliminate unnecessary and duplicative text; reorganize existing sections and chapters into a more coherent format; update the "general information" chapter by adding a new section on "project evaluations"; update the "public records" chapter according to recent changes to existing law; add standard sections for "declaratory orders," "conversions" and "planning" where appropriate; and add new chapters to address IAC's firearms range, Initiative 215 boating facilities, and land and water conservation programs.

Statutory Authority for Adoption: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240, 77.12.720.

Summary: All IAC WAC chapters in Title 286 WAC, except chapter 286-26 WAC, Washington wildlife and recreation program, contain changes or are newly created: General information and addresses, public records, general grant assistance rules, nonhighway and off-road vehicle funds, firearms range, Initiative 215 boating facilities, land and water conservation fund. Also, see Purpose above.

Reasons Supporting Proposal: IAC's administrative rules were originally written to cover a single grant program. Through the years, as new programs have been added, the design of these rules has become outdated and inefficient. This is the first reorganization and update of these rules since the 1970s. Once this reorganization is complete, a second round of changes may be proposed to address sections where further, more substantive changes are needed.

Name of Agency Personnel Responsible for Drafting: Greg Lovelady, Natural Resources Building, (206) 902-3000; Implementation and Enforcement: Laura Eckert, Natural Resources Building, (206) 902-3000.

Name of Proponent: Interagency Committee for Outdoor Recreation (IAC), governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This "housekeeping" proposal will enhance readability, efficiency, and compliance with existing laws and procedures. It is not expected to have any effect on the public or IAC's clients.

Proposal Changes the Following Existing Rules: General information, amending WAC 286-04-010 Definitions, 286-04-020 Organization and operations, 286-04-030 Goals, 286-04-050 Compliance with State Environmental Policy Act guidelines, 286-04-060 Participation manuals and waivers—Guidance and 286-04-070 Director's authority; and new sections WAC 286-04-015 Address, 286-04-065 Project evaluations, 286-04-085 Declaratory order—Petition, and 286-04-090 History of fund sources.

Public records, repealing WAC 286-06-010 Purpose, 286-06-030 Description of the organization of Interagency Committee for Outdoor Recreation, 286-06-040 Operations and procedures, 286-06-130 Records index, 286-06-140 Committee address, 286-06-150 Adoption of form and 286-

PROPOSED

06-990 Appendix A—Form—Request for public record; amending WAC 286-06-050 Public records available, 286-06-060 Responsibility, 286-06-070 Office hours, 286-06-080 Requests for public records, 286-06-090 Copying, 286-06-100 Exemptions, 286-06-110 Review of denials and 286-06-120 Protection of public records; and new section WAC 286-06-065 Indexes.

New chapter general grant assistance rules, new sections WAC 286-13-010 Scope of chapter, 286-13-020 Application form, 286-13-030 Application review, 286-13-040 Applications and plans—Deadlines, 286-13-050 Final decision, 286-13-060 Project agreement, 286-13-070 Disbursement of funds, 286-13-080 Committee funds intended to supplement; retroactive and increased costs, 286-13-085 Retroactive and increased costs, 286-13-090 Federal assistance, 286-13-100 Nonconformance and repayment, 286-13-110 Income, 286-13-115 Discrimination, and 286-13-120 Permanent project signs.

Eligibility for state outdoor recreation grant-in-aid assistance, repeal chapter 286-16 WAC, WAC 286-16-010 Scope of chapter, 286-16-020 Eligibility for funding assistance, 286-16-030 Apportionment of monies between state and local agencies, 286-16-035 Applications—Deadlines, 286-16-040 Matching requirements, 286-16-050 Protects eligible for funding, 286-16-060 Local agency requirements, 286-16-070 State agency requirements and 286-16-080 Grant-in-aid policy.

Application procedures, repeal chapter 286-20 WAC, WAC 286-20-010 Scope of chapter, 286-20-020 Application form, 286-20-040 Application review, and 286-20-060 Acquisition projects—Required documents and deed of right to use land for public recreation purposes.

Funded projects, repeal chapter 286-24 WAC, WAC 286-24-010 Scope of chapter, 286-24-015 Final decision, 286-24-020 Project contract, 286-24-040 Disbursement of funds, 286-24-050 Restriction on conversion of facility to other uses, 286-24-060 income, and 286-24-070 Permanent project signs.

Nonhighway road and off-road vehicle funds, amending WAC 286-26-010 Scope of chapter, 286-26-020 Definitions and 286-26-030 Eligibility; repealing WAC 286-26-040 Qualification, 286-26-055 Funded projects, 286-26-060 Disbursement of funds and 286-26-070 Fund accountability; and new sections WAC 286-26-080 Planning requirements, 286-26-090 Acquisition projects—Deed of right, conversions, leases and easements, and 286-26-100 Development projects—Conversion to other uses.

New chapter firearms range, new sections WAC 286-30-010 Scope, 286-30-020 Eligibility, 286-30-030 Acquisition projects—Deed of right, conversions, leases and easements, and 286-30-040 Development projects—Conversion to other uses.

New chapter Initiative 215 boating facilities, new sections WAC 286-35-010 Scope, 286-35-020 Eligibility, 286-35-030 Planning requirements—Local agencies, 286-35-040 State agency requirements, 286-35-050 Apportionment of marine fuel tax receipts, state and local agencies, 286-35-060 Matching requirements, 286-35-070 Projects eligible for funding, 286-35-080 Acquisition projects—Deed of right, conversions, leases and easements, and 286-35-090 Development projects—Conversion to other uses.

New chapter land and water conservation fund, new sections WAC 286-40-010 Scope, 286-40-020 Candidate selection, 286-40-030 Matching requirements, 286-40-040 Projects eligible for funding, 286-40-050 Acquisition projects—Deed of right, conversions, leases and easements, and 286-40-060 Development projects—Conversion to other uses.

Note: No changes are proposed for chapter 286-27 WAC, Washington wildlife and recreation program.

In accordance with Executive Order 94-07, the following information is provided: Changes to other statutes or rules will not achieve the intent of this proposal. In large measure, this proposal has already been coordinated with other rules, agencies, etc., in that its provisions have already been incorporated into IAC policies and agreements. This rule action is seen as the most reasonable and cost effective way of achieving the objective.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The proposed rule changes are directed at IAC's grant recipients, that is, nonprofit organizations, and local, state, and federal governmental agencies. This "housekeeping" proposal will enhance efficiency and compliance with existing laws and procedures. It is not believed that small businesses will be impacted in any way.

Hearing Location: Summit Inn, "Summit 1" Room, Snoqualmie Pass, Washington, regular meeting of the Interagency Committee for Outdoor Recreation, on July 29, 1994, at 9:10 a.m.

Assistance for Persons with Disabilities: Contact Interagency Committee for Outdoor Recreation by July 22, 1994, TDD (206) 902-1996.

Submit Written Comments to: Greg Lovelady, P.O. Box 40917, Olympia, WA 98504-0917, FAX (206) 902-3026, by July 22, 1994.

Date of Intended Adoption: July 29, 1994, 4 p.m.

June 21, 1994

Laura Eckert

Director

**AMENDATORY SECTION** (Amending Order 86-2, filed 11/17/86)

**WAC 286-04-010 Definitions.** (~~For purposes of these rules: (1) "Interagency committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43.99.110.~~

(2) "Chairman" means the chairman of the interagency committee. See RCW 43.99.110.

(3) "Director" means the director of the interagency committee. See RCW 43.99.130.

(4) "National Park Service" means the National Park Service, United States Department of the Interior.

(5) "Project" means the undertaking which is, or may be, funded in whole or in part with outdoor recreation account money administered by the interagency committee.

(6) "Development" means the construction of facilities necessary for the use and enjoyment of outdoor recreational resources.

(7) "Acquisition" means the gaining of rights of public use by purchase, negotiation, or other means, of fee or less than fee interests in real property.

~~(8) "Plan" means the statewide comprehensive outdoor recreation plan (SCORP).~~

~~(9) "Planning" means the development of documents and programs to identify and propose actions for increasing the availability of outdoor recreational resources and the preparation of, and review of, designs and specifications for such resources.~~

~~(10) "Action program" means the identification of actions proposed to effectuate the policies and recommendations contained in the plan.~~

~~(11) "Applicant" means a state or local government agency soliciting a grant of funds from the interagency committee for an outdoor recreation project.~~

~~(12) "Sponsor" means an applicant who has been awarded a grant of funds for an outdoor recreation project by the interagency committee.~~

~~(13) "Participation manuals" means a compilation of state and federal policies, procedures, rules and instructions that have been assembled in manual form and which have been approved by the interagency committee for dissemination to public agencies that may wish to participate in the grant-in-aid program of the interagency committee.~~

~~(14) "Local agencies" means those public bodies eligible to apply for and receive funds from the interagency committee as defined by RCW 43.99.020, except for purposes of chapter 286-26 WAC.~~

~~(15) "Grant-in-aid program" means all funding programs administered by the interagency committee except the nonhighway road and off-road vehicle program.~~

~~(16) "Advisory committees" means committees of representatives of federal, state, and local governmental entities, user organizations and private enterprise, or any combination thereof, that provide technical expertise and consultation upon request on matters of concern to the interagency committee.~~

~~(17) "Nonhighway road and off-road vehicle program" means the nonhighway road and off-road vehicle grants program administered by the interagency committee.) For purposes of Title 286 WAC, unless the context clearly indicates otherwise:~~

~~"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.~~

~~"Advisory committees" mean committees of representatives of federal, state, and local governmental entities, public-at-large, user organizations and private enterprise, or any combination thereof, that provide technical expertise and consultation on request on matters of concern to the committee.~~

~~"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the committee. Generally, a federal, state, local, tribal or special purpose government is an applicant.~~

~~"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the committee.~~

~~"Chair" means the chair of the committee. See RCW 43.99.110.~~

~~"Committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43.99.110.~~

"Development" means the construction of facilities to enhance outdoor recreation or habitat conservation resources.

"Director" means the director of the committee or that person's designee. See RCW 43.99.130.

"Local agencies" mean those public bodies eligible to apply for and receive funds from the committee as defined by RCW 43.99.020, except for purposes of chapter 286-26 WAC.

"Master list" means those grant projects approved, in turn, through committee and legislative processes, and subsequently returned to the committee for funding.

"Nonhighway road and off-road vehicle program" means the grants and planning program administered by the committee under chapter 46.09 RCW.

"Nonprofit organization" means any group registered as a nonprofit or not-for-profit organization with the Washington secretary of state and the United States Internal Revenue Service. The organization's articles of incorporation must contain provisions for the organizations's structure, officers, legal address, and registered agent.

"Participation manuals" mean a compilation of state and federal policies, procedures, rules and instructions that have been assembled in manual form and which have been approved by the committee for dissemination to agencies and organizations that may wish to participate in the committee's grant program(s).

"Preliminary expense" means project costs incurred prior to committee approval, other than site preparation/development costs, necessary for the preparation of a development project.

"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the committee.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the committee and a sponsor.

"Retroactive costs" mean those project expenses incurred prior to execution of a project agreement.

"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.

#### NEW SECTION

**WAC 286-04-015 Address.** All communications with the committee shall be directed to its office at the Natural Resources Building, 1111 Washington Street S.E., P.O. Box 40917, Olympia, Washington 98504-0917, telephone (206) 902-3000.

**AMENDATORY SECTION** (Amending Order IAC 82-1, filed 12/8/82)

**WAC 286-04-020 Organization and operations.** The committee:

(1) ((The interagency committee)) Is an unsalaried ((committee)) body consisting of the (a) commissioner of public lands, (b) ((Washington state)) director of the department of ((game)) fish and wildlife, (c) ((Washington state director of the department of fisheries, (d))) director of the parks and recreation commission, (or the designees of these individuals) and five citizens appointed by the governor from the public-at-large, with the consent of the senate, for a term of three years each. The ((chairman)) chair of the committee

is a voting member, appointed by the governor from among the five citizen members.

(2) ~~((The interagency committee))~~ Was created by Initiative 215 (Marine Recreation Land Act of 1964). It is authorized to allocate and administer funds to ~~((local and state))~~ agencies and organizations from the state's ~~((general fund))~~ outdoor recreation and other such accounts as may now or hereafter be established. ~~((This account includes monies derived from (a) unclaimed marine fuel tax refunds; (b) sales of bonds under Referenda 11, 18, and 28, and recreational bond issue funds as authorized by the state legislature under authority of Article VIII, Section 1, constitution of the state of Washington (1971 House Joint Resolution 52, approved November, 1972); (c) the state apportionments of the federal land and water conservation funds, and (d) from such other sources as the legislature may provide.))~~

(3) ~~((The interagency committee))~~ Is authorized and obligated to prepare, maintain and update ~~((a))~~ state-wide ~~((comprehensive outdoor recreation))~~ plans, including:

(a) A strategic recreation resource and open space or assessment and policy plan (RCW 43.99.025);

(b) A nonhighway and off-road vehicle plan (RCW 46.09.250);

(c) A trails plan (RCW 67.32.050).

(4) ~~((The interagency committee))~~ Does not own or operate any outdoor recreation or resource facilities.

(5) ~~((The work of the interagency committee is performed))~~ Performs and accomplishes work by a staff under the ~~((direction))~~ supervision of a director appointed by the ~~((committee. The office of the committee and its staff is 4800 Capitol Boulevard, Mailstop KP 11, Tumwater, Washington 98504))~~ governor.

(6)(a) Conducts regular meetings ~~((of the interagency committee are held))~~, pursuant to RCW 42.30.075, according to a schedule ~~((adopted by the interagency committee))~~ it adopts in an open public meeting.

(b) May conduct special meetings ~~((may be))~~ at any time, pursuant to RCW 42.30.080, if called by the ~~((chairman at any time))~~ chair.

(c) Maintains an official record of its meetings in a recorded audio format, unless written minutes are otherwise indicated for logistical reasons.

(7) ~~((Reimbursement of expenses. Members of the interagency committee))~~ Members who have been appointed from the public-at-large shall be reimbursed at the rate established by the office of financial management in accordance with RCW 43.03.050(1) for each day or portion thereof spent on official business and shall be entitled to receive all necessary travel expenses ~~((other than per diem))~~ on the same basis as is provided by law for state officials and employees generally.

(8) Defines a quorum as five of its members.

(9) Adopts parliamentary meeting procedure generally as described in *Robert's Rules of Order*.

**AMENDATORY SECTION** (Amending Order IAC 82-1, filed 12/8/82)

**WAC 286-04-030 Goals ~~((and objectives))~~.** The general goals of the ~~((interagency))~~ committee are to:

(1) Provide funds and planning assistance for acquisition and development and use of outdoor recreation and habitat conservation resources to maximize ~~((preservation))~~ protection of the natural quality of the environment;

(2) Provide funds and planning assistance for a system of public recreational facilities and opportunities for state residents and visitors;

(3) Aid organizations and local government, with funds and planning assistance, in providing the type of facilities and resources which, under ~~((its))~~ their jurisdiction, will best serve the local needs for outdoor recreation;

(4) Encourage programs which promote outdoor education, skill development, participation opportunity and proper ~~((husbandry))~~ stewardship of recreation and natural resources. See also RCW 43.99.010.

**AMENDATORY SECTION** (Amending Order 76-2, filed 6/30/76)

**WAC 286-04-050 Compliance with State Environmental ~~((Protection))~~ Policy Act guidelines (SEPA).** (1) The ~~((interagency))~~ committee ~~((for outdoor recreation, in response to RCW 43.21C.120 calling for regulations integrating the policies and procedures of the State Environmental Policies Act of 1971;))~~ has determined ~~((after reviewing its authorized activities))~~ that all of ~~((such))~~ its activities and programs in effect as of December 12, 1975, or pursuant to WAC 197-11-800 are exempt from threshold determinations and environmental impact statement requirements under the provisions of ~~((chapter 197-10 WAC, as more particularly noted in the express exemption of "all activities" of the interagency committee contained in WAC 197-10-175 (12)(1) and the categorical exemptions referenced in WAC 197-10-170 (7)(d), (3) and (8))~~ WAC 197-11-875.

(2) To the extent applicable, it is the responsibility of applicants and sponsors to comply with the provisions of chapter 197-11 WAC, the State Environmental Policy Act rules for acquisition or development of projects, and to obtain associated land-use permits.

**AMENDATORY SECTION** (Amending Order IAC 82-1, filed 12/8/82)

**WAC 286-04-060 Participation manuals and waivers-guidance.** (1) The ~~((interagency))~~ committee shall cause to be ~~((formulated))~~ written for use by ~~((project))~~ applicants, potential applicants, sponsors, and others, participation manuals that describe ~~((the procedures))~~ general administrative matters to be followed in order to conform to the policies of the committee. ~~((Such participation))~~ These manuals shall not have the force or effect of ~~((Washington))~~ administrative code rules.

~~((Proposed participation))~~ (2) The manuals shall be considered and approved by the committee in an open public meeting ~~((and may be approved, by resolution or motion, with a quorum of the members present. Informal))~~. Notice of such considerations will be given by distribution of the agenda for the meeting, press releases, formal meeting notice in the Washington State Register, or other such means.

(3) Project applicants, sponsors, or other interested parties may petition the director for a waiver or waivers of those items dealing with general administrative matters and procedures within the participation manuals. Determinations

on petitions for waivers made by the director are subject to review by the ~~((interagency))~~ committee at the request of the petitioner.

(4) Petitions for waivers of subjects ~~((matter))~~ dealing with committee policy, and those petitions that in the judgment of the director require committee review, shall be referred to the ~~((interagency))~~ committee for ~~((its))~~ deliberation. ~~((Petitions for waivers referred to the interagency committee))~~ Such waivers may be granted after consideration by the ~~((interagency))~~ committee at an open public meeting ~~((with a quorum of the members present)).~~

#### NEW SECTION

**WAC 286-04-065 Project evaluations.** It is the policy of the committee to use an open, public, competitive selection process to guide it in allocating funds to grant applicants. In this regard, the director shall use priority rating systems in preparing funding recommendations for committee consideration. These systems shall:

- (1) Be developed, to a reasonable extent, through the participation of interested parties and specialists;
- (2) Consider applicant, local, regional, and state-wide needs, a project's technical merits, and other criteria;
- (3) Be adopted by the committee in advertised public meetings;
- (4) Be made available in published form to interested parties;
- (5) Be designed for use by a team of evaluators selected for this purpose;
- (6) Be in accord with statutes.

AMENDATORY SECTION (Amending Order IAC 82-1, filed 12/8/82)

**WAC 286-04-070 ~~((Administrative))~~ Director's authority.** Consistent with RCW 43.99.025, and other applicable laws, the director ~~((for the interagency committee))~~ is delegated the authority and responsibility to carry out policies of the ~~((interagency))~~ committee. ~~((Such authority))~~ This includes, but is ~~((expressly))~~ not limited to~~((r))~~ the authority to:

- (1) Administer ~~((the))~~ committee programs ~~((of the interagency committee));~~
- ~~((2))~~ Employ, discipline, and terminate staff, consistent with applicable merit system and personnel rules;
- ~~((3))~~ (2) Approve master list projects of state agencies;
- ~~((4) Assure that all projects proposed for federal or state aid conform with appropriate rules and regulations; and~~
- ~~((5))~~ (3) Enforce all applicable rules, regulations and requirements established by the ~~((interagency))~~ committee or reflected in the laws of the state;
- (4) Approve certain cost increase or waiver requests.

#### NEW SECTION

**WAC 286-04-085 Declaratory order—Petition requisites—Consideration—Disposition.** (1) Any person may submit a petition for a declaratory order pursuant to RCW 34.05.240 in any form so long as it:

- (a) Clearly states the question the declaratory order is to answer; and

(b) Provides a statement of the facts which raise the question.

(2) The director may conduct an independent investigation in order to fully develop the relevant facts.

(3) The director will present the petition to the committee at the first meeting when it is practical to do so and will provide the petitioner with at least five days notice of the time and place of such meeting. Such notice may be waived by the petitioner.

(4) The petitioner may present additional material and/or argument at any time prior to the issuance of the declaratory order.

(5) The committee may issue either a binding or a nonbinding order or decline to issue any order.

(6) The committee may decide that a public hearing would assist its deliberations and decisions. If such a hearing is ordered, it will be placed on the agenda of a meeting and at least five days notice of such meeting shall be provided to the petitioner.

(7) If an order is to be issued, the petitioner shall be provided a copy of the proposed order and invited to comment.

(8) The declaratory order cannot be a substitute for a compliance action and is intended to be prospective in effect.

(9) The committee will decline to consider a petition for a declaratory or to issue an order when (a) the petition requests advice regarding a factual situation which has actually taken place, or (b) when a pending investigation or compliance action involves a similar factual situation.

#### NEW SECTION

**WAC 286-04-090 History of fund sources.** From time to time, the outdoor recreation account has included moneys derived from:

- (1) Unclaimed marine fuel tax refunds;
- (2) Sales of bonds under Referenda 11, 18, and 28, and recreational bond issue funds authorized by the state legislature under authority of Article VIII, Section 1, Constitution of the state of Washington (1971 House Joint Resolution 52, approved November 1972);
- (3) The state apportionments of the federal land and water conservation funds; and
- (4) From such other sources, and for such specific purposes, as the legislature has provided or may provide.

AMENDATORY SECTION (Amending Order IAC 82-1, filed 12/8/82)

**WAC 286-06-050 Public records available.** All public records of the committee, as defined in RCW ~~((42.17.370))~~ 42.17.260, as now or hereafter amended, are ~~((deemed to be))~~ available for public inspection and copying pursuant to this regulation, except as otherwise provided by RCW 42.17.310 and WAC 286-06-100 - Exemptions.

AMENDATORY SECTION (Amending Order IAC 82-1, filed 12/8/82)

**WAC 286-06-060 ~~((Public records officer.))~~ Responsibility.** The committee's public records shall be in charge of a public records officer designated by the director. ~~((The person so designated shall be located in the administrative~~

~~office of the committee.~~) The public records officer shall be responsible for ~~((the following: The))~~: Implementation of the committee's rules and regulations regarding release of public records, coordinating the staff of the committee in this regard, and generally ensuring compliance ~~((by the staff))~~ with the public records disclosure requirements of chapter 42.17 RCW as now or hereafter amended.

#### NEW SECTION

**WAC 286-06-065 Indexes.** (1) Through its public records officer, the committee shall maintain indexes for the records and files listed in subsection (2)(a) through (j) of this section. These indexes:

(a) Provide identifying information as to its files and records;

(b) Are available for public inspection and copying at its offices in the Natural Resources Building, Olympia, in the manner provided in this chapter for the inspection and copying of public records;

(c) Are updated at least once a year and revised at appropriate intervals;

(d) Are public records even if the records to which they refer may not, in all instances, be subject to disclosure.

(2) Indexes of the following records and files are available:

(a) Archived files;

(b) Equipment inventory;

(c) Summaries and memoranda of committee meetings;

(d) General committee policies and procedures;

(e) Active project files;

(f) Publications including grant program manuals, state-wide plans, technical assistance and special reports;

(g) Final adjudicative proceeding orders entered after June 30, 1990, as defined in RCW 34.05.010(1) that contain an analysis or decision of substantial importance to the committee in carrying out its duties (each listed alphabetically by subject with a phrase describing the issue or issues and relevant citations of law);

(h) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the committee in carrying out its duties (each listed alphabetically by case name with a phrase describing the issue or issues and relevant citations of law);

(i) Interpretive statements as defined in RCW 34.05.010(8) (each indexed by the committee program);

(j) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010(14) (also see grant program manuals).

(3) The following general records and files are available by reference to topic, and generally arranged alphabetically or chronologically within such topic. Due to volume, costs and complexity, however, no master index is maintained.

(a) Administrative files;

(b) Comprehensive park-recreation plans;

(c) Summaries of committee staff meetings;

(d) Closed/inactive project files;

(e) General correspondence;

(f) Summaries of committee staff meetings;

(g) Attorney general opinions;

(h) Financial records;

(i) Payroll and personnel records.

(4) Before June 30, 1990, the committee maintained no index of:

(a) Declaratory orders containing analysis or decisions of substantial importance to the committee in carrying out its duties;

(b) Interpretive statements as defined in RCW 34.05.010(8);

(c) Policy statements as defined in RCW 34.05.010(14).

#### AMENDATORY SECTION (Amending Order 73-4, filed 12/19/73)

**WAC 286-06-070 Office hours.** Public records shall be available for inspection and copying during the committee's customary office hours ~~((of the committee)).~~ ~~((For the purposes of this chapter, the customary office))~~ Those hours shall be consistent with RCW 42.04.060 ~~((as now or hereafter amended, i.e.))~~ and 42.17.280, from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

#### AMENDATORY SECTION (Amending Order 73-4, filed 12/19/73)

**WAC 286-06-080 Requests for public records.** ~~((In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency.))~~ Public records may be inspected or copied or copies of such records may be obtained consistent with ~~((these concepts))~~ chapter 42.17 RCW (unreasonable invasions of privacy, protection from damage/disorganization, and excessive interference) by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing ~~((upon))~~ on a form prescribed by the ~~((committee))~~ director which shall be available at its ~~((administrative))~~ Olympia office. The form shall be presented to the public records officer or ~~((his))~~ designee ~~((if the public records officer is not available, at the office of the committee during customary office hours)).~~ The request shall include the following information:

(a) The name of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) ~~((If the matter requested is referenced within the current index maintained by the records officer.))~~ A reference to the requested record as it is described in ((such)) any current index, if the matter requested is referenced within indexes;

(e) ~~((If the requested matter is not identifiable by reference to any of the committee's current indexes.))~~ An appropriate description of the record requested, if the requested matter is not identifiable in the indexes.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer ~~((or staff member to whom the request is made to))~~ or designee to assist ~~((the member of the public))~~ in appropriately identifying the public record requested as defined in RCW 42.17.320.

PROPOSED

AMENDATORY SECTION (Amending Order 73-4, filed 12/19/73)

**WAC 286-06-090 Copying.** No fee shall be charged for the inspection of public records. The ~~((committee))~~ director shall charge a ~~((reasonable))~~ fee of ten cents per page ~~((of copy))~~ for providing copies of public records and for use of the committee's copy equipment. ~~((This charge is))~~ Copying in other formats shall be subject to a fee established by the director. These charges are the amount necessary to reimburse the committee for its actual costs incident to such copying.

AMENDATORY SECTION (Amending Order 73-4, filed 12/19/73)

**WAC 286-06-100 Exemptions.** (1) The ~~((committee))~~ director reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 286-06-080 is exempt under the provisions of state or federal law, or ~~((section 34,))~~ chapter ~~((1, Laws of 1973))~~ 42.17 RCW.

(2) In addition, pursuant to ~~((section 26,))~~ chapter ~~((1, Laws of 1973))~~ 42.17 RCW, the ~~((committee))~~ director reserves the right to delete identifying details when ~~((it makes))~~ made available or ~~((publishes any public record,))~~ published in ~~((any))~~ cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy ~~((protected by chapter 1, Laws of 1973)).~~

(3) All denials of requests for public records, in whole or part, must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending Order IAC 82-1, filed 12/8/82)

**WAC 286-06-110 Review of denials ~~((of public records requests))~~.** (1) Any person who objects to the denial of a request for a public record may petition the director for ~~((prompt))~~ review ~~((of such decision))~~ by tendering a written request ~~((for review)).~~ The ~~((written))~~ request shall specifically refer to the written statement ~~((by the public records officer or his or her designee))~~ which constituted or accompanied the denial.

(2) ~~((Promptly))~~ After receiving a written request for review of a decision denying inspection of a public record, ~~((the public records officer or his or her designee denying the request shall refer it to the committee's director or his or her designee. The director or his or her designee shall promptly consider the matter, either affirm or reverse such denial after consulting with the committee chairman and/or the attorney general's office whenever possible to review the denial. In any case, the request shall be returned with a final decision whenever possible within two business days following the original denial.~~

(3) ~~Administrative remedies shall not be considered exhausted until the committee has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first)~~ the director, or designee, will either affirm or reverse the denial

by the end of the second business day following receipt according to RCW 42.17.320. This shall constitute final committee action for purposes of judicial review. Whenever possible in such matters, the director or designee shall first consult with the committee's chair and/or the attorney general's office.

AMENDATORY SECTION (Amending Order 73-4, filed 12/19/73)

**WAC 286-06-120 Protection of public records.** Unless approved by the director, records shall not be removed from the place designated for their inspection. The public records officer may make reasonable arrangements for ensuring the security of the record(s) during inspections.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                |  |
|----------------|--|
| WAC 286-06-010 | Purpose.   |
| WAC 286-06-030 | Description of the organization of the interagency committee for outdoor recreation. |
| WAC 286-06-040 | Operations and procedures.   |
| WAC 286-06-130 | Records index.   |
| WAC 286-06-140 | Committee address.   |
| WAC 286-06-150 | Adoption of form.  |
| WAC 286-06-990 | Appendix A—Form—Request for public record.   |

**Chapter 286-13 WAC  
GENERAL GRANT ASSISTANCE RULES**

NEW SECTION

**WAC 286-13-010 Scope of chapter.** This chapter contains general rules affecting grant program eligibility, applications, and projects funded with money from or through the committee. Further rules are in chapter 286-26 WAC (nonhighway and off-road vehicle program), chapter 286-27 WAC (Washington wildlife and recreation program), chapter 286-30 WAC (firearms range program), chapter 286-35 WAC (Initiative 215 boating facilities program), and chapter 286-40 WAC (land and water conservation fund program).

NEW SECTION

**WAC 286-13-020 Application form.** (1) All applications must be completed and submitted in the format prescribed by the committee unless otherwise allowed by the director.

(2) If the director determines that the applicant is eligible to apply for federal funds administered by the committee, the applicant must execute the forms necessary for that purpose.

NEW SECTION

**WAC 286-13-030 Application review.** (1) All applications for funding submitted to the committee will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the advice and counsel of the committee's staff and other recognized experts, including those gathered at technical review and evaluation meetings or from other parties with experience in the field.

(2) The committee shall inform all applicants of the specific project application process and methods of review, including current evaluation tests and instruments, by delineating these items in the participation manuals.

NEW SECTION

**WAC 286-13-040 Applications and plans—Deadlines.** (1) All applications must be submitted at least four calendar months prior to the funding meeting at which the applicant's project is first considered. Applications must be completed in final form and on file with the committee at least thirty days before this same meeting.

(2) All nonhighway road and off-road vehicle program, park, recreation, or habitat plans required for participation in committee grant programs must be complete and on file with the committee at least ninety days before the funding meeting at which the applicant's project is first considered.

(3) Compliance with these deadlines is required for eligibility unless a waiver is granted by the director. Such waivers are considered based on several factors which may include:

- (a) When the applicant started the application/planning process;
- (b) What progress has been made;
- (c) When final adoption will occur;
- (d) The cause of the delay (procedural or content related, etc.);
- (e) Impact on the committee's evaluation process;
- (f) Equity to other applicants; and
- (g) Such other information as may be relevant.

NEW SECTION

**WAC 286-13-050 Final decision.** The committee will review recommendations for grant projects at regularly scheduled funding sessions. It retains the authority and responsibility to accept or deviate from these recommendations and, where statutory authority exists, it alone will make the final decision concerning the funding of a project.

NEW SECTION

**WAC 286-13-060 Project agreement.** For every funded project, an agreement must be executed as provided in this section.

(1) The project agreement shall be prepared by the director subsequent to approval of the project by the committee at a public meeting. The director shall execute the agreement on behalf of the committee and tender the document to the applicant. On execution by the applicant, who through this action becomes the sponsor, the parties are bound by the agreement's terms. The applicant may not proceed with the project until the agreement has been

executed and the project start date listed in the agreement has arrived, unless specific authorization pursuant to WAC 286-13-080 (1)(a) has been given by the director.

(2) If the project is approved by the committee to receive a grant from federal funds, the director shall not execute an agreement or amendment with the applicant until federal funding has been authorized through execution of a concurrent project agreement with the Department of Interior or applicable federal agency.

NEW SECTION

**WAC 286-13-070 Disbursement of funds.** Except as otherwise provided herein, the director will authorize disbursement of project funds only on a reimbursable basis, after the sponsor has spent its own funds and has presented a billing showing satisfactory evidence of property rights and compliance with partial or all provisions of the project agreement.

(1) Reimbursement method. Reimbursement must be requested on voucher forms authorized by the director and must include all documentation as detailed in the participation manual in effect at the time reimbursement is requested.

(2) Reimbursement level. The amount of reimbursement may never exceed the cash spent on the project.

(3) Partial payment. Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development.

(4) Exceptions.

(a) State agencies' Initiative 215 (Marine Recreation Land Act) appropriations. Until such time as the committee may receive direct appropriation authority, state agencies are required to submit voucher forms with the supporting documentation specified in the participation manual in effect at the time of completion of project acquisition, relocation or development.

(b) Direct payment. Direct payment to escrow of the committee's share of the approved cost of real property may be made following committee approval of an acquisition project when the sponsor indicates a temporary lack of funds to purchase the property. Prior to release of the committee's share of escrow funds, the sponsor must provide the director with a copy of a binding sale agreement between the sponsor and the seller and evidence of deposit of the sponsor's share (if any) into an escrow account.

NEW SECTION

**WAC 286-13-080 Committee funds intended to supplement.** State aid through the committee is intended to supplement the existing capacity of a sponsor; it is not intended to supplant programs, or to reimburse the cost of projects that would have been undertaken without state matching money. Therefore, except as hereinafter provided, the committee will not approve the disbursement of funds for a project when otherwise reimbursable activities have been undertaken before a project agreement has been executed.

NEW SECTION

**WAC 286-13-085 Retroactive and increased costs.** See WAC 286-04-010 for definition of terms for the following section.

## (1) Retroactive land acquisition costs.

(a) The director may grant a waiver of retroactivity whenever an applicant asserts, in writing, that an emergency exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed by issuing the written waiver. This waiver of retroactivity will not be construed as an approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for assistance. If the project is to remain eligible for grant support from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations.

(b) A sponsor will not lose committee approved assistance if it acquires committee approved property prior to any federal funding action on the sponsor's application for assistance if:

(i) In writing, the sponsor requests and receives the director's permission to purchase; and

(ii) The federal agency has notified the director that the state assisted purchase will not jeopardize the proposed federal funding.

(2) Retroactive development costs. Retroactive development costs are not eligible for reimbursement.

However, preliminary expenses (e.g., engineering costs) contained in a development project may be eligible for reimbursement if specifically requested in the application.

## (3) Cost increases.

(a) Cost increases for approved projects may be granted by the committee if financial resources are available.

(b) Each cost increase request will be considered on its merits.

(c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.

(d) The director may approve a sponsor's development project cost increase request so long as the total request does not exceed ten percent of the project's approved initial cost. The director may also approve land acquisition cost increase requests so long as the total request for each parcel does not exceed ten percent of both the committee approved initial cost and the appraised and reviewed value of each parcel for which a cost increase is requested.

NEW SECTION

**WAC 286-13-090 Federal assistance.** Insofar as is possible under the committee's state-wide plan(s) provided under WAC 286-04-020(3) applications will be administered and approved in a manner that will maximize any federal assistance available for the benefit of projects in Washington.

NEW SECTION**WAC 286-13-100 Nonconformance and repayment.**

Any sponsor expenditure of committee grant moneys deemed by the committee or director to conflict with applicable statutes, rules and related participation manuals must be repaid, upon written request by the director, to the appropriate state account.

NEW SECTION**WAC 286-13-110 Income.** (1) Fees and charges.

User or other types of fees may be charged in connection with land acquired or areas and facilities developed with committee grants if the fees and charges are commensurate with the value of services or opportunities furnished and are within the prevailing range of public fees and charges within the state for the particular activity involved. Unless precluded by state law, the revenue from such fees and charges may only be used to offset the expense of operation and maintenance of the facility funded in whole or in part by committee grants or for accrual of capital for similar acquisition and/or development.

(2) Other income. Income that accrues to an area described in a project agreement from sources other than the intended use, including income from land management practices, must derive from use which is consistent with, and complementary to, the intended use of the area as described in the project agreement.

(a) Gross nonintended income that accrues during the period established in the project agreement will be used to reduce the total cost of the project.

(b) Gross nonintended income that accrues subsequent to the ending date identified in the project agreement must be used to offset operation and maintenance expenses of the facility funded in whole or in part by committee grants or for capital acquisition and/or development of a similar type unless precluded by state law.

NEW SECTION

**WAC 286-13-115 Discrimination.** Discrimination on the basis of residence, including preferential reservation or membership systems and annual permit systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence. Fee differences based on residence may not exceed twice that charged to residents.

NEW SECTION

**WAC 286-13-120 Permanent project signs.** Permanent signs identifying that land was acquired or facilities developed with financial assistance from the committee are required unless waived by the director. Such waivers are considered based on agreed project goals.

AMENDATORY SECTION (Amending Order 86-2, filed 11/17/86)

**WAC 286-26-010 Scope of chapter.** This chapter contains rules affecting the eligibility of agencies to share in committee administered nonhighway road and off-road vehicle funds (~~used for nonhighway road and off-road~~

vehicle trails and areas)). Additional provisions are contained in chapter 46.09 RCW and "General grant assistance rules," chapter 286-13 WAC.

AMENDATORY SECTION (Amending Order 86-2, filed 11/17/86)

**WAC 286-26-020 Definitions.** For purposes of this chapter, the following definitions shall apply:

~~((1) "Nonhighway vehicle" means any motorized vehicle when used for recreation travel on trails and nonhighway roads or for recreation cross-country travel on any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland, and other natural terrain. Such vehicles include, but are not limited to, off-road vehicles, two, three, or four wheel vehicles, motorcycle, four wheel drive vehicles, dune buggies, amphibious vehicles, ground effects or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.~~

~~Nonhighway vehicle does not include:~~

~~(a) Any vehicle designed primarily for travel on, over, or in the water;~~

~~(b) Snowmobiles or any military vehicles; or~~

~~(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW for which an exemption or rebate is claimed. This exception includes, but is not limited to, farm, construction, and logging vehicles.~~

~~(2) "Off road vehicle" (ORV) means any nonhighway vehicle when used for cross-country travel on trails or any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland and other natural terrain.~~

~~(3) "Interagency committee for outdoor recreation nonhighway road and off road vehicle activities funds" (IAC-NOVA funds) means those funds deposited in the outdoor recreation account to be administered and distributed by the interagency committee in conformance with chapter 46.09 RCW, and IAC nonhighway road and off road vehicle participation manuals for the planning, acquisition, development and management of nonhighway road and ORV recreation areas and ORV trails.~~

~~(4) "ORV trail" means a multiple use corridor designated and maintained for recreational travel by off road vehicles that is not normally suitable for travel by conventional two-wheel drive vehicles and is posted or designated by the managing authority of the property that the trail traverses as permitting ORV travel; this may include competition sites for two, three, or four wheel ORVs, and four wheeled vehicles over 40 inches width which are equipped with four-wheel drive or other characteristics such as nonslip drive trains and high clearance. Such courses will be designed to include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or other obstacles found in more natural settings. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, constitute an inappropriate use of nonhighway road and ORV funds.~~

~~(5) "Off road vehicle use area" means the entire area of a parcel of land except for camping and approved buffer areas that is posted or designated for ORV use in accordance with rules adopted by the managing authority.~~

(6) "Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.

(7) "Nonhighway road and off road vehicle activities (NOVA) advisory committee" means the established committee of nonhighway road recreationists, including representatives of organized ORV recreational groups, to advise the director in the development of the state wide nonhighway road and off road vehicle plan, the development of a project funding system, the suitability of nonhighway road and off road vehicle projects submitted to the interagency committee for funding, and other aspects of nonhighway road and off road vehicle recreation as the need may arise, in accordance with chapter 46.09 RCW. This committee may also include representatives from various governmental entities or other interests as deemed appropriate by the interagency committee for outdoor recreation.

(8) "Nonhighway road" means any road owned or managed by a public agency, or any private road for which the owner has granted a permanent easement for the public use of the road, other than a highway generally capable of travel by a conventional two wheel drive passenger automobile during most of the year and in use by such vehicles and that is not built or maintained with appropriations from the motor vehicle fund.) For purposes of this chapter, the following definitions shall apply:

"Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.

"Nonhighway road" (NHR) as provided in RCW 46.09.020.

"Nonhighway vehicle" as provided in RCW 46.09.020.

"NOVA" means the committee's nonhighway road and off-road vehicle activities program described in chapter 46.09 RCW, and NHR and ORV participation manuals for the planning, acquisition, development and management of recreation areas and trails.

"NOVA advisory committee" means the panel of NHR recreationists, including representatives of organized ORV recreational groups, chosen to advise the director in the development of the state-wide NOVA plan, the development of a project priority rating system, the suitability and evaluation of NOVA projects submitted to the committee for funding, and other aspects of NOVA recreation as the need may arise, in accordance with chapter 46.09 RCW. The NOVA advisory committee may also include representatives from various governmental entities or other interests as deemed appropriate by the director.

"Off-road vehicle" (ORV) as provided in RCW 46.09.020.

"ORV trail" as provided in RCW 46.09.020, and including, competition sites for two, three, or four-wheel ORVs, and four-wheeled vehicles over forty inches width which are equipped with four-wheel drive or other characteristics such as nonslip drive trains and high clearance. Such courses will be designed to include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or other obstacles found in more natural settings. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, are not eligible for NOVA funds.

"ORV use area" as provided in RCW 46.09.020.

AMENDATORY SECTION (Amending Order 86-2, filed 11/17/86)

**WAC 286-26-030 Eligibility.** Those agencies of government (~~(which are)~~) eligible to receive (~~(nonhighway road and off-road vehicle)~~) NOVA funds are: Departments of state government, counties, municipalities, federal agencies, and (~~(Indian)~~) native American tribes as provided in RCW 46.09.240.

NEW SECTION

**WAC 286-26-080 Planning requirements.** For purposes of project evaluation, completed plans must be received by the director at least ninety days before the committee's meeting at which the project is to be considered for funding. A shorter period may be authorized by the director. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a one-year period. To be complete, at minimum the plan must include:

- (1) A statement of the applicant's long range goals and objectives;
- (2) A description of the planning area, or existing areas and facilities, or current conditions, as appropriate;
- (3) An analysis of need, that is, why actions are required;
- (4) A description of the extent to which the public has been involved in development of the plan;
- (5) A current capital improvement program of at least five years and/or a schedule which identifies those entities responsible for the actions needed to achieve the plan's goals and objectives;
- (6) Evidence that this plan has been approved by the applicant.

NEW SECTION

**WAC 286-26-090 Acquisition projects—Deed of right, conversions, leases and easements.** For acquisition projects sponsors must execute an instrument or instruments which contain:

- (1) For fee, less-than-fee, and easement acquisition projects:
    - (a) A legal description of the property acquired;
    - (b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and
    - (c) A restriction on conversion of use of the land.
- That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

- (a) Must be for at least fifty years unless precluded by state law;

- (b) May not be revocable at will;
- (c) Must have a value supported through standard appraisal techniques;
- (d) Must be paid for in lump sum at initiation;
- (e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

NEW SECTION

**WAC 286-26-100 Development projects—Conversion to other uses.** (1) Without prior approval of the committee, a facility developed with money granted by the committee, by state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

- (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;
- (b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:
  - (i) Is of reasonably equivalent recreation utility and location;
  - (ii) Will be administered by the same political jurisdiction as the converted development;
  - (iii) Will satisfy need(s) identified in the sponsor's NOVA plan (see WAC 286-26-080); and
  - (iv) Includes only elements eligible under the committee's program from which funds were originally allocated.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 286-26-040	Qualification.
WAC 286-26-055	Funded projects.
WAC 286-26-060	Disbursement of funds.
WAC 286-26-070	Fund accountability.

**Chapter 286-30 WAC  
FIREARMS RANGE**

NEW SECTION

**WAC 286-30-010 Scope.** This chapter contains rules affecting the firearms range account grant program administered by the committee under RCW 77.12.720. Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC.

NEW SECTION

**WAC 286-30-020 Eligibility.** These moneys are available to those entities described in RCW 77.12.720.

PROPOSED

NEW SECTION

**WAC 286-30-030 Acquisition projects—Deed of right, conversions, leases and easements.** Sponsors must execute an instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington of the right to use the described real property for at least ten years from the date of the committee's final reimbursement for outdoor recreation purposes; and

(c) A restriction on conversion of use of the land for at least ten years from the date of the committee's final reimbursement, with the proviso that should use be discontinued or a noncommittee approved conversion occur, the sponsor shall pay back to the committee the entire grant amount. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not, within ten years, be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

(a) Must be for at least ten years from the date of the committee's final reimbursement unless precluded by state law;

(b) May not be revocable at will;

(c) Must have a value supported through standard appraisal techniques;

(d) Must be paid for in lump sum at initiation;

(e) May not be converted during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

NEW SECTION

**WAC 286-30-040 Development projects—Conversion to other uses.** (1) Within ten years of the committee's final reimbursement, and without prior approval of the committee, a facility developed with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. Should a thus prohibited conversion occur, the sponsor shall pay back to the committee the entire grant amount.

(2) The committee shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:

(i) Is of reasonably equivalent recreation utility and location;

(ii) Will be administered by the same political jurisdiction or entity as the converted development; and

(iii) Includes only elements eligible under the committee's program from which funds were originally allocated.

**Chapter 286-35 WAC  
INITIATIVE 215 BOATING FACILITIES**

NEW SECTION

**WAC 286-35-010 Scope.** This chapter contains rules affecting the Initiative 215 boating facilities grant program administered by the committee under the Marine Recreation Land Act, chapter 43.99 RCW. Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC.

NEW SECTION

**WAC 286-35-020 Eligibility.** Marine recreation fuel moneys are available to the entities and for purposes described in 43.99.020(2) and RCW 43.99.080.

NEW SECTION

**WAC 286-35-030 Planning requirements—Local agencies.** For purposes of local agency project evaluation, completed plans must be received by the director at least ninety days before the committee's meeting at which the project is to be considered for funding. A shorter period may be authorized by the director. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for up to a five-year period. To be complete, at minimum the plan must include:

(1) A statement of the applicant's long range goals and objectives;

(2) A description of the planning area, or existing areas and facilities, or current conditions, as appropriate;

(3) An analysis of need, that is, why actions are required;

(4) A description of the extent to which the public has been involved in development of the plan;

(5) A current capital improvement program of at least five years, and a schedule which identifies those entities responsible for the actions needed to achieve the plan's goals and objectives;

(6) Evidence that this plan has been approved by the applicant.

NEW SECTION

**WAC 286-35-040 State agency requirements.** Before considering a state agency project for funding, that agency must submit to the committee a capital improvement program, based on the office of financial management's prescribed planning period. A long-term statement of applicant agency outdoor recreation acquisition and development goals must be included.

NEW SECTION

**WAC 286-35-050 Apportionment of marine fuel tax receipts, state and local agencies.** Unless otherwise specified in enabling legislation or appropriation, available grant moneys from unrefunded marine fuel tax receipts shall

be divided into two equal shares, one for aid to state agencies and one for aid to local agencies.

#### NEW SECTION

**WAC 286-35-060 Matching requirements.** (1) Local agencies.

(a) The committee will not approve local agency projects where the applicant's share is less than twenty-five percent of the total project cost, with the remaining share not exceeding seventy-five percent, composed of state funds, federal funds, or state and federal funds, regardless of federal source. Local agencies must provide written assurance at least thirty days before the funding meeting at which the project is to be considered for funding, that funds and/or resources are available for the required local share of the project. The director may authorize a period of less than thirty days.

(b) The local share may be state funds not administered by the committee, local impact/mitigation fees, local funds, certain federal funds, or the value of private donated property, equipment, equipment use, labor, or any combination thereof. Private donated real property or the value of that property must consist of real property (land and facilities) which would normally qualify for committee grant funding.

(2) State agencies.

(a) The committee may approve one hundred percent funding from unrefunded marine fuel tax receipts for projects proposed by state agencies.

(b) If federal matching money, regardless of federal source, is available, the state agency may be assisted by committee funds so as to achieve one hundred percent funding.

#### NEW SECTION

**WAC 286-35-070 Projects eligible for funding.**

Generally, watercraft-related acquisition and development projects that encompass the goals contained in WAC 286-04-030 are eligible for funding.

As a general rule those watercraft-related project costs eligible under the federal Land and Water Conservation Fund Act as specified in that program's manual will be eligible for consideration by the committee. However, from time to time the committee may decide as a matter of policy that certain project costs are either eligible or ineligible irrespective of how those costs are treated under the Land and Water Conservation Fund Act.

#### NEW SECTION

**WAC 286-35-080 Acquisition projects—Deed of right, conversions, leases and easements.** For acquisition projects, sponsors must execute an instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and

(c) A restriction on conversion of use of the land.

That is, marine recreation land with respect to which money has been expended under RCW 43.99.080 shall not, without the approval of the committee, be converted to uses other than those for which such expenditure was originally approved. The committee shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

(a) Must be for at least fifty years unless precluded by state law;

(b) May not be revocable at will;

(c) Must have a value supported through standard appraisal techniques;

(d) Must be paid for in lump sum at initiation;

(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

#### NEW SECTION

**WAC 286-35-090 Development projects—Conversion to other uses.** (1) Without prior approval of the committee, a facility developed with money granted by the committee shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:

(i) Is of reasonably equivalent recreation utility and location;

(ii) Will be administered by the same political jurisdiction as the converted development; and

(iii) Includes only elements eligible under the committee's program from which funds were originally allocated.

### **Chapter 286-40 WAC LAND AND WATER CONSERVATION FUND**

#### NEW SECTION

**WAC 286-40-010 Scope.** This chapter contains rules affecting the federal land and water conservation fund program administered by the committee. These funds are administered pursuant to the Land and Water Conservation Fund Act of 1965 (Public Law 88-578, 78 stat 897), and the *Land and Water Conservation Fund Grants Manual* (U.S. Department of the Interior). Under the terms of this program many federal requirements are imposed on both applicants and the committee over which the committee has no control. Most of these federal requirements are restated or clarified in the participation manuals. Additional provi-

sions are contained in "General grant assistance rules," chapter 286-13 WAC.

#### NEW SECTION

**WAC 286-40-020 Candidate selection.** Candidate project(s) under this chapter are selected by the director, and approved by the committee, from among those submitted into the outdoor recreation account allotment to the Washington wildlife and recreation program (chapter 286-27 WAC). Selection criteria includes:

- (1) How well the project(s) has ranked in the evaluation;
- (2) How well the project(s) meets needs identified in the state-wide comprehensive outdoor recreation planning program and the general goals identified in WAC 286-04-030;
- (3) An assessment of how quickly the project(s) will progress through planning and implementation stages.

#### NEW SECTION

**WAC 286-40-030 Matching requirements.** (1) Local agencies.

(a) The committee will not approve local agency projects where the applicant's share is less than fifty percent of the total project cost, with the remaining share of up to, but not exceeding, fifty percent federal funds, or state and federal funds, regardless of federal source. Unless a shorter period is authorized, local agencies must provide written assurance at least thirty days before the funding meeting during which any project is to be considered for funding assistance, that funds and/or resources are available to provide the required local share of the project.

(b) The local share may be state funds not administered by the committee, local impact/mitigation fees, local funds, certain federal funds, or the value of private donated property, equipment, equipment use, labor, or any combination thereof. Private donated real property or the value of that property must consist of real property (land and facilities) which would normally qualify for committee grant funding.

(2) State agencies. If federal matching money, regardless of federal source, is available, the state agency may be assisted by committee funds so as to achieve one hundred percent funding.

#### NEW SECTION

**WAC 286-40-040 Projects eligible for funding.** Only those acquisition and development costs eligible under the federal Land and Water Conservation Fund Act as specified in that program's manual will be eligible for consideration by the committee. However, from time to time the committee may decide as a matter of policy that certain project costs are ineligible irrespective of how those costs are treated under the Land and Water Conservation Fund Act.

#### NEW SECTION

**WAC 286-40-050 Acquisition projects—Deed of right, conversions, leases and easements.** For acquisition projects, sponsors must execute an instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

- (a) A legal description of the property acquired;
- (b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and

(c) A restriction on conversion of use of the land. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

- (a) Must be for at least fifty years unless precluded by state law;
- (b) May not be revocable at will;
- (c) Must have a value supported through standard appraisal techniques;
- (d) Must be paid for in lump sum at initiation;
- (e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

#### NEW SECTION

**WAC 286-40-060 Development projects—Conversion to other uses.** (1) Without prior approval of the committee, a facility developed with money granted by the committee shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:

(i) Is of reasonably equivalent recreation utility and location;

(ii) Will be administered by the same political jurisdiction as the converted development; and

(iii) Includes only elements eligible under the committee's program from which funds were originally allocated.

**WSR 94-13-197**

**PROPOSED RULES**

**DEPARTMENT OF**

**RETIREMENT SYSTEMS**

[Filed June 21, 1994, 4:55 p.m.]

Supplemental Notice to WSR 94-13-048.

Title of Rule: Location restricted compensation.

**Purpose:** To implement provisions of chapter 177, Laws of 1994, providing that certain types of standby pay constitute compensation earnable.

**Other Identifying Information:** This proposal supersedes the proposed rule filed with the original notice filed on June 7, 1994.

**Statutory Authority for Adoption:** RCW 41.50.050, 41.40.020.

**Statute Being Implemented:** RCW 41.40.010 (8) and (9) as amended by chapter 177, Laws of 1994.

**Summary:** The proposed rule clarifies what constitutes "standby status" under section 8, chapter 177, Laws of 1994.

**Reasons Supporting Proposal:** The supplemental proposal reflects input received on the original proposal from interested parties outside the agency.

**Name of Agency Personnel Responsible for Drafting:** Paul Neal, 1025 East Union Avenue, Olympia, 586-3368;

**Implementation and Enforcement:** Jack Bryant, 1025 East Union Avenue, Olympia, 753-3109.

**Name of Proponent:** Department of Retirement Systems, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** Proposed rule defines the terms "specific location" and "immediate vicinity" as used in chapter 177, Laws of 1994, for purposes of determining when pay for time not actually worked is reportable compensation earnable. The purpose of the rule is to provide guidance on when such payments should be reportable to the Department of Retirement Systems. The anticipated affect is to enable employers and employees to make correct determinations when deciding whether to report payments for time not actually worked.

Proposal does not change existing rules.

**Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW?** No. Proposed rule relates only to inclusion of public employee compensation for retirement purposes. Because no private businesses are public employees' retirement system employers, no private businesses are affected by the proposed rules.

**Hearing Location:** Department of Retirement Systems, Capital Plaza Building, 2nd Floor Boardroom, 1025 East Union Avenue, Olympia, WA 98504-8380, on July 27, 1994, at 3:00 - 5:00.

**Assistance for Persons with Disabilities:** Contact Paul Neal by July 20, 1994, TDD (206) 586-5450, or SCAN 321-5450.

**Submit Written Comments to:** Paul Neal, Department of Retirement Systems, FAX (206) 753-3166, by July 27, 1994.

**Date of Intended Adoption:** July 28, 1994.

June 21, 1994

Paul Neal

Rules Coordinator

(2) As used in RCW 41.40.010 (8)(a) and (b), this section and WAC 415-108-462, with regard to compensation that a member receives for time not actually worked:

(a) "Specific location" means a single, specific building, such as the job site or the employee's residence, designated by the employer where the employee must remain while earning payment for time not actually worked;

(b) "Immediate vicinity" means the property on which the specific location is located;

(c) "Location pay" means pay that an employee receives, not for time actually worked, but rather in consideration for being required to:

(i) Remain at, or in the immediate vicinity of, a specific location; and

(ii) Report immediately to work should the need arise, although the need may not arise.

Location pay is the pay earned by a member when he or she is in standby status, only as defined in RCW 41.40.010(8). Location pay is considered compensation earnable.

(3) Payment received by a member for time not actually worked is not considered location pay if the member is allowed to leave the immediate vicinity of a specific location and is required to report to work only after being notified by pager or other similar notification device.

(4) This section is effective August 1, 1994.

#### NEW SECTION

**WAC 415-108-462 Location restricted compensation—Employer policy.** (1) Payment received by a member for time not actually worked will only be considered location pay as defined in WAC 415-108-461 only if the employer adopts a written policy identifying location pay as earned:

(a) For time not actually worked; where

(b) The member is required to remain at a specific location or in the immediate vicinity of a specific location as defined in WAC 415-108-461; and

(c) The employer requires the employee to be prepared to report immediately to work if the need arises, although the need may not arise.

(2) If an employer does not adopt a policy as described in subsection (1) of this section, the department will presume that the employee is not restricted to a specific location or the immediate vicinity of a specific location and that any payment received for time not actually worked is not earnable compensation under RCW 41.40.010 (8)(a) or (b).

#### **WSR 94-13-208**

#### **WITHDRAWAL OF PROPOSED RULES HEALTH SERVICES COMMISSION**

[Filed June 22, 1994, 10:04 a.m.]

The Washington Health Services Commission hereby withdraws the proposed amendments to WAC 245-01-020 and the proposed new chapter in Title 245 WAC, titled Competitive oversight and antitrust immunity—Submission of petitions and requests for informal opinions, originally published for comment on March 1, 1994. These proposed rules have been replaced with a later submission of proposed rulemaking for the same subject.

#### NEW SECTION

#### **WAC 415-108-461 Location restricted compensation.**

(1) Payments made from employers to employees that are not pay for time actually worked are not compensation earnable under RCW 41.40.010 (8)(a) or (b) except as provided in those sections and further described in this section.

Randy Revelle  
Rules Coordinator

**WSR 94-13-210**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed June 22, 1994, 10:35 a.m.]

Original Notice.

Title of Rule: Allocation for instructional materials and technology related investments.

Purpose: To prescribe application, allowable expenditures, and funding process.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: Section 502(10), chapter 6, Laws of 1994 sp. sess.

Summary: See Purpose above.

Reasons Supporting Proposal: To implement appropriations.

Name of Agency Personnel Responsible for Drafting: Rick Wilson, Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-2298; Implementation: Thomas Case, Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-6708; and Enforcement: David Moberly, Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-6742.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not applicable.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504, on July 29, 1994, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Richard M. Wilson by July 28, 1994, TDD (206) 664-3631, or (206) 753-2298.

Submit Written Comments to: Thomas J. Case, P.O. Box 47200, Olympia, WA 98504-7200, FAX (206) 586-3946, by July 28, 1994.

Date of Intended Adoption: August 1, 1994.

June 20, 1994  
Judith A. Billings  
Superintendent of  
Public Instruction

**ALLOCATION FOR**  
**INSTRUCTIONAL MATERIALS AND**  
**TECHNOLOGY RELATED INVESTMENTS**

NEW SECTION

**WAC 392-140-540 1994-95 Allocation for instructional materials and technology related investments—Applicable provisions—Statutory authority.** WAC 392-140-540 through 392-140-559 apply to the application

process, distribution of moneys to school districts and reporting for instructional materials and technology related investments allocations pursuant to section 502(10), chapter 8, Laws of 1994 sp. sess. (the state Operating Appropriations Act).

NEW SECTION

**WAC 392-140-542 1994-95 Allocation for instructional materials and technology related investments—Definition—School district.** As used in WAC 392-140-540 through 392-140-559, "school district" means the same as defined in WAC 392-140-069.

NEW SECTION

**WAC 392-140-543 1994-95 Allocation for instructional materials and technology related investments—Definition—School year.** As used in WAC 392-140-540 through 392-140-559, "school year" means the same as defined in WAC 392-121-031.

NEW SECTION

**WAC 392-140-544 1994-95 Allocation for instructional materials and technology related investments—Definition—instructional materials.** As used in WAC 392-140-540 through 392-140-559, "instructional materials" means the same as defined in the *Accounting Manual for Public School Districts in the State of Washington* for expenditure object 6 in effect for the 1994-95 school year. In addition to the items listed in the accounting manual, instructional materials also include such items as video tapes, computer software, and computer-based media such as CD ROM disks, and video discs.

NEW SECTION

**WAC 392-140-545 1994-95 Allocation for instructional materials and technology related investments—Definition—Technology related investments.** As used in WAC 392-140-540 through 392-140-559, "technology related investments" means the purchase or upgrade of electronic and optical equipment that help students learn. Such equipment includes computers, CD ROM players, video disc players, electronic microscopes, CAD hardware, and associated wiring, cabling, servers, routers, modems, software, networks and other peripherals. Also included in technology related investments are expenditures incidental to the integration of technology related investments into the student learning process.

NEW SECTION

**WAC 392-140-548 1994-95 Allocation for instructional materials and technology related investments—Definition—School district application.** As used in WAC 392-140-540 through 392-140-559, "school district application" means an application for an allocation for instructional materials and technology related investments by a school district that:

- (1) Is in the format prescribed by SPI; and

(2) Assures that the conditions and limitations on expenditures prescribed in WAC 392-140-555 will be adhered to.

NEW SECTION

**WAC 392-140-549 1994-95 Allocation for instructional materials and technology related investments—Definition—Approved application.** As used in WAC 392-140-540 through 392-140-559, "approved application" means a school district's application approved by SPI. If an application contains the assurances stated in WAC 392-140-548 and is submitted to SPI not later than August 31, 1994, SPI will approve the application by September 30, 1994.

NEW SECTION

**WAC 392-140-551 1994-95 Allocation for instructional materials and technology related investments—Definition—Allocation enrollment.** As used in WAC 392-140-540 through 392-140-559, "allocation enrollment" means the school district's full-time equivalent students as defined in WAC 392-121-122 reported to SPI for October 1994 excluding enrollment in skills centers.

NEW SECTION

**WAC 392-140-552 1994-95 Allocation for instructional materials and technology related investments—Definition—Allocation rate.** As used in WAC 392-140-540 through 392-140-559, "allocation rate" means: An amount for allocation enrollment as defined in WAC 392-140-551 which is the lesser of:

- (1) \$20.61; or
- (2) The available appropriation for the 1994-95 school year less the amount for all skills centers divided by the total allocation enrollment in school districts with approved applications.

NEW SECTION

**WAC 392-140-553 1994-95 Allocation for instructional materials and technology related investments—Allocation of moneys.** SPI shall allocate for each school district that has an approved application the sum of forty thousand dollars for a skills center, if the district has a skills center, plus the allocation rate multiplied by the allocation enrollment. The school district shall submit claims pursuant to WAC 392-140-557 to receive payment of its allocation.

NEW SECTION

**WAC 392-140-555 1994-95 Allocation for instructional materials and technology related investments—Conditions and limitations on expenditures.** Expenditure of moneys by school districts allocated pursuant to WAC 392-140-540 through 392-140-559 is subject to the following conditions and limitations:

- (1) Allocated moneys shall be expended as determined at each school by the school building staff, parents, and community where site-based decision-making has been adopted or, where not adopted, by the building staff including itinerant teachers.

(2) Expenditures for technology investments by a school shall, to the greatest extent possible, be consistent with the district's technology plan.

(3) Shall be for instructional materials and technology related investments as defined in WAC 392-140-544 and 392-140-545.

(4) Allocated moneys shall not be expended for indirect costs.

(5) Allocated moneys shall be expended during the period of September 1, 1994, through June 30, 1995.

(6) School districts shall account for expenditures in program 58, Special and Pilot Programs, State.

(7) School districts shall report to SPI as provided in WAC 392-140-557.

NEW SECTION

**WAC 392-140-557 1994-95 Allocation for instructional materials and technology related investments—School district reporting.** School districts shall submit claims for instructional materials and technology related investments to SPI prior to June 15, 1995, on the form prescribed by SPI. Claims shall be submitted after the expenditures being claimed are incurred, except that expenditures occurring during the month of June 1995 are to be claimed in June 1995 prior to June 15. Any claims received by SPI after 5:00 p.m. June 15, 1995, shall not be reimbursed.

NEW SECTION

**WAC 392-140-559 1994-95 Allocation for instructional materials and technology related investments—Recovery of unexpected grants.** Each school district claiming expenditures for the month of June 1995 shall notify SPI in writing prior to August 1, 1995, if the actual expenditures for June 1995 were less than the expenditures reported for June 1995 pursuant to WAC 392-140-557. The superintendent of public instruction shall compare each school district's total reimbursement for instructional materials and technology related investments made pursuant to WAC 392-140-553 and its direct expenditures reported pursuant to WAC 392-140-557 and this section. If the reimbursement exceeds expenditures, the difference shall be recovered.

**WSR 94-13-217**

**PROPOSED RULES**

**INSURANCE COMMISSIONER'S OFFICE**

[Filed June 22, 1994, 11:52 a.m.]

Continuance of WSR 94-09-050.

Title of Rule: Long-term care.

Other Identifying Information: Insurance Commissioner Matter No. R 94-10.

Date of Intended Adoption: June 29, 1994.

June 22, 1994

Bethany Weidner

Deputy Insurance Commissioner

for Deborah Senn

Insurance Commissioner

PROPOSED



**WSR 94-13-006**  
**PERMANENT RULES**  
**INSURANCE COMMISSIONER**

[Filed June 2, 1994, 10:47 a.m.]

Date of Adoption: June 2, 1994.

Purpose: Amend limits of liability of the Midwife Joint Underwriting Association to conform to 1994 amendments to RCW 48.87.050.

Citation of Existing Rules Affected by this Order: Amending WAC 284-87-040, 284-87-090, and 284-87-100.

Statutory Authority for Adoption: RCW 48.02.060, 48.87.100, 48.87.050.

Pursuant to notice filed as WSR 94-09-049 on April 20, 1994.

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

June 2, 1994

Bethany Weidner

Deputy Commissioner

**AMENDATORY SECTION** (Amending Order R 93-18, filed 12/30/93, effective 1/30/94)

**WAC 284-87-040 Activation of association.** (1) If the commissioner finds that any licensee is not reasonably able to obtain midwifery or birthing center malpractice insurance with liability limits of at least one million dollars per ((individual)) claim and three million dollars per ((occurrence)) annual aggregate, or such other minimum level of mandated coverage as determined by the department of health, from the voluntary insurance market, the commissioner may notify the association of such finding and direct that its board promptly convene and submit its plan of operation and bylaws to the commissioner for approval. Such plan shall include its evaluation and report relative to the feasibility of a market assistance plan to be conducted by the association as a voluntary program, or a plan to be conducted pursuant to the authority given to the commissioner by RCW 48.22.050. Pursuant to RCW 48.87.030, a MAP shall be used prior to activating a joint underwriting association.

(2) If the use of a MAP is unsuccessful, the commissioner may instruct the board to activate the authority of the association and commence writing midwifery and birthing center malpractice insurance, in accordance with this chapter.

**AMENDATORY SECTION** (Amending Order R 93-18, filed 12/30/93, effective 1/30/94)

**WAC 284-87-090 Eligibility of licensees for coverage.** Any licensee that is unable to obtain midwifery or birthing center insurance with liability limits of at least one million dollars per ((individual)) claim and three million dollars per ((occurrence)) annual aggregate, or such other minimum level of mandated coverage as determined by the department of health, from the voluntary insurance market or from any market assistance plan organized pursuant to RCW 48.22.050, is eligible to apply for coverage through the association. The association's service insurer shall promptly process such application and, if the licensee is judged to be an acceptable insurable risk, offer coverage to the licensee. In view of the purpose of chapter 48.87 RCW, every licensee will be presumed to be an acceptable insurable risk for the association. To refuse coverage to any licensee

meeting the other eligibility requirements of this section, the association must have the prior written approval of the commissioner. The commissioner will grant such approval only if the association demonstrates that extraordinary circumstances justify refusing coverage to such individual licensee.

**AMENDATORY SECTION** (Amending Order R 93-18, filed 12/30/93, effective 1/30/94)

**WAC 284-87-100 Standard policy coverage—Premiums.** (1) All policies issued by the association shall have liability limits of at least one million dollars per ((individual)) claim and three million dollars per ((occurrence)) annual aggregate, or such other minimum level of mandated coverage as determined by the department of health, and shall be issued for a term of one year.

(2) Premiums shall be based on the association's rate filings approved by the commissioner in accordance with chapter 48.19 RCW. Such rate filings shall provide for modification of rates for licensees according to the type, size, and past loss experience of each licensee, and any other differences among licensees that can be demonstrated to have a probable effect upon losses.

(3) Consistent with the nonprofit character of the association, rates for policies issued by the association shall be set so that the expected profit (that is, premiums plus investment income minus the sum of expenses and losses) is zero.

(4) The association is exempt from the requirements of WAC 284-24-065.

**WSR 94-13-012**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

[Filed June 2, 1994, 4:44 p.m.]

Date of Adoption: February 11, 1994.

Purpose: To implement provisions of HB 1379, chapter 307, Laws of 1993.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-91-070; amending WAC 308-91-030, 308-91-040, 308-91-050, 308-91-060, 308-91-090, and 308-91-150.

Statutory Authority for Adoption: RCW 46.87.010(2).

Pursuant to notice filed as WSR 94-02-025 on December 28, 1993.

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

May 31, 1994

Kathy Friedt

Director

**AMENDATORY SECTION** (Amending WSR 91-06-093, filed 3/6/91, effective 4/6/91)

**WAC 308-91-030 Definitions.** The definitions set forth below, and in chapters 46.04, 46.85, and 46.87 RCW, apply throughout this chapter.

(1) "Backing plate" means a license plate which is designed for displaying validation decals, stickers or tabs issued by jurisdictions of the compact in which the vehicle displaying the plate is proportionally registered.

(2) "Base jurisdiction," under provisions of the compact, means the jurisdiction in which the owner has "properly registered" vehicle(s) of a fleet as defined in RCW 46.87.020(14).

(3) "Base plate" means the vehicle license plate assigned to a vehicle by the base jurisdiction. Under the provisions of the IRP, this would be an "apportioned plate."

(4) "Bus" (BS) means every motor vehicle designed for carrying more than five passengers and the driver and used primarily for the transportation of people.

(5) "Combination of vehicles" means a power unit used in combination with trailer(s), semitrailer(s) and/or converter gear.

(6) "Compact" means the uniform vehicle registration proration and reciprocity agreement.

(7) "Converter gear" (CG) means an auxiliary under carriage assembly with the fifth wheel and tow bar, used to convert a semitrailer to a full trailer.

(8) "Department" means the department of licensing, state of Washington.

(9) "Double bottom" (DB) means two full trailer(s)/ semitrailer(s) used in a combination of vehicles.

(10) "Dump truck" (DT) means a truck whose contents are unloaded by tilting the truck bed backward with the tailgate open.

(11) "Full trailer" (FT) means every vehicle without motive power, designed for carrying persons or property, drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(12) "Interstate operation" means vehicle movement between or through two or more jurisdictions.

(13) "Intrastate operation" means vehicle movement within a single jurisdiction, from one point within that jurisdiction to another point within the same jurisdiction.

(14) "Latest purchase cost or price" means the actual purchase cost or price, if reasonable, for a vehicle paid by the current owner, including the value of any trade-in or other valuable considerations, cost of accessories and modifications but excluding taxes, transportation or shipping costs, and preparatory or delivery costs. Reasonable purchase cost is considered to be the value of the vehicle as determined from guide books, reports or compendiums of value recognized in the automotive industry. All values are to be expressed in United States dollars.

(15) "Lessee" means a person, firm or corporation which has legal possession and control of a vehicle owned by another under the terms of a lease agreement.

(16) "Lessor" means a person, firm or corporation which, under the terms of a lease, grants the legal right of possession, control of and responsibility for the operation of the vehicle to another person, firm or corporation.

(17) "Mileage experience year," ~~((means the period of time between July 1st and June 30th of the year immediately preceding the year in which application for registration is made.))~~ See "preceding year."

(18) "Owner-operator" means an equipment lessor who leases their vehicular equipment with driver to a carrier.

(19) "Preceding year" means the period of twelve consecutive months ~~((immediately prior to July 1st of the year immediately preceding the commencement))~~ ending on the last full calendar quarter, at least four months before the

beginning of the registration ~~((calendar))~~ year for which registration is sought.

(20) "Reciprocity jurisdiction" means a jurisdiction with which the state of Washington extends full vehicle license reciprocity because of an agreement, arrangement, declaration or mirror reciprocity as provided for in RCW 46.85.080.

(21) "Road tractor" (RT) means every motor vehicle designed without a fifth wheel and used for drawing other vehicles by use of a ball hitch and so constructed as to carry part of the weight of a vehicle or load so drawn (commonly referred to as a mobile home toter).

(22) "Semitrailer" (ST) means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(23) "Tractor" (TR) means every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(24) "Trailer" refers to a full trailer, semitrailer, pole trailer, or utility trailer.

(25) "Trip lease" means a lease of vehicular equipment to a common or contract carrier (lessee) for a single movement by either (a) another common or contract carrier for transportation in the direction of a point which the lessor carrier is authorized to serve, or (b) a carrier of exempt commodities, as defined in the interstate commerce act, for transportation in the general direction of the general area in which the vehicle is based. The term may also include a similar movement intrastate where such movement is authorized under the laws of the jurisdiction.

(26) "Truck" (TK) means every motor vehicle designed, used or maintained primarily for the transportation of property (the maximum gross weight for solo trucks with three axles is 40,000 pounds).

(27) "Truck tractor" (TT) means every motor vehicle designed and used primarily for drawing other vehicles but so constructed as to carry a load thereon in addition to a part of the weight of the vehicle and load so drawn (dromedary).

(28) "Utility trailer" means any full trailer or semitrailer constructed and used solely for the purpose of carrying property and not to exceed a gross weight of 6,000 pounds.

(29) "Washington fee/tax receipt" is a receipt issued to foreign based IRP vehicles for which Washington must calculate and collect Washington fee/taxes. The receipt is issued upon payment of the Washington fee/taxes due on the vehicle. The receipt is proof of payment of Washington fee/taxes and must be carried with the vehicle while being operated in Washington.

**AMENDATORY SECTION** (Amending WSR 90-16-072, filed 7/30/90, effective 9/1/90)

**WAC 308-91-040 General provisions.** (1) Fleet composition. Carriers may separate their ~~((commercial or))~~ apportionable vehicles into two or more fleets ~~((if such divisions are consistent with their operational practices, by reason of equipment design, or restrictions imposed by member jurisdictions))~~. Fleets will consist of either motor or nonmotor vehicles but not a mixture of both.

(2) Records substantiating the latest purchase cost or price and year of purchase of each vehicle in the fleet must be retained for the period specified in RCW 46.87.310 and made available to the department upon request.

(3) Filing and compliance dates. Proportional registration (~~(annual)~~) renewal applications must be filed with the prorate section of the department (~~(on or before December 1 of the year)~~) no later than two months immediately preceding the year in which proportional registration is sought to insure timely issuance of identification for the new registration year. No temporary operating authority will be issued for renewal vehicles if the renewal application is received by the department after the filing deadline indicated above ((date)). Washington proportional registrations expire at midnight, (~~(December 31st of each registration year; however, vehicles undergoing renewal processing and for which renewal fees and taxes have been received by the department prior to the beginning of the registration year, will have until March 1st of such registration year to display current year prorate credentials. During the first two months of the registration year, such vehicles will display the credentials issued for the previous registration year)~~) on the expiration date indicated on the cab card.

(4) Proportional registration credentials. Washington prorate credentials consist of a cab card, which describes the vehicle and period for which the vehicle has been proportionally registered, and a prorate backing plate upon which is affixed ((a)) current prorate validation tabs. If the vehicle described on the cab card is Washington based, apportioned license plates, with current validation tabs affixed, will be issued in lieu of the backing plate. If the vehicle is operating under the IRP, the cab card (~~(must)~~) will show the jurisdiction(s) and gross weight for which the vehicle is registered. The cab card is to be carried in or on the vehicle to which it has been issued, or in the case of a trailing unit, it may be carried in or on the power unit of the combination. Photocopies or other facsimiles of the cab card are invalid. The cab card or the Washington fee/tax receipt issued by the department, or the IRP base jurisdiction's cab card, are the only acceptable evidence of proportional registration in this state, unless the receipt required by WAC 308-91-170 is required to accompany the base jurisdiction's cab card. The prorate backing plate, if applicable, is mounted on the front of a power unit (~~(and on the rear of a trailing unit. The validation tab shall be affixed to the upper left hand corner square of the prorate backing plate or the space designated on the apportioned plate if applicable)~~).

(5) Transfer of proportional registration credentials. Washington proportional registration credentials cannot be transferred from one vehicle to another vehicle or from one fleet to another fleet.

(6) Surrender of proportional registration credentials. Upon termination of proportional registration or deletion of a vehicle from a fleet, prorate credentials will be disposed of as follows:

(a) Vehicle based in Washington. The cab card and apportioned plate(s) with current validation tabs attached must be returned to the prorate section of the department. If vehicle is being deleted from the fleet, credentials must accompany the application effecting the deletion.

(b) Vehicle registered under provisions of the compact and based in another jurisdiction. Only the Washington cab

card is returned to the prorate section. The prorate backing plate with validation tab attached must be returned to the prorate unit of the base jurisdiction licensing agency. If vehicle is being deleted from the fleet, cab card must accompany the application effecting the deletion. The end of year (~~((December 31st))~~) deletion of a vehicle listed on the renewal application need not be accompanied by the identification issued to such vehicle.

(c) Vehicles based in IRP jurisdictions. Upon termination of proportional registration or deletion of a vehicle from a fleet, the credentials must be returned to the base jurisdiction.

AMENDATORY SECTION (Amending WSR 90-16-072, filed 7/30/90, effective 9/1/90)

**WAC 308-91-050 Applications for proportional registration.** (1) Applicants desiring proportional registration in this state must make application to the prorate section of the department in the manner and upon the forms prescribed. Forms will be made available by the department. Washington based carriers desiring registration in other IRP jurisdictions must indicate on their applications the jurisdictions in which the fleet is (is to be) registered, list vehicles by gross weight groups and indicate within each gross weight group the gross weight each vehicle of the group is to be registered for in each jurisdiction listed. Motor vehicles and nonmotor vehicles must be in separate fleets. Incorrect, illegible, or incomplete applications will be returned without action.

(2) Registration options for owner-operators who lease their vehicles(s) with driver(s) to motor carriers are as follows:

(a) The owner-operator may be the registrant. The vehicle(s) will be titled and registered in the owner-operator's name. The registration will show the name of the owner-operator followed by the name of the carrier to whom the vehicle(s) and driver(s) are leased for operations. The owner-operator will be responsible for registration of such vehicles(s), and establishing and maintaining records required of proportionally registered fleets.

(b) The carrier (lessee) may be the registrant. The vehicle(s) will be titled and registered in the names of both the carrier as lessee and the owner-operator as lessor. The carrier will be responsible for registration of such vehicle(s), and establishing and maintaining records required of proportionally registered fleets.

(3) The application for any fleet shall bear the same applicant's name, or be identified therewith, for each jurisdiction in which proportional registration is sought for such fleet.

(4) After an original or renewal proportional registration application has been filed with this state for a fleet, vehicles can only be added or deleted, or changes made in registered/combined gross vehicle weight, by filing a proration registration application supplement - Schedule "A & C" in the manner prescribed.

(5) In circumstances where immediate operation of vehicles being added to the fleet is essential, a temporary letter of authority may be requested by the applicant for such vehicles, pending processing of the application and issuance of prorate credentials by the department, provided that:

(a) Licensing fees and taxes have been paid in full for the fleet's original Washington proportional registration application; and

(b) The proportional registration renewal application or supplement - Schedule "A & C" adding such vehicles to the proportionally registered fleet is acceptable and on file in the prorate section of the department; and

(c) The applicant's proportional registration account is considered to be in good standing and on active status.

(6) The temporary letter of authority will permit operation of the vehicles listed thereon, in jurisdictions and at gross weights indicated, for a period of time to be determined by the department but not longer than two months from the effective date of the letter. The temporary letter of authority will be issued by one of the following means as requested by the applicant:

(a) Mail;

(b) ~~((Collect)) Facsimile ((or other electronic)) transmission ((for which the requestor pays the transmission and handling fees));~~

(c) Over the counter.

**AMENDATORY SECTION** (Amending WSR 90-16-072, filed 7/30/90, effective 9/1/90)

**WAC 308-91-060 Mileage and prorate percentage.**

(1) Vehicles developing mileage experience must travel in two or more jurisdictions during the mileage experience or registration year. The mileage reported must be the actual miles accumulated by only those vehicles that were part of the proportionally registered fleet during the mileage experience year. If a vehicle was part of the proportionally registered fleet for only a part of the mileage experience year, then only the miles accumulated by this vehicle during the time it was a part of the fleet are to be included in the mileage experience year. If a carrier has more than one prorate fleet, a separate mileage report must be kept for each fleet.

(2) Vehicles operating only intrastate during the registration year are not eligible for proportional registration and cannot be considered as part of a prorate fleet. Mileage accumulated by such vehicles cannot be included in the mileage experience year of any prorate fleet.

(3) Estimated mileage:

(a) New fleets will estimate their mileage for the first year of operation ~~((If operations began prior to June of the first year of operation, the actual mileage accumulated by the fleet during the preceding year will be utilized in calculating the prorate percentage for the second year of operation. If operations began during the month of June or later in the first year, mileage will be estimated for the second year of operation))~~, however, if actual operation was conducted for at least three months prior to the date of application, actual mileage will be used in calculating the prorate percentage.

(b) When a carrier wants to expand operations of a fleet into a new jurisdiction(s), mileage will be estimated for such jurisdiction(s) as indicated for new fleets in (a) of this subsection. Because the prorate percentage of the fleet is based on the actual mileage accumulated by the fleet during the preceding year, the prorate percentage for the new jurisdiction(s) will be above that calculated for the original

jurisdictions in which the fleet operated during the preceding year.

(c) If a fleet fails to accumulate mileage during the preceding year in a jurisdiction(s) in which the fleet was registered and they desire to register the fleet in such jurisdiction(s) the following year, mileage will be estimated for such jurisdiction(s) as indicated for new jurisdictions in (b) of this subsection.

(4) Mileage computation.

(a) Applications containing power units only: Use miles of prorate fleet power units only.

(b) Applications containing trailing units only: Use either the mileage traveled by the trailers of the fleet or use the mileage traveled by the motor vehicles while used in combination with the trailers of the fleet. In instances where the use of mileage accumulated by the trailer fleet is impractical, see alternate measures provided under the provisions of RCW 46.87.120(3).

(5) The prorate section of the department will not accept any original or renewal prorate applications which contains one or more of the following:

(a) Estimated mileage that does not realistically reflect proposed operations.

(b) Estimated mileage on renewal applications ~~((unless operations began so late in the previous registration year (June or later), that an actual mileage experience year is not yet available))~~.

(c) Mileage data, other than estimated mileage, expressed in rounded-off numbers on renewal applications.

(d) Identical mileage data reported for consecutive registration years for the same fleet ~~((except when mileage is estimated))~~.

(6) To compute the prorate percentages, divide the miles for each jurisdiction by the total fleet miles. The results are to be computed to the fourth decimal of the percent and rounded up to the third decimal. Express the percent in two digits before the decimal and three digits after the decimal. The Washington prorate percentage established on an original or renewal application will remain in effect for all supplemental applications filed during the registration year unless adjusted by audit or under the provisions of RCW 46.87.120.

**AMENDATORY SECTION** (Amending WSR 91-06-093, filed 3/6/91, effective 4/6/91)

**WAC 308-91-090 Leased and rented vehicles.** (1)

The registration of leased or rental vehicles will be conducted under either the provisions of chapter 46.16 RCW or under the provisions, currently identified as article XI—registration of rental vehicles, of the international registration plan (IRP) as now written or hereafter amended. Rental or leased vehicles under this section include: Trucks, tractors, and truck-tractors; trucks of one-way fleets (less than 26,000 pounds gross weight); trailers and semitrailers (exceeding 6,000 pounds gross weight), utility trailers (not exceeding 6,000 pounds gross weight), and passenger cars (for the purpose of these rules, motorhomes and travel trailers are treated the same as passenger cars). In addition to the certificate of registration (cab card) or a photocopy thereof, a copy of the rental/lease agreement must be carried in the rental/leased vehicle or if it is a nonpowered vehicle, the

vehicle providing the motive power for the combination. Refer to WAC 308-91-030 for the definition of terms used in this section.

(2) Owners of rental vehicles engaged in the business of renting passenger cars in this state may ~~((register such vehicles each calendar year))~~ request the approval of the department to apportion the registrations of the rental fleet under the provisions of the IRP by making application to the department ((on or before December 1st of the year immediately preceding the desired year of registration)) at least thirty days prior to the start of each calendar year. Applications will be submitted on forms furnished by the department.

(a) To determine the percentage of total fleet vehicles that shall be registered in this state, divide the gross revenue received in the preceding year for use of such rental vehicles arising from passenger car rental transactions occurring in this state by the gross revenue received in the preceding year for the use of such rental vehicles arising from passenger car rental transactions occurring in all jurisdictions in which such vehicles were operated (the rental transaction location is deemed to be where the vehicle first comes into possession of the user). The resulting percentage shall be applied to the total number of passenger cars in the fleet and that figure shall be the minimum number of rental passenger cars that shall be fully licensed in the state of Washington during the ~~((registration-))~~ calendar ~~((s))~~ year. ~~((The vehicles to be fully licensed in this state shall consist of a mix of vehicles by age and value which is representative of all vehicles in the fleet. To facilitate the mix of values, three value classes have been established based upon the latest purchase price of the vehicles. Class I will include all vehicles with a latest purchase price of less than ten thousand dollars; Class II will include vehicles with a latest purchase price of ten to twenty thousand dollars inclusive; Class III will include all vehicles with a latest purchase price above twenty thousand dollars.~~

~~(b) A license inventory report will be filed with the department each year for which proportional registration of the rental fleet has been granted. This report will be due on or before March 1st of the year immediately following the registration year being reported. This report will list all rental cars registered in Washington during the previous registration year and will, as a minimum, contain the following information:~~

- ~~(i) Model year;~~
- ~~(ii) Make;~~
- ~~(iii) Model;~~
- ~~(iv) Equipment or unit number;~~
- ~~(v) Washington license plate number;~~
- ~~(vi) Vehicle identification number (VIN);~~
- ~~(vii) Latest purchase cost;~~
- ~~(viii) Latest purchase date.~~

~~The report will be separated into three parts to reflect the three value classes outlined in (a) of this subsection.))~~

(3) Owners of rental vehicles engaged in the business of renting passenger cars in this state who do not make application under the provisions of subsection (2) of this section or comply with the requirements of subsection (2) of this section must register all such vehicles under the provisions of chapter 46.16 RCW.

(4) In the absence of an agreement or arrangement to the contrary, rental or leased vehicles are not eligible for

vehicle license reciprocity in the state of Washington except for the classes of vehicles and circumstances indicated below:

(a) Passenger cars and motorhomes currently and properly registered in another jurisdiction will be granted vehicle license reciprocity in this state if:

(i) The vehicle was rented by the vehicle operator from a location outside of the state of Washington; or

(ii) The vehicle was dropped off in Washington by the previous renter and is being rented for a one-way trip out of Washington.

(b) Trailers and semitrailers with a gross vehicle weight in excess of 6,000 pounds, trucks, truck tractors, tractors, and road tractors that are currently and properly registered in other jurisdictions will be granted vehicle license reciprocity in this state if:

(i) The vehicle is rented from a location within another jurisdiction; and

(ii) The vehicle registration certificate (cab card) or a photo copy thereof and a copy of the rental agreement is carried in the rental vehicle or in the vehicle providing the motive power for a combination of vehicles.

(5) Normally the lessee of a vehicle is responsible for its licensing under proportional registration subject to the following exceptions:

(a) Household goods carriers, wherein the agent is the lessor and the company is the lessee, may file and register as dual applicants. Under this procedure, the lessor's fleet is prorated in its name and cab cards are issued in the name of both the lessor and lessee. The application is based on the lessor's vehicles and the mileage accumulated by the lessor under its name and that of the lessee. The application should be filed in the name of the lessee and the lessor. For equipment owned and operated by owner-operators, other than service representatives, and used exclusively to transport cargo for the household goods carrier, the vehicle shall be registered by the carrier in the base jurisdiction of the carrier, but in both the owner-operator's name and that of the carrier as lessee, with the apportionment of fees according to the records of the carrier.

(b) Optional for rental vehicles referred to in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 91-06-093, filed 3/6/91, effective 4/6/91)

**WAC 308-91-150 Form of payment required—Dishonored checks.** (1) ~~((An))~~ For accounts registered less than five years, original or renewal application assessments for proportional registration fees/taxes due the state of Washington shall be paid in United States funds via cash, cashier's check, certified check, traveler's check, or money order. All other assessments may be paid by company or personal checks unless guaranteed payment is specifically required by the department.

(2) Any registrant who tenders ~~((two or more))~~ a check ~~((s))~~ that ~~((are))~~ is subsequently dishonored by the bank or other financial institution upon whom ~~((they were))~~ it was drawn, ~~((in any twelve continuous month period;))~~ may be required to tender all subsequent payments in person by cash or by cashier's check, certified check, traveler's check, or money order.

(3) A handling fee in the amount of fifteen dollars shall be assessed the drawer for each check dishonored by the bank or other financial institution upon whom it was drawn and interest on the amount of each check shall accrue from the date of dishonor at the rate of twelve percent per annum. The interest and handling fee shall be deposited into the highway safety fund.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-91-070 Quarterly licensing for proportionally registered vehicles.

**WSR 94-13-014  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-46—Filed June 3, 1994, 8:23 a.m.]

Date of Adoption: May 31, 1994.

Purpose: Amend commercial fishing seasons.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-36-021, 220-36-023, and 220-40-021.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 94-09-070 on April 20, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-40-027 in filing continued for additional testimony.

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

May 31, 1994

Judith Freeman

Deputy

for Robert Turner

Director

**AMENDATORY SECTION** (Amending Order 90-77, filed 8/24/90, effective 9/24/90)

**WAC 220-36-021 Salmon—Grays Harbor—Summer fishery.** From July 5 through August 15 of ~~((each year))~~ 1994, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes ~~((except that:~~

**Fishing period**

~~(1) Gill net gear may be used to fish for salmon from 6:00 p.m. July 5 to 6:00 p.m. August 15 in (a) SMCRA 2B; (b) that portion of SMCRA 2C south of a line true east west through the northernmost tip of Goose Island, and west of a line true north south through the southernmost tip of Goose Island; and (c) that portion of SMCRA 2D south of a line true east west through light "35" (flashing green) near Moon Island, and west of a line from light "35" to the mouth of O'Leary Creek.~~

**Gear**

~~(2) Gill net gear shall be used as provided in WAC 220-36-015, except there is no maximum mesh size.~~

**General**

~~(3) Notwithstanding WAC 220-36-031, from 6:00 p.m. July 5 to 11:59 p.m. July 31 all white sturgeon must be released immediately and returned to the water).~~

**AMENDATORY SECTION** (Amending Order 93-54, filed 6/29/93, effective 7/30/93)

**WAC 220-36-023 Grays Harbor salmon—Fall fishery.** From August 16 through December 31 of ~~((each year))~~ 1994, it is unlawful to fish for salmon in Grays Harbor for commercial purposes ~~((or to possess salmon taken from those waters for commercial purposes, except that:~~

**Fishing period**

~~(1) Gill net gear may be used to fish for salmon from:~~

~~(a) 6:00 p.m. September 7 to 6:00 p.m. September 9, 6:00 p.m. September 12 to 6:00 p.m. September 16, and 6:00 p.m. September 19 to 6:00 p.m. September 23, 1993, in SMCRA 2C;~~

~~(b) 6:00 p.m. October 4 to 6:00 p.m. October 6, 1993, in SMCRA 2B, 2C and 2D.~~

**Gear**

~~(2) Gill net gear shall be used as provided in WAC 220-36-015 except: August 9 through September 23, 9 inch maximum mesh).~~

**AMENDATORY SECTION** (Amending Order 90-77, filed 8/24/90, effective 9/24/90)

**WAC 220-40-021 Willapa Bay salmon—Summer fishery.** From July 5 through August 15 of ~~((each year))~~ 1994, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes ~~((except that:~~

**Fishing period**

~~(1) Gill net gear may be used to fish for salmon from 6:00 p.m. July 5 to 6:00 p.m. August 15 in: (a) That portion of SMCRA 2G east of a line drawn true north south through Willapa Channel Entrance Buoy 10; and (b) that portion of SMCRA 2H west of Willapa Channel Marker 35.~~

**Gear**

~~(2) Gill net gear shall be used as provided in WAC 220-40-015, except there is no maximum mesh size.~~

**General**

~~(3) Notwithstanding WAC 220-40-031, from 6:00 p.m. July 5 to 11:59 p.m. July 31 all white sturgeon must be released immediately and returned to the water).~~

**WSR 94-13-017  
PERMANENT RULES  
STATE BOARD OF EDUCATION**

[Filed June 3, 1994, 10:54 a.m.]

Date of Adoption: May 20, 1994.

Purpose: To delay the implementation of the new lower uniform rate of conversion for converting college and

PERMANENT

university course work to high school credits until September 1, 1995, for all students.

Citation of Existing Rules Affected by this Order:  
Amending WAC 180-51-050.

Statutory Authority for Adoption: RCW 28A.230.090(1) and 28A.305.130 (8) and (9).

Pursuant to notice filed as WSR 94-08-067 on April 4, 1994.

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

June 2, 1994

Dr. Monica Schmidt

Executive Director/Secretary

**AMENDATORY SECTION** (Amending Order 1-94, filed 1/19/94, effective 9/1/94)

**WAC 180-51-050 High school credit—Definition.** As used in this chapter the term "high school credit" shall mean:

(1) Grades nine through twelve high school programs. One hundred fifty hours of planned in-school instruction;

(2) College and university course work. At the college or university level, except for community college adult high school completion programs, five quarter or three semester hours shall equal .75 high school credit: *Provided*, That five quarter or three semester hours shall continue to equal one high school credit ~~((in the case of high school students who qualify as eleventh or twelfth grade students as of the 1993-94 school year and who commence college or university course work during such school year for the purpose in whole or part of earning high school credit))~~ until September 1, 1995; and

(3) Community college adult high school completion program. Five quarter or three semester hours of community college work shall equal 1.0 high school credit for students in the community college high school completion program.

**WSR 94-13-018**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Filed June 3, 1994, 10:55 a.m.]

Date of Adoption: May 20, 1994.

Purpose: To implement procedural changes in regional committee member elections that result from revisions to chapter 416, Laws of 1993 as mandated by the legislature.

Citation of Existing Rules Affected by this Order:  
Amending WAC 180-24-310, 180-24-312, 180-24-315, 180-24-320, 180-24-325, and 180-24-355.

Statutory Authority for Adoption: RCW 28A.305.130(10) and 28A.315.010(1).

Other Authority: Chapter 416, Laws of 1993.

Pursuant to notice filed as WSR 94-08-103 on April 6, 1994.

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

June 2, 1994

Dr. Monica Schmidt

Executive Director/Secretary

**AMENDATORY SECTION** (Amending Order 1-87, filed 2/4/87)

**WAC 180-24-310 Election of regional committee members—~~(Annual)~~ Dissolution—Position numbers—Initial elections—Regular elections—Terms of office.**

Elections for members of regional committees shall be conducted ~~((annually))~~ within the time periods noted in WAC 180-24-312 through 180-24-380. ~~((Following the election of the initial regional committees in 1985, the regular annual election of regional committee members for five-year terms shall be conducted for the following positions in the years specified and every five years thereafter: 1986, position number five; 1987, positions number four and nine; 1988, positions number three and eight; 1989, positions number two and seven; and, 1990, positions number one and six.))~~ The term of office of each regional committee member and position shall expire as of the second Monday of January 1995. Each regional committee member position shall therefore be open for election purposes in 1994. Regional committee member position numbers shall be assigned by the educational service district superintendent for purposes of all elections held pursuant to RCW 28A.315.060. For the initial election conducted pursuant to RCW 28A.315.030 and the election of a new regional committee following a change in the number of educational service districts or board members, regional committee member positions one, three, five, seven, and nine shall be for a term of two years, positions two, four, six, and eight shall be for a term of four years. Following the initial election, regular elections of regional committee members shall be conducted in subsequent even-numbered years for four-year terms and until their successors are certified as elected: *Provided*, That whenever a change in the number of educational service districts or board members occurs, a new regional committee shall be elected for each affected educational service district at the next regular election. Those regional committee members serving within an educational service district affected by the change shall continue to constitute the regional committee for the educational service district within which they are registered to vote until the majority of a new regional committee has been elected and certified at the next regular election.

**AMENDATORY SECTION** (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-24-312 Election of regional committee members—Tentative certification of electors.** On September twenty-first of each even-numbered year or if such date is a Saturday, Sunday, or holiday the state working day immediately preceding such date, the educational service district superintendent shall certify a tentative list of electors consisting of all persons eligible to vote, per RCW 28A.315.060, if the election were held on that date.

**AMENDATORY SECTION** (Amending Order 1-87, filed 2/4/87)

**WAC 180-24-315 Election of regional committee members—Call for election—Regional committee members.** On or before September twenty-fifth of each even-numbered year, the educational service district superintendent

shall call for an election for the purpose of electing members of the regional committee for those positions whose term of office expires in January of the following year. Such notice shall be sent to each eligible voter and shall contain instructions and a copy of the pertinent rules and regulations for the conduct of the election.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-24-320 Election of regional committee members—Candidates—Eligibility—Filing.** (1) Eligibility. A person is eligible to be a candidate for membership on the regional committee if he or she is a registered voter and a resident of the committee member district for which the candidate files. Eligibility, due to other service, is restricted pursuant to RCW 28A.315.050.

(2) Forms for filing. A person who desires to be a candidate shall complete:

(a) The declaration of candidacy and affidavit form provided for in WAC 180-24-325; and

(b) The biographical data form provided for in WAC 180-24-327: *Provided*, That a declarant may elect not to submit biographical data.

(3) Filing period. The filing period for candidates for a position on a regional committee is from October first through October fifteenth of each even-numbered year. Any declaration of candidacy that is not received by the educational service district superintendent on or before 5:00 p.m. October fifteenth shall not be accepted and such a declarant shall not be a candidate: *Provided*, That any declaration that is postmarked on or before midnight October fifteenth and received by mail on or before 5:00 p.m. October twentieth shall be accepted: *Provided further*, That any declaration received pursuant to the United States mail on or before 5:00 p.m. October twentieth that is not postmarked or legibly postmarked shall also be accepted.

AMENDATORY SECTION (Amending Order 1-87, filed 2/4/87)

**WAC 180-24-325 Election of regional committee members—Declaration and affidavit of candidacy form.** The declaration and affidavit of candidacy which each candidate is required to substantially complete and to file as a condition to having his or her name placed on an official ballot shall be as follows:

I, . . . . ., solemnly swear (or affirm): That I reside within the boundary of Educational Service District No. . . . , within the boundary of regional committee member district No. . . . , and am a registered voter of the same regional committee member district; That I am aware that, if elected, I cannot concurrently serve as the superintendent of public instruction, a member of the state board of education, an educational service district superintendent, a member of a board of directors of a school district, a member of an educational service district board, a member of a governing board of either a private school or a private school district which conducts any grades kindergarten through twelve, an officer appointed by any such governing board, an employee of a school district, an employee of an educational service district, an employee of the office of the superintendent of public instruction, an employee of a private school, or an

employee of a private school district; and That I hereby declare myself a candidate for membership on Educational Service District No. . . . Regional Committee on school district organization for a term of (~~five~~) four years beginning the second Monday in January, 19. . . , subject to the election to be held pursuant to law and I request that my name be listed on the ballot therefor.

Further, I solemnly swear (or affirm) that I will support the Constitution and laws of the state of Washington.

(Signed) . . . . .  
Address: . . . . .  
. . . . .

SUBSCRIBED and sworn (or affirmed) to before me this . . . day of . . . . ., 19. . .

. . . . .  
NOTARY PUBLIC in and for  
the state of Washington,  
residing at . . . . .

AMENDATORY SECTION (Amending Order 1-87, filed 2/4/87)

**WAC 180-24-355 Election of regional committee members—Election board—Appointment and composition.** In each election the educational service district board shall (~~annually~~) appoint a three member election board and at least one alternate who shall serve thereon in the absence of a regular member of the election board. Votes cast at elections, conducted pursuant to this chapter shall be counted by the educational service district superintendent or his or her designee and the election board.

**WSR 94-13-019**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**  
[Filed June 3, 1994, 10:56 a.m.]

Date of Adoption: May 20, 1994.  
Purpose: To revise the section to require verification that authorized projects are or will be completed.

Citation of Existing Rules Affected by this Order:  
Amending WAC 180-29-130.

Statutory Authority for Adoption: RCW 28A.525.020.  
Other Authority: ESSB 6244 (1994 supplemental budget bill).

Pursuant to notice filed as WSR 94-08-104 on April 6, 1994.

Effective Date of Rule: Thirty-one days after filing.  
June 2, 1994  
Dr. Monica Schmidt  
Executive Director/Secretary

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

**WAC 180-29-130 Disbursement of moneys—Sequence of payments.** The order in which funds shall be disbursed for school facility construction shall be as follows:

(1) Prior to payment from state moneys, the school district shall make payments on all claims submitted until

PERMANENT

such time as the total amount of school district moneys obligated by the district have been expended.

(2) When local moneys have been expended as in subsection (1) of this section, payments from state moneys shall then be made: Provided, That for projects authorized for state funding pursuant to WAC 180-29-115(2) after June 30, 1993, payment shall be made after receipt of written certification by the school district board of directors that the school facility project authorized for state matching funds has been or will be completed according to the purposes for which the state matching funds are being provided.

**WSR 94-13-020**  
PERMANENT RULES  
**STATE BOARD OF EDUCATION**  
[Filed June 3, 1994, 10:57 a.m.]

Date of Adoption: May 20, 1994.

Purpose: To correct an incorrect reference.

Citation of Existing Rules Affected by this Order:  
Amending WAC 180-33-025.

Statutory Authority for Adoption: RCW 28A.525.020.

Other Authority: Section 28 (8)(e), chapter 233, Laws of 1992.

Pursuant to notice filed as WSR 94-08-105 on April 6, 1994.

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

June 2, 1994

Dr. Monica Schmidt  
Executive Director/Secretary

AMENDATORY SECTION (Amending Order 26-85, filed 11/27/85)

**WAC 180-33-025 Space eligible for state financial assistance in modernization.** Space allowance and enrollment projection provision for state matching purposes.

(1) In planning for modernization in any school facility, under the provisions of WAC (~~(180-33-015)~~) 180-33-015 (1)(a) and (b), a school district shall estimate capacity needs on the basis of a cohort survival enrollment as per WAC 180-27-045. Any space above and beyond a school district's estimated capacity needs as calculated on the basis of a five-year cohort survival or adjusted cohort survival enrollment shall not be eligible for state financial assistance in modernization with the exception as stated in subsection (2) below.

(2) In computing the amount of eligible space for modernization, the state will match the entire facility if 3/4 of the overall square footage of the facility is eligible for state financial assistance. If less than 3/4 of the overall square footage of the facility is eligible for state financial assistance, the district shall pay the entire cost of modernizing any additional space: Provided, That this subsection shall not be applicable to new construction in lieu of modernization facility projects authorized by this chapter.

(3) In determining the eligible space for modernizing vocational-technical institutes, enrollment data furnished by the school district will be reviewed by the superintendent of public instruction or his or her designee.

(4) In planning for modernization in any combined facility as per WAC 180-33-015 (3)(c) a school district shall

estimate enrollment in the district on the basis of a cohort survival enrollment as per WAC 180-27-045.

**WSR 94-13-021**  
PERMANENT RULES  
**STATE BOARD OF EDUCATION**

[Filed June 3, 1994, 10:58 a.m.]

Date of Adoption: May 20, 1994.

Purpose: To set forth policies and procedures for the issuance of internship certificates to participants of Teach for America's Professional Teaching Residency.

Citation of Existing Rules Affected by this Order:  
Amending WAC 180-79-241.

Statutory Authority for Adoption: RCW 28A.410.010.

Pursuant to notice filed as WSR 94-08-106 on April 6, 1994.

Changes Other than Editing from Proposed to Adopted Version: Based on testimony at public hearing, editing and clarifying language was added.

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

June 2, 1994

Dr. Monica Schmidt  
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 92-15-037, filed 7/9/92, effective 8/9/92)

**WAC 180-79-241 Internship certificate.** In order to broaden the base of persons eligible to pursue teaching careers, the state board of education establishes a teaching internship certificate pilot project under the specific circumstances set forth below:

Internship certificate.

(1) Candidates shall be eligible for internship certificates which allow the holder full authority to serve as a part-time or full-time teacher and will be subject to the local school district's evaluation procedures under the following conditions:

(a) Persons must possess a master's degree and have a minimum of forty-five quarter hours (thirty semester hours) in an endorsement area or in a directly related area of study; or a bachelor's degree with a minimum of forty-five quarter hours (thirty semester hours) in an endorsement area or in a directly related area of study and at least five years of relevant work experience, subsequent to the bachelor's degree, as determined by the college or university;

(b) Candidates must be admitted to an approved Washington state college or university teacher education program, and hold a contract for employment as a teacher in a participating school district or be given written notice of other program or placement options if the candidate does not hold a contract. Candidates would be eligible for the internship certificate only upon completion of the college or university course work, as specified in subsection (2)(d) of this section, and employment in a participating school district;

(c) Notwithstanding the provisions above or other provisions in this section, in order to conduct a field test of an alternative model for the internship certificate, Teach for America resident teachers participating in a professional

teaching residency shall be eligible for internship certificates for the two years of their residency program if they are employed by the Seattle School District.

The internship certificate shall be issued for up to two years. The internship certificates shall be endorsed on the basis of the academic requirements in WAC 180-79-086. If a resident teacher does not continue in the program for the full two years, the certificate shall become invalid when the resident teacher leaves the program.

Prior to teaching under the internship certificate the resident teacher shall have studied issues of abuse, child or adolescent psychology, classroom management, methods of instruction in the appropriate endorsement area, the legal responsibilities of the professional educator, reading in the content area, and the safety and supervision of children.

If a resident teacher has not completed such study in the summer training program the Seattle School District shall be responsible for assuring that each resident teacher has completed the required study prior to teaching. The resident teacher shall continue study throughout the two years in appropriate workshops or courses as determined by the Seattle School District and Teach for America.

The resident teacher shall receive on-site assistance throughout the two years.

The assessment of the Professional Teaching Residency field test will focus specifically on the effective recruitment of outstanding individuals (especially minority candidates), the performance-based assessment process, and the teaching effectiveness demonstrated by the resident teachers who complete the program.

At the completion of their two-year internships, resident teachers shall be eligible for the initial certificate upon recommendation by the Seattle School District and by a review board of experienced educators. The authorization for the Teach for America field test extends from the 1994-95 school year through the 1998-99 school year.

An advisory board shall be established by Teach for America and the Seattle School District to assure the active involvement of interested persons, including teachers, principals, representatives of higher education, administrators, and parents in the ongoing review of the professional teaching residency program in order:

(i) To assure that the program is consistent with Seattle School District goals and priorities; and

(ii) To provide ongoing feedback to Teach for America and the Seattle School District.

An evaluation of the program shall be completed prior to the close of the first school year by a professional education advisory committee subcommittee, which shall include a site visit to the Seattle School District and the collection of data from the resident teachers and other parties, including, but not limited to, relevant students, teachers, principals, administrators, and parents. Findings from the evaluations shall be reviewed by the professional education advisory committee. Recommendations for continuation, revisions, or discontinuation of the professional teaching residency program shall be submitted by the professional education advisory committee to the state board of education. On the basis of the evaluation, the state board of education may rescind the authorization for any additional recruitment of resident teachers prior to the beginning of the next school year.

Prior to September 1, 1998, the professional education advisory committee shall review the evaluations of the teaching residency program and make recommendations to the state board on its future status.

(2) The college or university approved internship program shall be designed as follows:

(a) Students shall proceed through the program as a cohort group;

(b) The program shall be a minimum of forty-five quarter hours (thirty semester hours) of upper division and/or graduate study and must meet the state board of education standards for approved programs;

(c) The program shall provide the intern a minimum of fifteen quarter hours (ten semester hours) of study prior to the beginning of the school year, five quarter hours (three semester hours) for each quarter/semester of the school year and fifteen quarter hours (ten semester hours) in the summer following the first year of teaching;

(d) Prior to beginning teaching, the candidate must complete a minimum of fifteen quarter hours (ten semester hours) of course work in pedagogy including but not limited to: Child or adolescent psychology, classroom management, methods instruction in the appropriate endorsement area, the legal responsibilities of the professional educator, reading in a content area, and the safety and supervision of children (the course work must include forty hours of observation of school students in learning situations);

(e) During each quarter/semester the interns shall participate in a college/university three hour seminar weekly in order to provide the interns with peer interaction and assistance on issues associated with their teaching experiences;

(f) The college/university shall assign a college supervisor to work with each intern;

(g) The school district shall assign a staff member to serve as a mentor (who shall be selected using the criteria established for the teacher assistance program) for each intern;

(h) The school district and the college/university shall specify in detail the resources they will provide and the procedures they will follow to assure that the intern is qualified to assume full-time responsibility when placed in the classroom as a teacher.

(i) The year of internship teaching shall be deemed comparable to the state board of education student teaching requirement, provided, the college/university evaluates the intern's teaching as satisfactory. The local school district evaluation of the intern shall be shared with the college/university in making its decision;

(j) The internship certificate shall be issued for one year and may be renewed only once for one additional year to persons who for good cause were unable to complete the program upon recommendation by the college or university where the person is enrolled in the teacher education program.

(3) At least one college/university and one school district that meet the following criteria shall be approved by the state board of education to conduct this pilot program:

(a) Colleges and universities and school districts wishing to participate in this program must submit joint proposals to the state board of education for its consideration, provided, one college/university may have joint agreements with more

than one school district and may include within such agreements a cooperative arrangement with an educational service district.

(b) Colleges/universities and school districts shall submit a detailed description of the program based on the requirements in subsection (2) of this section, provided, the state board of education will consider modifications to the requirements if the proposal indicates how the intent of the program can be met in a different curricular design.

(4) The internship teaching program shall be reviewed annually by the respective professional education advisory board and evaluated by the professional education advisory committee during its third year of operation. After receiving the recommendation from the professional education advisory committee, the state board of education shall determine whether or not or under what circumstances the pilot project shall be continued.

(5) The pilot project shall terminate on August 31, 1995, with the exception of the field test described in subsection (1)(c) of this section unless the state board of education extends or revises the existing program.

**WSR 94-13-031**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
[Filed June 6, 1994, 1:46 p.m.]

Date of Adoption: June 6, 1994.

Purpose: This rule explains the conditions under which a buyer may furnish a resale certificate to a seller, and explains the information and language required on a resale certificate.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-102.

Statutory Authority for Adoption: RCW 82.32.300. Pursuant to notice filed as WSR 94-06-004 on February 17, 1994.

Changes Other than Editing from Proposed to Adopted Version: Changes to WAC 458-20-102, added sentence in subsection (4) indicating that resale certificates may only be used for sales at wholesale; and added sentence in subsection (7)(a)(iii) indicating that a seller accepting a resale certificate in good faith is not required to verify that the buyer has listed only those items the buyer is authorized to purchase at wholesale.

Effective Date of Rule: Thirty-one days after filing.  
June 6, 1994  
Claire Hesselholt  
Acting Assistant Director  
Legislation and Policy

**AMENDATORY SECTION** (Amending Order ET 86-7, filed 4/17/86)

**WAC 458-20-102 Resale certificates.** ((Except as hereinafter noted, all sales are deemed to be retail sales unless the seller takes from the buyer a resale certificate signed by and bearing the registration number and address of the buyer, to the effect that the property purchased is:

(1) For resale in the regular course of business without intervening use, or

(2) To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or

(3) A chemical to be used in processing an article to be produced for sale. (See WAC 458-20-113.)

When a vendor receives and accepts in good faith from a purchaser a resale certificate as described in this rule, the vendor is relieved of liability for retail sales tax with respect to the transaction. When a vendor has not secured such a resale certificate he is personally liable for the tax due unless he can sustain the burden of proving (1) that the property was sold for one of the three purposes set forth above and (2) that the purchaser was eligible to give a bona fide resale certificate under the provisions of this rule.

Any purchaser who fraudulently signs a resale certificate with intent to avoid payment of tax is guilty of a gross misdemeanor. When any resale certificate is found to have been fraudulently tendered to any seller or given under false or knowingly misleading circumstances, any retail sales tax which should have been paid but for the tendering of the certificate, which is assessed against the buyer, will automatically incur an evasion penalty of fifty percent of the tax found to be due.

No prescribed form of resale certificate is required. Any written statement to the effect that the tangible personal property is purchased for one of the three purposes set forth above signed by and bearing the name, address, and registration number of the buyer is sufficient. Such statement may be written or stamped upon the purchase order or may be upon a separate paper. It should be in substantially the following form:

"I hereby certify that this purchase is for resale without intervening use by me in the regular course of business, or is to be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or is a chemical to be used in processing an article to be produced for sale. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.  
Registration No. . . . Name as Registered . . . .  
Firm Name . . . . Address . . . . .  
Type of Business . . . . .  
Authorized Signature . . . . .  
Title . . . . . Date . . . . ."

Blanket resale certificates may be given in advance by known wholesalers, jobbers or retailers. These certificates should be substantially in the following form:

"I hereby certify that all the tangible personal property which I will purchase from . . . . . will be purchased for resale in the regular course of business without intervening use by me, or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property of which the property purchased will be an ingredient, or a chemical used in processing the same. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing. This certificate is given

PERMANENT

with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. . . . . Name as Registered . . . . .  
 Firm Name . . . . . Address . . . . .  
 Type of Business . . . . .  
 Authorized Signature . . . . .  
 Title . . . . . Date . . . . ."

Blanket resale certificates remain valid only so long as the registration number shown thereon has not been cancelled or revoked. Therefore, blanket resale certificates must be renewed whenever a change occurs in the ownership of a purchaser's business and a new certificate of registration is required. All blanket resale certificates must be renewed at intervals not to exceed four years. Sellers who have valid blanket resale certificates on file without the additional language required by the March, 1983 amendment to this rule are not required to obtain revised blanket resale certificates except where a purchaser's registration with the department of revenue has been cancelled or revoked, a change occurs in the ownership of a purchaser's business and a new registration is required, or the blanket resale certificate was completed more than four years prior to the effective date of the amendment.

**Exception as to nonresident buyers.** In case the purchaser is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in his regular course of business outside this state, the seller should take from such a purchaser a resale certificate substantially in the above form, omitting a registration number, but including a statement to the effect that the articles purchased are for resale by him in his regular course of his business.

**Exception as to farmers.** The word "farmers" as used in this rule means any persons engaged in the business of growing or producing for sale at wholesale upon their own lands, or upon lands in which they have a present right of possession, any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects. "Farmers" does not mean persons selling such products at retail, persons using such products as ingredients in a manufacturing process, or persons growing or producing such products for their own consumption. It does not mean any person dealing in livestock as an operator of a stockyard, slaughterhouse, or packing house; nor does it mean any person who is an "extractor" within the meaning of WAC 458-20-135.

Farmers as defined in this rule are not required to register. Sales of feed, seed, fertilizer, and spray materials to farmers are sales at wholesale not subject to the retail sales tax. Farmers who purchase livestock for the purpose of fattening and later reselling the same are making purchases at wholesale not subject to the retail sales tax. Upon sales of any such articles to farmers (including farmers operating in other states), the seller should take from the farmer a resale certificate showing the farmer's name and address and a statement to the effect that his purchase of feed, seed, fertilizer, spray materials is made for the purpose of producing for sale at wholesale an agricultural product, or that his purchase of livestock is made for the purpose of resale. (For sales to farmers of feed, seed, fertilizer and spray materials, see WAC 458-20-122.)

**Purchases for dual purpose.** It may happen that a buyer normally is engaged in both consuming and reselling certain types of articles of tangible personal property and is not able to determine at the time of purchase whether the particular property acquired will be consumed or resold. In such cases, the buyer should purchase according to the general nature of his business; that is, if principally he consumes the articles in question, he should not give a resale certificate for any portion thereof, but if, on the other hand, he principally resells such articles, he may sign a resale certificate for the whole amount of his purchases.

If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, he must set up in his books of account the value thereof and remit to the department of revenue the deferred sales tax payable thereon. Such tax should be reported on Form 2406 under use tax.

On the other hand, if the buyer has not given a resale certificate but has paid tax on all purchases of such articles and subsequently resells at retail a portion thereof, he must, nevertheless, collect the tax from the purchaser and report such sales in making his tax returns. However, in such case, the buyer may take a deduction on his return representing his cost of the property thus resold on which sales tax was paid.

Such deduction shall be designated as "resale purchases on which tax was paid" and listed under sales tax deductions on the back of the tax return form. Claim for deduction will be allowed only if the taxpayer keeps and preserves records in support thereof which show the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the tax which was paid. (See WAC 458-20-174, 458-20-175 and 458-20-176 for exemption certificates concerning certain sales made to persons engaged in interstate or foreign commerce or in deep sea fishing operations.)) (1) **Introduction.** This section explains the conditions under which a buyer may furnish a resale certificate to a seller, and explains the information and language required on the resale certificate. This section also provides tax reporting information to persons who purchase articles or services for dual purposes (i.e., for both resale and consumption). Sellers and buyers should note that amendments to RCW 82.04.470 required changes to the information and language contained on the resale certificate. These changes became effective on July 1, 1993. (See chapter 25, Laws of Washington 1993 s.p.s.)

(2) **Resale certificate use.** The resale certificate is a document or combination of documents which substantiates the wholesale nature of a sale. The resale certificate cannot be used for purchases which are not purchases at wholesale, or where more specific certificates, affidavits, or other documentary evidence is required by statute or other section of chapter 458-20 WAC. While the resale certificate may come in different forms, all resale certificates must satisfy the language and information requirements of RCW 82.04.470.

(a) Depending on the statements made on the resale certificate, the resale certificate may authorize the buyer to purchase at wholesale all products or services being purchased from a particular seller, or may authorize only selected products or services to be purchased at wholesale. The provisions of the resale certificate may be limited to a

PERMANENT

single sales transaction, or may apply to all sales transactions for a period not to exceed four years from the effective date. Whatever its form and/or purpose, the resale certificate must be completed in its entirety, and signed by a person who is authorized to make such a representation on behalf of the buyer.

(b) The buyer may authorize any person in its employ to issue and sign resale certificates on the buyer's behalf. The buyer is, however, responsible for the information contained on the resale certificate. A resale certificate is not required to be completed by every person ordering or making the actual purchase of articles or services on behalf of the buyer. For example, a construction company which authorizes only its bookkeeper to issue resale certificates on its behalf may authorize both the bookkeeper and a job foreman to purchase items under the provisions of the resale certificate. The construction company is not required to provide, nor is the seller required to obtain, a resale certificate signed by each person making purchases on behalf of the construction company.

(c) The buyer is responsible for educating all persons authorized to issue and/or use the resale certificate on the proper use of the buyer's resale certificate privileges.

(3) Resale certificate renewal. Resale certificates must be renewed at least every four years. The buyer must renew its resale certificate whenever a change in the ownership of the buyer's business requires a new "registrations and licenses document." (See WAC 458-20-101 on tax registration.) The buyer may not make purchases under the authority of a resale certificate bearing a registration number which has been cancelled or revoked.

Sellers who have resale certificates on file without the additional language and information required by the July 1, 1993, amendment to RCW 82.04.470 are required to obtain revised resale certificates for sales made after June 30, 1993. However, the old resale certificates must be retained to substantiate the wholesale nature of sales made prior to July 1, 1993. These "old" certificates must be retained for at least five years from their last effective date. For example, a seller making its last wholesale sale to a particular buyer on April 1, 1991, must retain the "old" resale certificate until March 31, 1996, five years from the last sale subject to the provisions of that resale certificate. (See also WAC 458-20-254 on recordkeeping requirements.)

(4) Sales at wholesale. All sales are treated as retail sales unless the seller takes from the buyer a properly executed resale certificate. Resale certificates may only be used for sales at wholesale and may not be used as proof of entitlement to other retail sales tax exemptions provided by law, such as certain sales to Indians (see WAC 458-20-192), interstate motor carriers (see WAC 458-20-174), artistic and cultural organizations (see WAC 458-20-249), etc. The buyer may only issue a resale certificate when the property or services purchased are:

(a) For resale in the regular course of the buyer's business without intervening use by the buyer; or

(b) To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale; or

(c) A chemical to be used in processing an article to be produced for sale (see WAC 458-20-113 on chemicals used in processing); or

(d) To be used in processing ferrosilicon which is subsequently used in producing magnesium for sale; or

(e) Provided to consumers as a part of competitive telephone service, as defined in RCW 82.04.065; or

(f) Feed, seed, seedlings, fertilizer, spray materials, or agents for enhanced pollination including insects such as bees for use in the federal conservation reserve program or its successor administered by the United States Department of Agriculture; or

(g) Feed, seed, seedlings, fertilizer, spray materials, or agents for enhanced pollination including insects such as bees for use by a farmer for producing for sale any agricultural product. (See also WAC 458-20-122 on sales to farmers.)

(5) Seller's responsibilities. When a seller receives and accepts from the buyer a resale certificate at the time of the sale, or has a resale certificate on file at the time of the sale, or obtains a resale certificate from the buyer within a reasonable time after the sale, the seller is relieved of liability for retail sales tax with respect to the sale covered by the resale certificate. The seller may accept a legible FAX or duplicate copy of an original resale certificate. In all cases, the resale certificate must be accepted in good faith by the seller. The resale certificate will be considered to be obtained within a reasonable time of the sale if it is received within one hundred twenty days of the sale or sales in question. However, refer to (d) of this subsection in event of an audit situation.

(a) If a single order or contract will result in multiple billings to the buyer, and the appropriate resale certificate was not obtained or on file at the time the order was placed or the contract entered, the resale certificate must be received by the seller within one hundred twenty days after the first billing to be considered obtained within a reasonable time of the sale. For example, a subcontractor entering into a construction contract for which it has not received a resale certificate must obtain the certificate within one hundred twenty days of the initial construction draw request to consider the resale certificate obtained in a reasonable time after the sale, even though the construction project may not be completed at that time and additional draw requests will follow.

(b) If the resale certificate is obtained more than one hundred twenty days after the sale or sales in question, the resale certificate must be specific to the sale or sales. The certificate must specifically identify the sales in question on its face, or be accompanied by other documentation signed by the buyer specifically identifying the sales in question and stating that the provisions of the accompanying resale certificate apply. A nonspecific resale certificate which is not obtained within a reasonable period of time is generally not, in and of itself, acceptable proof of the wholesale nature of the sales in question. The resale certificate and/or required documentation must be obtained within the statutory time limitations provided by RCW 82.32.050.

The following examples explain the seller's documentary requirements in typical situations when obtaining a resale certificate more than one hundred twenty days after the sale. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) Beginning in January of 1994, MN Company regularly makes sales to ABC Inc. In June of 1994 MN discovers ABC has not provided a resale certificate. MN requests a resale certificate from ABC and, as the resale certificate will not be received within one hundred twenty days of many of the past sales transactions, requests that the resale certificate specifically identify those past sales subject to the provisions of the certificate. MN receives a legible FAX copy of an original resale certificate from ABC on July 1, 1994. Accompanying the resale certificate is a memo providing a list of the invoice numbers for all past sales transactions through May 15, 1994. This memo also states that the provisions of the resale certificate apply to all past and future sales, including those listed. MN Company has satisfied the requirement that it obtain a resale certificate specific to the sales in question. As the provisions of this resale certificate apply to both past and future sales transactions, the certificate must be renewed no later than December 31, 1997, four years from the date the resale certificate became effective.

(ii) XYZ Company makes three sales to MP Inc. in October of 1993 and does not charge retail sales tax. In the review of its resale certificate file in April of 1994, XYZ discovers it has not received a resale certificate from MP Inc. and immediately requests a certificate. As the resale certificate will not be received within one hundred twenty days of the sales in question, XYZ requests that MP provide a resale certificate identifying the sales in question. MP provides XYZ with a resale certificate which does not identify the sales in question, but simply states "applies to all past purchases." XYZ Company has not satisfied its responsibility to obtain an appropriate resale certificate. As XYZ failed to secure a resale certificate within a reasonable period of time, XYZ must obtain a certificate specifically identifying the sales in question or prove through other facts and circumstances that these sales are wholesale sales. (Refer to (c) of this subsection.) It remains the seller's burden to prove the wholesale nature of the sales made to a buyer if the seller has not obtained a valid resale certificate within one hundred twenty days of the sale.

(c) If the seller has not obtained an appropriate resale certificate or other acceptable documentary evidence (see subsection (8) of this section), the seller is personally liable for the tax due unless it can sustain the burden of proving through facts and circumstances that the property was sold for one of the purposes set forth in subsection (4)(a) through (g) of this section. The department of revenue will consider all evidence presented by the seller, including the circumstances of the sales transaction itself, when determining whether the seller has met its burden of proof. This evidence must be presented within the statutory time limitations provided by RCW 82.32.060. It is the seller's responsibility to provide the information necessary to evaluate the facts and circumstances of all sales transactions for which resale certificates are not obtained. Facts and circumstances which should be considered include, but are not necessarily limited to, the following:

(i) The nature of the buyer's business. The items being purchased at wholesale must be consistent with the buyer's business. For example, a buyer having a business name of "Ace Used Cars" would generally not be expected to be in the business of selling furniture.

(ii) The nature of the items sold. The items sold must be of a type which would normally be purchased at wholesale by the buyer.

(iii) The quantity and frequency of items sold. The number of items sold and the frequency of sales must indicate that the buyer is purchasing such items at wholesale.

(iv) Additional documentation. Other available documents, such as purchase orders and shipping instructions, should be considered in determining whether they support a finding that the sales are sales at wholesale.

(d) If in event of an audit it is discovered that the seller has not secured the necessary resale certificates and/or documentation, the seller will generally be allowed thirty days in which to obtain and present appropriate resale certificates and/or documentation, or prove by facts and circumstances the sales in question are wholesale sales. The time allotted to the seller shall commence from the date the auditor initially provides the seller with the results of the auditor's wholesale sales review. The processing of the audit report will not be delayed as a result of the seller's failure within the allotted time to secure and present appropriate documentation, or its inability to prove by facts and circumstances that the sales in question were wholesale sales. The audit report will also not be delayed because the time allotted to the seller expires prior to one hundred twenty days from the date of the sale or sales in question.

(e) If the seller is unable to provide proper documentation, or unable to prove by facts and circumstances that the sales in question are wholesale sales, the seller becomes personally liable for the taxes in question. If the seller is required to make payment to the department, and later is able to present the department with proper documentation or prove by facts and circumstances that the sales in question are wholesale sales, the seller may in writing request a refund of the taxes paid along with the applicable interest. Both the request and the documentation or proof that the sales in question are wholesale sales must be submitted to the department within the statutory time limitations provided by RCW 82.32.060. (See also WAC 458-20-229.)

(6) Penalty for improper use. Any buyer who uses a resale certificate to purchase items or services without payment of sales tax and who is not entitled to use the certificate for the purchase shall be assessed a penalty of fifty percent of the tax due on the improperly purchased item or service, in addition to all other taxes, penalties, and interest due. The penalty shall be assessed by the department of revenue and will apply only to the buyer. The penalty applies to purchases made after June 30, 1993, and can apply even if there was no intent to evade the payment of the tax. However, see subsection (12) of this section for situations in which the department may waive the penalty.

Persons who purchase articles or services for dual purposes (i.e., some for their own consumption and some for resale) should refer to subsection (11) of this section to determine whether they may give a resale certificate to the seller.

(7) Resale certificate - required information. While there may be different forms of the resale certificate, all resale certificates must satisfy the language and information requirements provided by RCW 82.04.470. The resale certificate may be in the suggested form shown below, or

may be in any other form which substantially contains the following information and language:

The undersigned buyer hereby certifies that the tangible personal property or services specified below will be purchased (a) for resale in the regular course of business without intervening use by the buyer, or (b) for use as an ingredient or component part of a new article of tangible personal property to be produced for sale, or (c) is a chemical to be used in processing a new article of tangible personal property to be produced for sale, or (d) for use as feed, seed, fertilizer, or spray materials in its capacity as a farmer as defined in chapter 82.04 RCW. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing. This certificate is given with full knowledge that the buyer is solely responsible for purchasing within the categories specified on the certificate, and that misuse of the resale privilege claimed on the certificate is subject to the legally prescribed penalty of fifty percent of the tax due, in addition to the tax, interest, and any other penalties imposed by law.

Name of Seller ..... Effective Date .....
Name of Buyer .....
Address .....
UBI/Revenue Registration # .....
Type of Business .....
Items or item categories purchased at wholesale .....
Authorized agent for buyer (printed) .....
Authorized Signature .....
Title .....

(a) The 1993 legislative changes to RCW 82.04.470 require the buyer making purchases at wholesale to specify the kinds of products or services subject to the provisions of the resale certificate. A buyer who will purchase some of the items at wholesale, and consume and pay tax on some other items being purchased from the same seller, must use terms specific enough to clearly indicate to the seller what kinds of products or services the buyer is authorized to purchase at wholesale.

(i) The buyer may list the particular products or services to be purchased at wholesale, or provide general category descriptions of these products or services. The terms used to describe these categories must be descriptive enough to restrict the application of the resale certificate provisions to those products or services which the buyer is authorized to purchase at wholesale. The following are examples of terms used to describe categories of products purchased at wholesale, and businesses which may be eligible to use such terms on their resale certificates:

(A) "Hardware" for use by a general merchandise or building material supply store, "computer hardware" for use by a computer retailer.

(B) "Paint" or "painting supplies" for use by a general merchandise or paint retailer, "automotive paint" for use by an automotive repair shop.

(C) "Building materials" or "subcontract work" for use by prime contractors performing residential home construction, "wiring" or "lighting fixtures" for use by an electrical contractor.

(ii) The buyer must remit retail sales tax on any taxable product or service not listed on the resale certificate provided to the seller. If the buyer gave a resale certificate to the seller and later used an item listed on the certificate, or if the seller failed to collect the sales tax on items not listed on the certificate, the buyer must remit the deferred sales or use tax due to the department.

(iii) RCW 82.08.050 provides that each seller shall collect from the buyer the full amount of retail sales tax due on each retail sale. If the department finds that the seller has engaged in a consistent pattern of failing to properly charge sales tax on items not purchased at wholesale (i.e., not listed on the resale certificate), it may hold the seller liable for such uncollected sales tax. However, a seller accepting a resale certificate in good faith is not required to verify that the buyer has properly listed only those items the buyer is authorized to purchase at wholesale.

(iv) Persons having specific questions regarding the use of terms to describe products or services purchased at wholesale may submit such questions to the department of revenue for ruling.

(b) A buyer who will purchase at wholesale all of the products or services being purchased from a particular seller will not be required to specifically describe the items or item categories on the resale certificate. If the certificate form provides for a description of the products or services being purchased at wholesale (as does the suggested form provided above), the buyer may specify "all products and/or services" (or make a similar designation). A resale certificate completed in this manner is often described as a blanket resale certificate.

The resale certificate used by the buyer must, in all cases, be completed in its entirety. A resale certificate in which the section for the description of the items being purchased at wholesale is left blank by the buyer will not be considered a properly executed resale certificate.

(c) If the resale certificate is used for a single transaction, the language and information required of a resale certificate may be written or stamped upon a purchase order or invoice. The language contained in a "single use" resale certificate should be modified to delete any reference to subsequent orders or purchases.

(d) Examples. The following examples explain the proper use of types of resale certificates in typical situations. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(i) ABC is an automobile repair shop purchasing automobile parts for resale and tools for its own use from DE Supply. ABC must provide DE Supply with a resale certificate limiting the certificate's application to automobile part purchases. However, should ABC withdraw parts from inventory to install in its own tow truck, deferred retail sales tax or use tax must be remitted directly to the department of revenue. The buyer has the responsibility to report deferred retail sales tax or use tax upon any item put to its own use, including items for which it gave a resale certificate and later used for its own use.

(ii) X Company is a retailer selling lumber, hardware, tools, automotive parts, and household appliances. X Company regularly purchases lumber, hardware, and tools from Z Distributing. While these products are generally purchased for resale, X Company may occasionally withdraw some of these products from inventory for its own use. X Company may provide Z Distributing with a resale certificate specifying "all products purchased" are purchased at wholesale. However, whenever X Company removes any product from inventory to put to its own use, deferred retail sales or use tax must be remitted to the department of revenue.

(iii) TM Company is a manufacturer of electric motors. When making purchases from its suppliers, TM issues a purchase order. This purchase order contains substantially all the language and information required of a resale certificate and a signature of the person ordering the items on behalf of TM. This purchase order includes a box which, if marked, indicates to the supplier that all or certain designated items purchased are being purchased at wholesale.

When the box indicating the purchases are being made at wholesale is marked, the purchase order can be accepted as a resale certificate. A resale certificate is not required to be in any particular form, it must simply contain substantially all the required information and language contained in the suggested resale certificate form described above. As TM Company's purchase orders are being accepted as resale certificates, they must be retained by the seller for at least five years. (See also WAC 458-20-254 on recordkeeping requirements.)

(8) Other documentary evidence. Other documentary evidence may be used by the seller and buyer in lieu of the resale certificate form described above. However, this documentary evidence must collectively contain the information and language generally required of a resale certificate. The conditions and restrictions applicable to the use of resale certificates apply equally to other documentary evidence used in lieu of the above-mentioned resale certificate form. The following are examples of documentary evidence which will be accepted to show that sales were at wholesale:

(a) A combination of documentation kept on file, such as a membership card or application, and a sales invoice or "certificate" taken at the point of sale with the purchases listed, provided:

(i) The documentation kept on file contains all information generally required on a resale certificate, including the names and signatures of all persons authorized to make purchases at wholesale; and

(ii) The sales invoice or "certificate" taken at the point of sale must contain the following:

(A) Language certifying the purchase is made at wholesale, with acknowledgement of the penalties for the misuse of resale privileges, as generally required of a resale certificate; and

(B) The name and registration number of the buyer/business, and an authorized signature.

(b) A contract of sale which within the body of the contract provides the language and information generally required of a resale certificate. The contract of sale must specify the products or services subject to the resale certificate privileges.

(c) Any other documentary evidence which has been approved in advance and in writing by the department of revenue.

(9) Sales to nonresident buyers. If the buyer is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in the regular course of business outside this state, the seller must take from such a buyer a resale certificate as described above. The seller may accept a resale certificate from a nonresident buyer with the registration number information omitted, provided the balance of the resale certificate is completed in its entirety. The resale certificate should contain a statement that the items are being purchased for resale outside Washington.

(10) Sales to farmers. Farmers selling agricultural products only at wholesale are not required to register with the department of revenue. (See also WAC 458-20-101 on tax registration.) When making wholesale sales to farmers (including farmers operating in other states), the seller must take from the farmer a resale certificate as described above. Farmers not required to be registered with the department of revenue may provide, and the seller may accept, resale certificates with the registration number information omitted, provided the balance of the certificates are completed in full. Persons making sales to farmers should also refer to WAC 458-20-122.

(11) Purchases for dual purposes. A buyer normally engaged in both consuming and reselling certain types of tangible personal property, and not able to determine at the time of purchase whether the particular property purchased will be consumed or resold, must purchase according to the general nature of his or her business. RCW 82.08.130. If the buyer principally consumes the articles in question, the buyer should not give a resale certificate for any part of the purchase. If the buyer principally resells the articles, the buyer may issue a resale certificate for the entire purchase. For the purposes of this subsection, the term "principally" means greater than fifty percent.

(a) Deferred sales tax liability. If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, the buyer must set up in his or her books of account the value of the article used and remit to the department of revenue the applicable deferred sales tax. The deferred sales tax liability should be reported under the use tax classification on the buyer's excise tax return.

(i) Buyers making purchases for dual purposes under the provisions of a resale certificate must remit deferred sales tax on all products or services they consume. If the buyer fails to make a good faith effort to remit this tax liability, the penalty for the misuse of resale certificate privileges may be assessed. This penalty will apply to the unremitted portion of the deferred sales tax liability.

A buyer will generally be considered to be making a good faith effort to report its deferred sales tax liability if the buyer discovers a minimum of eighty percent of the tax liability within one hundred twenty days of purchase, and remits the full amount of the discovered tax liability upon the next excise tax return. However, if the buyer does not satisfy this eighty percent threshold and can show by other facts and circumstances that it made a good faith effort to report the tax liability, the penalty will not be assessed.

Likewise, if the department can show by other facts and circumstances that the buyer did not make a good faith effort in remitting its tax liability the penalty will be assessed, even if the eighty percent threshold is satisfied.

(ii) Example. BC Contracting operates both as a prime contractor and speculative builder of residential homes. BC Contracting purchases building materials from Seller D which are principally incorporated into projects upon which BC acts as a prime contractor. BC provides Seller D with a resale certificate and purchases all building materials at wholesale. BC must remit deferred sales tax upon all building materials incorporated into the speculative projects to be considered to be properly using its resale certificate privileges. The failure to make a good faith effort to identify and remit this tax liability may result in the assessment of the fifty percent penalty for the misuse of resale certificate privileges.

(b) Tax paid at source deduction. If the buyer has not given a resale certificate, but has paid tax on all purchases of such articles and subsequently resells a portion thereof, the buyer must collect the retail sales tax from its retail customers as provided by law. When reporting these sales on the excise tax return, the buyer may then claim a deduction in the amount the buyer paid for the property thus resold.

(i) This deduction may be claimed under the retail sales tax classification only. It must be identified as a "taxable amount for tax paid at source" deduction on the deduction detail worksheet, which must be filed with the excise tax return. Failure to properly identify the deduction may result in the disallowance of the deduction. When completing the local sales tax portion of the tax return, the deduction must be computed at the local sales tax rate paid to the seller, and credited to the seller's tax location code.

(ii) Example. Seller A is located in Spokane, Washington and purchases equipment parts for dual purposes from a supplier located in Seattle, Washington. Seller A does not issue a resale certificate for the purchase, and remits retail sales tax to the supplier at the Seattle tax rate. A portion of these parts are sold to Customer B, with retail sales tax collected at the Spokane tax rate. Seller A must report the amount of the sale to Customer B on its excise tax return, compute the local sales tax liability at the Spokane rate, and code this liability to the location code for Spokane (3210). Seller A would claim the tax paid at source deduction for the cost of the parts resold to Customer B, compute the local sales tax credit at the Seattle rate, and code this deduction amount to the location code for Seattle (1726).

(iii) Claim for deduction will be allowed only if the taxpayer keeps and preserves records in support thereof which show the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the amount of tax which was paid.

(iv) Should the buyer resell the articles at wholesale, or under other situations where retail sales tax is not to be collected, the claim for the tax paid at source deduction on a particular excise tax return may result in a credit. In such cases, the department will issue a credit notice which may be used against future tax liabilities. However, a refund will be issued upon written request.

#### (12) Waiver of penalty for resale certificate misuse.

The department may waive the penalty imposed for resale certificate misuse upon finding that the use of the certificate to purchase items or services by a person not entitled to use the certificate for that purpose was due to circumstances beyond the control of the buyer. However, the use of a resale certificate to purchase items or services for personal use outside of the business shall not qualify for the waiver or cancellation of the penalty. The penalty will not be waived merely because the buyer was not aware of either the proper use of the resale certificate or the penalty. In all cases the burden of proving the facts is upon the buyer.

(a) Situations under which a waiver of the penalty will be considered by the department include, but are not necessarily limited to, the following:

(i) The resale certificate was properly used to purchase products or services for dual purposes; or the buyer was eligible to issue the resale certificate; and the buyer made a good faith effort to discover all of its deferred sales tax liability within one hundred twenty days of purchase; and the buyer remitted the discovered tax liability upon the next excise tax return. (Refer to subsection (11)(a)(i) of this section for an explanation of what constitutes "good faith effort.")

(ii) The certificate was issued and/or purchases were made without the knowledge of the buyer, and had no connection with the buyer's business activities. However, the penalty for the misuse of resale certificate privileges may be applied to the person actually issuing and/or using the resale certificate without knowledge of the buyer.

(b) The penalty prescribed for the misuse of the resale certificate may be waived or cancelled on a one time only basis if such misuse was inadvertent or unintentional, and the item was purchased for use within the business. If the department of revenue does grant a one time waiver of the penalty, the buyer shall be provided written notification at that time.

(c) Examples. The following are examples of typical situations where the fifty percent penalty for the misuse of resale privileges will or will not be assessed. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(i) ABC Manufacturing purchases electrical wiring and tools from X Supply. The electrical wiring is purchased for dual purposes, i.e., for resale and for consumption, with more than fifty percent of the wiring purchases becoming a component of items which ABC manufactures for sale. ABC Manufacturing issues a resale certificate to X Supply specifying "electrical wiring" as the category of items purchased for resale. ABC regularly reviews its purchases and remits deferred sales tax upon the consumed wiring.

ABC is subsequently audited by the department of revenue and it is discovered that ABC Manufacturing failed to remit deferred sales tax upon three purchases of wiring for consumption. The unreported tax liability attributable to these three purchases is less than five percent of the total deferred sales tax liability for wiring purchases made from X Supply. It is also determined that the failure to remit deferred sales tax upon these purchases was merely an oversight. The fifty percent penalty for the misuse of resale certificate privileges does not apply, even though ABC failed

to remit deferred sales tax on these purchases. The resale certificate was properly issued, and ABC remitted to the department more than eighty percent of the deferred sales tax liability for wiring purchases from X Supply.

(ii) During a routine audit examination of a jewelry store, the department of revenue discovers that a dentist has provided a resale certificate for the purchase of a necklace. This resale certificate indicates that in addition to operating a dentistry practice, the dentist also sells jewelry. There is no indication that the jewelry store did not accept the resale certificate in good faith.

Upon further investigation, the department of revenue finds that the dentist is not engaged in selling jewelry. As the jewelry store accepted the resale certificate in good faith, the department will look to the dentist for payment of the applicable retail sales tax. In addition, the dentist will be assessed the fifty percent penalty for the misuse of resale certificate privileges. The penalty will not be waived or cancelled as the dentist misused the resale certificate privileges to purchase a necklace for personal use.

(iii) During a routine audit examination of a computer dealer, it is discovered that a resale certificate was obtained from a bookkeeping service. The resale certificate was completed in its entirety and accepted in good faith by the dealer. Upon further investigation it is discovered that the bookkeeping service had no knowledge of the resale certificate, and had made no payment to the computer dealer. The employee who signed the resale certificate had purchased the computer for personal use, and had personally made payment to the computer dealer.

The fifty percent penalty for the misuse of the resale certificate privileges will be waived for the bookkeeping service. The bookkeeping service had no knowledge of the purchase or unauthorized use of the resale certificate. However, the department of revenue will look to the employee for payment of the taxes and the fifty percent penalty for the misuse of resale certificate privileges.

(iv) During an audit examination it is discovered that XYZ Corporation, a duplicating company, purchased copying equipment for its own use. XYZ Corporation issued a resale certificate to the seller despite the fact that XYZ does not sell copying equipment. XYZ also failed to remit either the deferred sales or use tax to the department of revenue. As a result of a previous investigation by the department of revenue, XYZ had been informed in writing that retail sales and/or use tax applied to all such purchases. The fifty percent penalty for the misuse of resale certificate privileges will be assessed. XYZ was not eligible to provide a resale certificate for the purchase of copying equipment, and had previously been so informed. The penalty will apply to the unremitted deferred sales tax liability.

(v) AZ Construction issued a resale certificate to a building material supplier for the purchase of "pins" and "loads." The "pins" are fasteners which become a component part of the finished structure. The "load" is a powder charge which is used to drive the "pin" into the materials being fastened together. AZ Construction is informed during the course of an audit examination that AZ Construction is considered the consumer of the "loads" and may not issue a resale certificate for the purchase thereof. AZ Construction indicates that it was unaware that a resale certificate could not be issued for the purchase of "loads," and there is no

indication that AZ Construction had previously been so informed.

The failure to be aware of the proper use of the resale certificate is not generally grounds for waiving the fifty percent penalty for the misuse of resale certificate privileges. However, AZ Construction does qualify for the "one time only" waiver of the penalty as the misuse of the resale certificate privilege was unintentional and the "loads" were purchased for use within the business.

**WSR 94-13-033**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed June 6, 1994, 1:51 p.m.]

Date of Adoption: June 6, 1994.

Purpose: To provide additional tax reporting information to persons selling heat or steam.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-121.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 94-01-155 on December 21, 1993.

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

June 6, 1994

Claire Hesselholt

Acting Assistant Director

AMENDATORY SECTION (Amending Order ET 83-17, filed 3/15/83)

**WAC 458-20-121 Sales of heat or steam—Including production by cogeneration.** ((Persons engaging in the business of operating a plant for the production, extraction, or storage of heat for distribution, for hire or sale, whether such heat is produced by a biomass system, cogeneration, geothermal sources, fossil fuels, or otherwise, are subject to the provisions of the business and occupation tax and are taxable under the service and other business activities classification.)) (1) **Introduction.** This section provides tax reporting information to persons who sell heat and/or steam. Because heat and steam are often the product of a cogeneration facility, this section also provides tax information for persons operating cogeneration facilities. Persons generating electrical power should also refer to WAC 458-20-179 and 458-20-17901.

(2) **Sale of heat or steam - business and occupation (B&O) tax.** Persons engaging in the business of operating a plant for the production, extraction, or storage of heat or steam for distribution, for hire or sale, are taxable under the service and other business activities classification. This includes heat or steam produced by a biomass system, cogeneration, geothermal sources, fossil fuels, or any other method.

(3) **Sale or production of electricity - cogeneration.** The production of steam, heat, or electricity is not a manufacturing activity within the definition of RCW 82.04.120. Persons who operate a plant or system for the generation, production or distribution of electrical energy for hire or sale are subject to the provisions of the public utility tax under the light and power tax classification. Persons who generate

electrical energy should refer to WAC 458-20-179. A deduction may be taken for:

(a) Power generated in Washington and delivered out-of-state. (See RCW 82.16.050(6).)

(b) Amounts derived from the sale of electricity to persons who are in the business of selling electricity and are purchasing the electricity for resale. (See RCW 82.16.050(2).)

(4) Tax incentive programs - cogeneration. There were tax incentive programs available for cogeneration projects begun before January 1, 1990. See WAC 458-20-17901 for the requirements which applied. Sales and use tax deferrals may apply under certain conditions for power generation facilities, even though the production of power is not specifically subject to a manufacturing tax. For example, if the cogeneration facilities are part of a manufacturing plant for the production of new articles of tangible personal property and the requirements for tax deferral are met, the business may apply for tax deferral programs. These incentive programs are discussed in WAC 458-20-240, 458-20-24001, and 458-20-24002.

(5) Fuel. Persons who produce their own fuel to generate heat, steam, or electricity are subject to the manufacturing B&O tax on the value of the fuel. This includes the value of fuel which is created at the same site as a by-product of another manufacturing process, such as production of hog fuel. The taxable value should be determined based on comparable sales, or on the basis of all costs in the absence of comparable sales. Refer to WAC 458-20-112.

The fuel does not become an ingredient or component of power, steam, or electricity. The purchase of fuel is subject to payment of retail sales tax to the supplier. In the event retail sales tax is not paid to the supplier, deferred sales or use tax must be paid. However, the law provides a specific exemption from the use tax for fuel which is used in the same manufacturing plant which produced the fuel. For example, if a lumber manufacturer produces wood waste which is used in the same plant to produce heat for drying lumber and also electricity which is sold to a public utility district, the wood waste is not subject to use tax even though the manufacturing tax will apply. (See RCW 82.12.0263.)

(6) Equipment and supplies. Persons who are in the business of producing heat, steam, or electricity are required to pay retail sales tax to suppliers of all equipment and supplies. If the supplier fails to collect retail sales tax, deferred sales or use tax must be paid.

**WSR 94-13-034**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed June 6, 1994, 1:54 p.m.]

Date of Adoption: June 6, 1994.

Purpose: To provide tax reporting information to public utility businesses. Revise the rule as the result of legislation.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 458-20-179.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 94-01-159 on December 21, 1993.

Changes Other than Editing from Proposed to Adopted Version: Changes to WAC 458-20-179: Subsection (3), deleted "log patrol," as a result of 1994 legislation; subsection (7), added comment about B&O tax credit, as a result of 1994 legislation; subsection (8), changed heading title and added last three sentences to further clarify contributions in aid of construction as it relates to donated property; subsection (9)(b) and (c), changed language to more clearly explain "utility sales for resale" and provide examples; and subsection (11), inserted new subsection and all subsections beginning with this subsection moved down. This subsection explains how exchanges of power are taxable and that the resale deduction can apply.

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

June 6, 1994

Claire Hesselholt  
 Acting Assistant Director  
 Legislation and Policy

AMENDATORY SECTION (Amending Order 86-16, filed 9/3/86)

**WAC 458-20-179 Public utility tax.** (1) Introduction. Persons engaged in certain public service businesses are taxable under the public utility tax (~~(, and are exempt from tax under the business and occupation tax with respect to such businesses. However, many persons taxable under the public utility tax are also engaged in some other business which is taxable under the business and occupation tax).~~). (See chapter 82.16 RCW.) These businesses are exempt from the business and occupation tax on the gross receipts which are subject to the public utility tax. (See RCW 82.04.310.) However, many persons taxable under the public utility tax are also engaged in some other business activity which is taxable under the business and occupation (B&O) tax. For example, a ((light and power)) gas distribution company engaged in operating a plant or system for distribution of ((electrical energy)) natural gas for sale, may also be engaged in selling at retail various ((electrical)) gas appliances. Such a company would be taxable under the public utility tax with respect to its ((last)) distribution of ((electric energy)) natural gas to consumers, and also taxable under the business and occupation tax with respect to its sale of ((electrical)) gas appliances. It should also be noted that some services which generally are taxable under the public utility tax are taxable under the B&O tax if the service is performed for a new customer, prior to receipt of regular utility services by the customer.

(2) ((Persons who are taxable under the public utility tax, which is applied to gross income, are those engaged in the following businesses: Railroad, express, railroad car, water distribution, sewerage collection, refuse collection, light and power, telegraph, gas distribution, urban transportation and common carrier vessels under 65 feet in length, motor transportation, tugboat businesses, and all public service businesses other than those heretofore mentioned.

(3) The rates of tax for each business activity are imposed under RCW 82.16.020 and set forth on appropriate lines of the combined excise tax return forms.

(4) The term "public service businesses" includes any of the businesses defined in RCW 82.16.010 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (12) or any business subject

to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business declared by the legislature to be of a public service nature, irrespective of whether eminent domain powers are had or state control is exercised. It includes, among others, without limiting the scope thereof: Airplane transportation, boom, dock, ferry, log patrol, pipe line, toll bridge, toll logging road, water transportation and wharf businesses.

(5) The term "subject to control by the state" means control by the utilities and transportation commission or any other state department required by law to exercise control of business of a public service nature as to rates charged or services rendered. However, businesses may be taxed under the public utility tax as public service businesses whether or not they are or have been regulated by the state.

(6) The term "gross income" means "the value proceeding or accruing from the performance of the particular public service or transportation businesses involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." The term "gross income" of a light and power business means those amounts or value accruing to a taxpayer from the "last distribution" of electrical energy which is a taxable event within this state. RCW 82.16.010(13).

(7) Light and power business—special provisions. RCW 82.16.010(5) defines "light and power business" to mean the business of operating a plant or system for the generation, production, or distribution of electrical energy for hire or sale. It is the intent of the law that, except as provided below, all electrical energy generated, or produced, or distributed within this state shall be subject to the uniform tax rate for light and power business, but only at the time of its "last distribution" within this state.

(8) The term "last distribution" means the final transmission or transfer of electrical energy before it is consumed in this state or before it is transmitted or transferred for sale to any point outside of this state. Thus, the taxable last distribution of electrical energy consumed within this state is the transmission or transfer of such energy to the consumer. The taxable last distribution of electrical energy for sale outside of this state is the transmission or transfer of such energy to the transmission system from which it will be directly further transmitted or transferred to points outside this state whether under any wheeling arrangement or through the distributor's own transmission system or the transmission system of any out-of-state person. When a light and power business within this state delivers electric energy to an entity outside of this state in consideration of such entity's agreement to deliver electric energy to such business for consumption within this state, the taxable last distribution of such electrical energy is the transmission or transfer of energy to such business' consumers in this state.

(9) An "exchange" of electrical energy or the rights thereto is not the last distribution of such energy. An exchange is a transaction involving a delivery or transfer of energy or the rights thereto by one party to another for which the second party agrees, subject to the terms and conditions of the agreement, to deliver electrical energy at

the same or another time. Examples of nontaxable exchange transactions include, but are not limited to, the following:

(a) The residential exchange of electric power entered into between a light and power business and the administrator of the Bonneville Power Administration pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, P.L. 96-501, Sec. 5(e), 16 U.S.C. 839(c) (Supp. 1982);

(b) The exchange of electric power for electric power between one light and power business and another light and power business;

(c) The transmission or transfer of electric power by one light and power business to another light and power business pursuant to the agreement for coordination of operations among power systems of the Pacific Northwest executed as of September 15, 1964;

(d) The Bonneville Power Administration's acquisition of electric power for resale to its Washington customers in the light and power business.

(10) Any consideration received in addition to or in excess of exchange power constitutes taxable consideration.

(11) The taxpayer liable for the payment of public utility tax under the light and power business classification is the "person" (as defined by RCW 82.04.030) who last distributes electrical energy within this state as explained above. Electrical energy generated or transmitted by the United States Army Corps of Engineers, United States Bureau of Reclamation, or the Bonneville Power Administration is not subject to this tax unless and until it is transferred by such federal entity to another person engaged in the light and power business within this state and then only upon the last distribution of such energy by such light and power business.

(12) For purposes of measuring the public utility tax liability, the "amount or value derived from the last distribution of electrical energy" (RCW 82.16.010(13) definition of "gross income") is the total consideration in terms of money or other value, however designated, received by or accruing to the taxpayer: *Provided*, That the tax measure is the cost of production but not to exceed the fair market value of the electrical energy at the time it is generated in this state for any of the following: (a) For electrical energy generated in this state and transmitted or transferred by the person who generated the same to points outside this state without prior sale; and (b) for electrical energy sold pursuant to an agreement which requires the purchaser to pay certain costs of the generating facility without regard to the amount of electrical energy produced by such facility.

(13) In distinguishing gross income taxable under the public utility tax from gross income taxable under the business and occupation tax, the department of revenue will be guided by the uniform system of accounts established for the specific type of utility concerned. However, because of differences in the uniform systems of accounts established for various types of utility businesses, such guides will not be deemed controlling for the purposes of classifying revenue under the Revenue Act.

(14)) **Definitions.** The following definitions apply to this section:

(a) The term "gross income" means the value proceeding or accruing from the performance of the particular public service or transportation businesses involved. It includes operations incidental to the public utility activity, but without

any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(b) The term "service charge" means those specific charges made to a customer for providing a specific service. The term includes the actual charge to a customer for the sale or distribution of water, gas, or electricity. This term does not include utility local improvement district assessments (ULID) or local improvement district assessments (LID).

(c) The term "subject to control by the state" means control by the utilities and transportation commission or any other state department required by law to exercise control of a business of a public service nature as to rates charged or services rendered.

(3) Persons taxable under the public utility tax. The term "public service businesses" includes any of the businesses defined in RCW 82.16.010 (1) through (9), and (11). It also includes any business subject to control by the state, or having the powers of eminent domain, or any business declared by the legislature to be of a public service nature, irrespective of whether the business has the powers of eminent domain or the state exercises its control over the business. It includes, among others, without limiting the scope thereof: Railroad, express, railroad car, water distribution, sewerage collection, light and power, telegraph, gas distribution, urban transportation and common carrier vessels under sixty-five feet in length, motor transportation, tugboat businesses, certain airplane transportation, boom, dock, ferry, pipe line, toll bridge, toll logging road, and wharf businesses. (See WAC 458-20-251 for sewerage collection.) Persons engaged in these business activities are subject to the public utility tax even if they are not publicly recognized as providing that type of service or the amount of income from these activities is not substantial.

(a) "Light and power business" includes charges made for the "wheeling" of electricity for others. "Wheeling" is the activity of delivering or distributing electricity owned by others using power lines and equipment of the person doing the wheeling.

(b) Persons engaged in hauling for hire by motor vehicle should also refer to WAC 458-20-180.

(c) Persons hauling property, other than U.S. mail, by air transportation equipment are taxable under the other public service public utility tax. Income from the hauling of U.S. mail or passengers is not subject to the public utility tax because of specific federal law. (See 49 U.S.C. section 1301 and section 1513(a).)

(d) Persons engaged in hauling persons or property for hire by watercraft between points in Washington are taxable under the public utility tax. Income from operating tugboats of any size and income from the sale of transportation services by vessels over sixty-five feet is taxable under the public service utility tax classification. Income from the sale of transportation services using vessels under sixty-five feet, other than tugboats, is taxable under "vessels under sixty-five feet" public utility tax classification. These classifications include businesses engaged in chartering or transporting persons by water from one location in Washington to another location within this state. This does not include sightseeing

tours or activities which are in the nature of guided tours where the tour may include some water transportation. Persons engaged in providing tours should refer to WAC 458-20-258.

(e) Income from activities which are incidental to a public utility activity are generally taxable under the public utility tax when performed for an existing customer. This includes charges for line extensions, connection fees, line drop charges, start-up fees, pole replacements, testing, replacing meters, line repairs, line raisings, pole contact charges, load factor charges, meter reading fees, etc. However, if any of these services are performed for a customer prior to sale of a public utility service to the customer, the income is taxable under the business and occupation tax. (See subsection (4) of this section.)

(4) Business and occupation tax. As indicated above, services which are incidental to a public utility activity are generally subject to the public utility tax. However, these types of charges are taxable under the service and other business activities B&O tax classification if performed for a customer prior to receipt of the utility services (gas, water, electricity) by a new customer. A "new customer" is a customer who previously has not received utility services, such as water, gas, or electricity, at the location where the charge for a specific service was provided. For example, a customer of a water supplier who currently receives water at a residence constructs a new residence a short distance from the first location. This customer will be considered a "new customer" with respect to any charges for services performed at the new location until the customer actually receives water at the new location, even though this customer may be receiving services at a different location. The charge for installing a meter or a connection charge for this customer at the new location would be taxable under the service and other activities B&O tax classification.

Amounts charged to customers as interest or penalties are generally taxable under the service and other business activities B&O tax classification. This includes interest charged for failure to timely pay for utility services or for special services which were performed prior to the customer receiving services, such as connection charges. However, any interest and/or penalty charged because of the failure to timely pay a LID or ULID assessment will not be taxable for the public utility tax or the B&O tax.

(5) Tax rates. The rates of tax for each business activity are imposed under RCW 82.16.020 and set forth on appropriate lines of the combined excise tax return forms.

(6) Uniform system of accounts. In distinguishing gross income taxable under the public utility tax from gross income taxable under the business and occupation tax, the department of revenue will be guided by the uniform system of accounts established for the specific type of utility concerned. However, because of differences in the uniform systems of accounts established for various types of utility businesses, such guides will not be deemed controlling for the purposes of classifying revenue under the Revenue Act.

(7) Volume exemption. Persons subject to the public utility tax are exempt from the payment of this tax if the taxable income from utility activities does not meet a minimum threshold. Prior to July 1, 1994, there was a similar exemption for the business and occupation tax with different threshold amounts. Beginning July 1, 1994, the law

provides for a B&O tax credit for taxpayers who have a minimal B&O tax liability. (See WAC 458-20-104.) The volume exemption for the public utility tax applies independently of the business and occupation tax credit or exemption. The volume exemption for the public utility tax applies for any reporting period in which taxable income reported under the combined total of all public utility tax classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons according to the following schedule:

Monthly reporting basis . . . . .	\$500 per month
Quarterly reporting basis . . . . .	\$1500 per quarter
Annual reporting basis . . . . .	\$6000 per annum

~~((15))~~ (8) **Exemption of amounts or value paid or contributed to any county, city, town, political subdivision, or municipal corporation for capital facilities.** RCW 82.04.417 previously provided an exemption from the public utility tax and the business and occupation tax for amounts received by cities, counties, towns, political subdivisions, or municipal corporations representing contributions for capital facilities. These contributions are often referred to as "contributions in aid of construction." This law was repealed effective July 1, 1993, and this exemption is no longer available after that date. (See chapter 25, Laws of 1993 s.p.s.) However, contributions in the form of equipment or facilities will not be considered as taxable income. For example, if an industrial customer purchases and installs transformers which it donates to a public utility district as a condition of receiving future service, the public utility district will not be subject to the public utility tax or B&O tax on the receipt of the donated transformers. For a water or sewerage collection business, the value of pipe, valves, pumps, or similar items donated by a developer to the utility business would not be taxable income to the utility business. Monetary payments are considered to be payments for installation of facilities so that a customer may receive the public utility commodity or service. When the facilities are installed or constructed by the customer and subsequently given to the utility business, there is no payment for installation of the facilities.

(9) **Specific deductions.** Amounts derived from the following sources ~~((do not constitute taxable income in computing tax under the public utility tax))~~ may be deducted from the gross income under the public utility tax if included in the gross amounts reported:

(a) Amounts derived by municipally owned or operated public services businesses directly from taxes levied for the support thereof, but not including service charges which are spread on the property tax rolls and collected as taxes. LID and ULID assessments, including interest and penalties on such assessments, will not be considered part of the taxable income because they are exercises of the jurisdiction's taxing authority. These assessments may be composed of a share of the costs of capital facilities, installation labor, connection fees, etc. A deduction may be taken for these amounts if they are included in the LID or ULID assessments.

(b) Amounts derived ~~((by persons engaged in the water distribution, or gas distribution business, from the sale of commodities to persons in the same public service business for resale as such within this state))~~ from the sale of commodities to persons in the same public service business as

the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, light and power, gas distribution or other public service businesses which furnish water, electrical energy, gas or any other commodity in the performance of a public service business.

(c) Amounts actually paid by a taxpayer to another person taxable under chapter 82.16 RCW as the latter's portion of the consideration due for services jointly furnished by both. This includes the amount paid to a ferry company for the transportation of a vehicle and its contents (but not amounts paid to state owned or operated ferries) when such vehicle is carrying freight or passengers for hire and is being operated by a person engaged in the business of urban transportation or motor transportation. It does not include amounts paid for the privilege of moving such vehicles over toll bridges. However, this deduction applies only to the purchases of services and does not include the purchase of commodities. The following examples show how this deduction and the deduction for sales of commodities would apply:

(i) CITY Water Department purchases water from Neighboring City Water Department. CITY sells the water to its customers. Neighboring City Water Department may take a deduction for its sales of water to CITY since this is a sale of water (commodities) to a person in the same public service business. CITY may not take a deduction for its payment to Neighboring City Water as "services jointly furnished." The service or sale of water to the end consumers was made solely by CITY and was not a jointly furnished service.

(ii) Customer A hires ABC Transport to haul goods from Tacoma, Washington to a manufacturing facility at Bellingham. ABC Transport subcontracts part of the haul to XYZ Transport and has XYZ haul the goods from Tacoma to Everett where the goods are loaded into ABC's truck. ABC may deduct the payments it makes to XYZ as a "jointly furnished service."

(d) Amounts derived from the distribution of water through an irrigation system, solely for irrigation purposes.

(e) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination ~~((; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or shipside on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destination: Provided, That no deduction will be allowed when the point of origin and the point of delivery to such export elevator, wharf, dock, or shipside are located within the corporate limits of the same city or town.~~

(f) Amounts or value paid or contributed to any county, city, town, political subdivision, or municipal or quasi municipal corporation of the state of Washington representing payments of special assessments or installments thereof

PERMANENT

~~and interests and penalties thereon, charges in lieu of assessments, or any other charges, payments or contributions representing a share of the cost of capital facilities constructed or to be constructed or for the retirement of obligations and payment of interest thereon issued for capital purposes. The business and occupation tax is likewise inapplicable to such amounts. Service charges shall not be included in this exemption even though used wholly or in part for capital purposes).~~

(f) Amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or shipside on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to an interstate or foreign destination: *Provided*, That no deduction will be allowed when the point of origin and the point of delivery to such export elevator, wharf, dock, or shipside are located within the corporate limits of the same city or town. The following examples show how this deduction applies:

(i) ABC Trucking delivers logs to a storage area which is adjacent to the dock from where shipments are made by vessel to a foreign country. The logs go through a peeling process at the storage area prior to being placed on the vessel. The peeling process changes the form of the original log. Because the form of the log is changed, ABC Trucking may not take a deduction for the haul to the storage area. It is immaterial that the trucker may be paid based on an "export" rate.

(ii) ABC Trucking hauls logs from the woods to a log storage area which is adjacent to the dock. The logs will be sorted prior to being placed in the hold of the vessel, but no further processing will be performed. The storage area is quite large and the logs will be moved by log stacker and will be placed alongside the ship. The logs are loaded using the ship's tackle and then transported to a foreign country. ABC Trucking may take a deduction for the amounts received for transporting the logs from the woods to the log storage area. The movement of the logs within the log storage area is not considered to be "intervening transportation," but is part of the stevedoring activity.

(iii) ABC Trucking hauls logs from the woods to a "staging area" where the logs are sorted. After sorting, XY Hauling will transport some of the logs from the staging area to local mills for lumber manufacturing and other logs to the dock which is located approximately five miles from the staging area where the logs immediately are loaded on a vessel for shipment to Japan. The dock and staging area are not within the corporate city limits of the same city. ABC Trucking may not take a deduction for amounts received for hauling logs to the staging area. Even though some of these logs ultimately will be exported, ABC Trucking is not delivering the logs directly to the dock where the logs will be loaded on a vessel.

However, XY Hauling may take a deduction for the income from hauls to the dock. Its haul was the final transportation prior to the logs being placed on the vessel for shipment to Japan. The logs remained in their original form with no additional processing. The haul also did not originate or terminate within the corporate city limits of the same city or town. All the conditions were met for XY Hauling to claim the deduction.

(g) Amounts derived from the distribution of water by a nonprofit water association which are used for capital improvements by that association.

~~(h) Amounts received ((by cities, counties, towns, or municipal corporations as payment of a share of the cost of capital facilities, but excluding charges for utility services which may be used for capital purposes)) from sales of power which is delivered by the seller out-of-state. A deduction may also be taken for the sale of power to a person who will resell the power outside Washington where the power is delivered in Washington. These sales of power are also not subject to the manufacturing B&O tax.~~

(i) Amounts received for providing commuter share riding or ride sharing for the elderly and the handicapped in accordance with RCW 46.74.010.

(j) Amounts expended to improve consumers' efficiency of energy end use or to otherwise reduce the use of electrical energy or gas by the consumer. (For details see WAC 458-20-17901.)

~~(k) ((Amounts equal to the cost of production at the plant for consumption in this state of:~~

~~(i) Electrical energy produced from cogeneration as defined in RCW 82.35.020; and~~

~~(ii) Electrical energy or gas produced from renewable energy resources (e.g., solar, wind, hydro, geothermal, wood, wastes, and end use waste heat. (For details see WAC 458-20-17901.)~~

~~(16) Income derived from any of the foregoing sources is to be included within the reported gross income, and the applicable deductions may be taken in computing tax liability.~~

~~(17) Contributions in aid of construction not falling within item "6" above are subject to public utility tax, except that amounts received for line extensions, connection fees, and other charges for services rendered prior to the receipt of utility services by the customer against whom the charges are made are subject to business and occupation tax under the service and other activities classification rather than the public utility tax.~~

~~(18)) Income from transporting persons or property by air, rail, water, or by motor transportation equipment where either the origin or destination of the haul is outside the state of Washington.~~

(10) Other deductions. In addition to the ~~((foregoing))~~ deductions discussed above there also may be deducted from the reported gross income (if included ~~((therein))~~ within the gross), the following:

(a) The amount of cash discount actually taken by the purchaser or customer.

(b) The amount of credit losses actually sustained.

(c) Amounts received from insurance companies in payment of losses.

(d) Amounts received from individuals and others in payment of damages caused by them to the utility's plant or equipment.

~~((19) For specific rules pertaining to the classifications of "urban transportation" and "motor transportation," see WAC 458-20-180.~~

~~(20) Notice—Refuse and sewerage collection businesses. The specific provisions of this section, respecting refuse and sewerage collection businesses have been repealed, retroactively to July 1, 1985. The new express provisions for~~

taxability of such businesses from July 1, 1985, forward are now set forth in WAC 458-20-250 (Refuse collection business) and WAC 458-20-251 (Sewerage collection business).)

**(11) Exchanges by light and power businesses.** There is no specific exemption which applies to an "exchange" of electrical energy or the rights thereto. However, exchanges of electrical energy between light and power businesses do qualify for deduction in computing the public utility tax as being sales of power to another light and power business for resale. An exchange is a transaction which is considered to be a sale and involves a delivery or transfer of energy or the rights thereto by one party to another for which the second party agrees, subject to the terms and conditions of the agreement, to deliver electrical energy at the same or another time. Examples of deductible exchange transactions include, but are not limited to, the following:

(a) The exchange of electric power for electric power between one light and power business and another light and power business;

(b) The transmission or transfer of electric power by one light and power business to another light and power business pursuant to the agreement for coordination of operations among power systems of the Pacific Northwest executed as of September 15, 1964;

(c) The Bonneville Power Administration's acquisition of electric power for resale to its Washington customers in the light and power business;

(d) The residential exchange of electric power entered into between a light and power business and the administrator of the Bonneville Power Administration (BPA) pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, P.L. 96-501, Sec. 5(c), 16 U.S.C. 839(c) (Supp. 1982). In some cases, power is not physically transferred, but the purpose of the residential exchange is for BPA to pay a "subsidy" to the exchanging utilities. For public utility tax reporting purposes, these subsidies will be treated as a nontaxable adjustment (rebate or discount) for purchases of power from BPA.

**(12) Customer billing information.** RCW 82.16.090 requires that customer billings issued by light or power businesses or gas distribution businesses serving more than twenty thousand customers shall include the following information:

(a) The rates and amounts of taxes paid directly by the customer upon products or services rendered by such businesses; and

(b) The rate, origin and approximate amount of each tax levied upon the revenue of such businesses which has been added as a component of the amount charged to the customer. This does not include taxes levied by the federal government or taxes levied under chapter 54.28, 80.24, or 82.04 RCW.

**(13) Motor or urban transportation.** For specific rules pertaining to the classifications of "urban transportation" and "motor transportation," see WAC 458-20-180.

WSR 94-13-039  
PERMANENT RULES  
ATTORNEY GENERAL'S OFFICE  
[Filed June 6, 1994, 3:59 p.m.]

Date of Adoption: June 3, 1994.

Purpose: The proposed amendments update the provisions of chapter 44-06 WAC to accurately state the locations of the offices of the Attorney General where records may be obtained; to add provisions applicable to the lemon law program created pursuant to chapter 19.118 RCW; to indicate the appropriate persons responsible for responding to requests for public records, how to make such requests, how requests and any denials will be addressed; and to otherwise bring the WAC into compliance with the Public Records Act, chapter 42.17 RCW; the Administrative Procedure Act, chapter 34.05 RCW and other laws.

Citation of Existing Rules Affected by this Order: Amending WAC 44-06-010, 44-06-020, 44-06-030, 44-06-040, 44-06-050, 44-06-060, 44-06-070, 44-06-080, 44-06-090, 44-06-110, 44-06-120, and 44-06-140.

Statutory Authority for Adoption: RCW 43.10.110, chapters 42.17, 19.118 and 34.05 RCW.

Pursuant to notice filed as WSR 94-06-050 on March 1, 1994.

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

June 3, 1994

Christine O. Gregoire  
Attorney General

Chapter 44-06 WAC  
~~((CONSUMER PROTECTION DIVISION))~~  
PUBLIC RECORDS

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

**WAC 44-06-010 Purpose.** The purpose of this chapter is to provide rules ~~((implementing sections 25 through 32, chapter 1, Laws of 1973 (RCW 42.17.250 through 42.17.320) for the Washington state attorney general's office))~~ for the Washington state attorney general's office, implementing the provisions of chapter 42.17 RCW relating to public records.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

**WAC 44-06-020 Definitions.** (1) The definitions set forth in RCW 42.17.020 shall apply to this chapter.

(2) "Intra-agency memoranda" includes but is not limited to memoranda from one member of the attorney general's staff to another and memoranda by members of the attorney general's staff to the particular state client which they represent.

(3) "Consumer ~~((and business fair practices))~~ protection division" is the division of the attorney general's office which enforces chapter 19.86 RCW and other trade and business regulation and consumer protection statutes.

(4) "Lemon law administration" means the agency created to administer the New Motor Vehicles Warranty Act, chapter 19.118 RCW within the office of the attorney general.

(5) "Office" is the attorney general's office.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

**WAC 44-06-030 Function—Organization—Administrative offices.** The attorney general's office is charged by the constitution and statutes with the general obligation of advising and legally representing the state of Washington, its officials, departments, boards, commissions and agencies but not the local units of government. In response to requests from state officers, legislators and prosecuting attorneys, the attorney general's office issues attorney general opinions. The published opinions of the attorney general's office are numbered as AGO (year of issue and number; i.e., AGO 1974 No. 1). ~~((The attorney general's office also issues office opinions which are not published, which are numbered as AGLO (year of issue and number; i.e., AGLO 1974 No. 1)).~~

~~The organization of the office of the attorney general necessarily mirrors the organization of state government itself and a number of the assistant attorneys general are physically housed with the agency which they represent.))~~ Inquiries and correspondence concerning a matter where a specific assistant attorney general is identified as representing a specific agency should be directed to the specifically named assistant attorney general, if known; or the appropriate section of the office, if known.

Consumer protection complaints should be directed to the Consumer ~~((and Business Fair Practices))~~ Protection Division, ~~((Dexter Horton Building))~~ 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012 or to local division offices located in Tacoma, Olympia, or Spokane. Communication concerning the New Motor Vehicles Warranty Act (the lemon law) should be directed to the Lemon Law Administration, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012. Other inquiries, including requests for attorney general's opinions, should be directed to the Attorney General's Office, ~~((Temple of Justice))~~ State of Washington, Olympia, Washington 98504-0100.

In addition to the areas mentioned above, the office is divided into several divisions which provide legal advice to state agencies in particular subject matter areas. Because regional office addresses may change from time to time, current division addresses and telephone numbers should be obtained from the local telephone directory or you may obtain an organizational chart and the addresses and telephone numbers of the regional offices of the attorney general by requesting it from the Attorney General's Office, State of Washington, Olympia, Washington 98504-0100, phone (206) 753-6200. Attorney general offices are located in other cities ((are as follows:)) in the state and are denominated as regional offices.

- ~~((1))~~ Everett Office Social and Health Services  
1411 Wall Street Public Assistance  
Everett, Washington
- (2) Tacoma Office Consumer Protection  
949 Market Street (Pierce County)  
Suite 380  
Tacoma, Washington

- (3) Vancouver Office Social and Health Services  
500 West 8th Street Public Assistance  
Suite 751  
Vancouver, Washington
- (4) Spokane Office Consumer Protection  
1116 West (Eastern Washington)  
Riverside Street Labor and Industries  
Spokane, Washington Social and Health Services
- (5) Olympia Office Consumer Protection  
122 North Capitol Way (Thurston County)  
Olympia, Washington

~~Offices of sections of the attorney general's office and their addresses are as follows (inquiries involving subject matters described in the following list should be initially directed to the respective section):~~

- (1) Agriculture—Legal Division  
General Administration Bldg.  
Olympia, Washington 98504
- (2) Ecology—Legal Division  
St. Martin's College  
Lacey, Washington 98504
- (3) Education—Legal Division  
531 E. 15th  
Olympia, Washington 98504
- (4) Employment Security—Legal Division  
Employment Security Building  
Olympia, Washington 98504
- (5) Departments of Game and Fisheries—Legal Division  
600 North Capitol Way  
Olympia, Washington 98504
- (6) Highways—Legal Division  
5th Floor—Highway Licenses Building  
Olympia, Washington 98504
- (7) Human Rights Commission—Legal Division  
WEA Building  
Olympia, Washington 98504
- (8) Labor and Industries—Legal Division  
General Administration Building  
Olympia, Washington 98504
- (9) Legal Fiscal Division (Auditor, General  
Temple of Justice Administration, Office of  
Olympia, Washington Program Planning and Fiscal  
98504 Management, Public-  
Disclosure Commission)
- (10) Liquor Board—Legal Division  
Capitol Plaza Building  
Olympia, Washington 98504
- (11) Motor Vehicles—Legal Division  
5th Floor—Highway Licenses Building  
Olympia, Washington 98504
- (12) Natural Resources—Legal Division  
Public Lands Building  
Olympia, Washington 98504
- (13) Revenue Department—Legal Division  
General Administration Building  
Olympia, Washington 98504
- (14) Social and Health Services—Legal Division  
101 Public Lands Bldg.  
Olympia, Washington 98504
- (15) Tort Claims  
5th Floor—Highway Licenses Building  
Olympia, Washington 98504

PERMANENT

~~(16) Utilities and Transportation Commission—Legal Division  
5th Floor—Highway Licenses Building  
Olympia, Washington 98504~~

~~(17) University of Washington  
112 Administration Building  
Seattle, Washington~~

~~(18) Washington State University  
432 French Administration Bldg.  
Pullman, Washington~~

~~(19) Western Washington University  
Room 335, Old Main  
Bellingham, Washington~~

~~Other inquiries should be directed to the Attorney General's Office, Temple of Justice, Olympia, Washington 98504, unless the sender is aware of another specific address for the appropriate attorney general legal section.))~~

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

**WAC 44-06-040 Public records available.** Public records are available for public inspection and copying pursuant to these rules except as otherwise provided by RCW 42.17.310, any other law and these rules.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

**WAC 44-06-050 Index.** The attorney general's office ~~((biennial reports have))~~ has indexed by subject matter the published opinions of the attorney general. ~~((A card))~~ An index is maintained in the ~~((central office, Temple of Justice))~~ law library, Olympia, Washington, indexing all published attorney general opinions ~~((published and unpublished))~~, as described in WAC 44-06-030, by subject matter and by statute. ~~((Appellate briefs filed by the office of the attorney general are card indexed by subject and case name in the same office.~~

~~A card index))~~ Retrieval capability is maintained in the central office, ~~((Temple of Justice,))~~ Olympia, Washington, for cases which have been filed involving the state, giving the name, the county and the cause number. ~~((For cases involving the department of labor and industries a comparable card index file is maintained in the Attorney General's Office, Dexter Horton Building, Seattle, Washington.))~~

The volume of correspondence received by the attorney general's office is such that it would be unduly burdensome to formulate and maintain an index for all such correspondence. In lieu of an index the following filing system is utilized.

(1) Consumer protection complaints received by the consumer ~~((and business fair practices))~~ protection division are filed by firm name of the subject of the complaint, or by the subject matter of the complaint if no specific firm is named.

(2) ~~((Letters from the public and the responses thereto are filed in the central office, Temple of Justice, Olympia, Washington, by alphabetical batching for specific time periods.~~

~~(3) Letters to and from agencies are filed in the central office, Temple of Justice, Olympia, Washington, by the name of the agency in a chronological sequence.))~~ Records of the new motor vehicle arbitration board as well as the

lemon law administration are filed in the Seattle office, Lemon Law Administrator, Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

**WAC 44-06-060 Public records officer.** (1) The public records officer for the attorney general's office shall be the ~~((administrative assistant to the attorney general for all records maintained in the central office, Temple of Justice, Olympia, Washington. For those records maintained at other locations, the assistant attorney general in charge of the legal division having custody of the records or any staff member designated by the assistant attorney general shall be the public records officer))~~ office services manager who shall be responsible for responses to requests for public records. Except as provided in subsections (2) and (3) of this section, all requests for public records shall be directed to Office Services Manager, Office of the Attorney General, 1110 Capitol Way S., PO Box 40107, Olympia, Washington 98504-0107.

(2) For those records maintained for lemon law administration for the New Motor Vehicles Warranty Act (chapter 19.118 RCW) the disclosure coordinator shall be located at the Office of Lemon Law Administration, Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

(3) For those records maintained by the "business and fair practices division" aka consumer protection division (chapter 19.86 RCW), the disclosure coordinator shall be located at the Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

**WAC 44-06-070 ((Office hours.)) Hours for seeking public records.** Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

**WAC 44-06-080 Requests for public records.** In accordance with requirements of chapter ~~((4, Laws of 1973))~~ 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the office which shall be available at the offices where records are maintained. The form shall be presented to the public records officer; or to a member of the staff designated by him or her, if the public records officer is not available, at the office during the office hours specified in WAC 44-06-070. The request shall include the following information:

(a) The name of the person requesting the record;  
 (b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within ~~((the))~~ a current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to ~~((the office's))~~ a current index maintained by the office, an appropriate description of the record requested.

(f) If the request is for a list of individuals, the requester shall certify that the request is not for commercial purposes except as provided in RCW 42.17.260(7).

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or designated staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

(3) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

#### NEW SECTION

**WAC 44-06-085 Response to public records requests.** (1) The office shall respond promptly to requests for disclosure. Within five business days of receiving a public record request, the office will respond by:

(a) Providing the record;

(b) Acknowledging that the office has received the request and providing a reasonable estimate of the time the office will require to respond to the request; or

(c) Denying the public record request.

(2) Additional time for the office to respond to a request may be based upon the need to:

(a) Clarify the intent of the request;

(b) Locate and assemble the information requested;

(c) Notify third persons or agencies affected by the request; or

(d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public record request that is unclear, the office may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the office need not respond to it.

(4)(a) If the office does not respond in writing within five working days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:

(i) Consider the request denied; and

(ii) Petition the public records officer under WAC 44-06-120.

(b) If the office responds within five working days acknowledging receipt of the request and providing an estimate of the time required to respond to the request, and the requester feels the amount of time stated is not reasonable, the person seeking disclosure shall be entitled to:

(i) Consider the request denied; and

(ii) Petition the public records officer under WAC 44-06-120.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

**WAC 44-06-090 Copying fees.** No fee shall be charged for the inspection of a public record. The office, however, will for requests under this chapter, charge one dollar for the first ten pages and ten cents per copy for additional pages. The public records officer may waive the fee for copies when the expense of processing the payment exceeds the costs of providing the copies. These charges are necessary to reimburse the office for the costs of providing the copies of the public records and the use of the copying equipment. Payment should be made by check to the attorney general's office. The office may require that all charges be paid in advance of release of the copies of the records.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

**WAC 44-06-110 Exemptions.** (1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 44-06-080 is exempt under the provisions of RCW 42.17.310 or other law.

(2) ~~((In addition,))~~ Many of the records of the office are protected by the attorney-client privilege and/or the attorney work product doctrine. The office, in the course of representing agencies, may at times have materials or copies of materials from such agencies. A request for such records may be referred by the attorney general to the agencies whose records are being requested. The office may assert exemptions applicable to the agency or agencies which transmitted the material to the office.

(3) Pursuant to RCW 42.17.260, the office reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ~~((1, Laws of 1973))~~ 42.17 RCW. The public records officer will fully justify such deletion in writing.

~~((3))~~ (4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

**WAC 44-06-120 Review of denials of public records requests.** (1) Any person who objects to the office's denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review to the public records officer. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the attorney general or his or her designated

deputy attorney general. The attorney general or his or her designee shall immediately consider the matter and either affirm or reverse such denial within two business days following the ~~((original denial))~~ receipt of the written request for review of the denial of the public record.

(3) Administrative remedies shall not be considered exhausted until the attorney general or the designated deputy attorney general has returned the petition with a decision or until the close of the second business day following ~~((denial of inspection))~~ receipt of the written request for review of the denial of the public record, whichever occurs first.

(4) For purposes of WAC 44-06-160, the office shall have concluded a public record is exempt from disclosure only after the review conducted under this section has been completed.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

**WAC 44-06-140 Adoption of form.** The attorney general's office hereby adopts use by all persons requesting inspection and/or copies of records of the form set out below, entitled "Request for public records."

Return to:

Public Records Officer  
Office of the Attorney General  
~~((Name and address of specific legal division. If not known, return to Office of Attorney General, Temple of Justice,))~~  
1110 Capitol Way S.  
PO Box 40107  
Olympia, Washington 98504(+)0107

OFFICE OF THE ATTORNEY GENERAL  
REQUEST FOR PUBLIC RECORDS

Date ..... Time .....  
Name .....  
Address .....  
.....  
Phone number where you can be reached during day .....  
Description of Records (see index):  
.....  
.....  
.....  
Signature  
Number of copies .....  
Number of pages .....  
Per page charge \$ .....  
Total charge \$ .....

NEW SECTION

**WAC 44-06-150 Availability of pamphlet.** The office has available a pamphlet, written in plain language, explaining the provisions of the Public Records Act. Requests for a copy of the pamphlet should be directed to the Public Records Officer, Office of the Attorney General, 1110 Capitol Way S., Suite 120, PO Box 40107, Olympia, Washington 98504-0107.

NEW SECTION

**WAC 44-06-160 Requests for review.** As provided in RCW 42.17.325, "Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter." Requests for such review shall be directed to Public Records Review, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100. The office will provide the person with a written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section.

**WSR 94-13-046**  
PERMANENT RULES  
**DEPARTMENT OF ECOLOGY**  
[Order 94-09—Filed June 7, 1994, 4:07 p.m.]

Date of Adoption: June 7, 1994.

Purpose: Adoption of revised shoreline master program for the city of Raymond into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-3303 Raymond shoreline master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Act of 1971.

Pursuant to notice filed as WSR 94-07-120 on March 22, 1994.

Effective Date of Rule: Thirty-one days after filing.  
June 7, 1994  
Terry Husseman  
Deputy Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

**WAC 173-19-3303 Raymond, city of.** City of Raymond master program approved April 9, 1976. Revision approved June 7, 1994.

**WSR 94-13-047**  
PERMANENT RULES  
**DEPARTMENT OF ECOLOGY**  
[Order 94-10—Filed June 7, 1994, 4:11 p.m.]

Date of Adoption: June 7, 1994.

PERMANENT

Purpose: Adoption of revised shoreline master program for the city of Olympia into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-4203 Olympia shoreline master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Act of 1971.

Pursuant to notice filed as WSR 94-07-119 on March 22, 1994.

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

June 7, 1994  
Terry Husseman  
Deputy Director

AMENDATORY SECTION (Amending WSR 93-12-107, filed 6/2/93, effective 7/3/93)

**WAC 173-19-4203 Olympia, city of.** City of Olympia master program approved May 21, 1976. Revision approved March 29, 1984. Revision approved April 30, 1984. Revision approved August 30, 1984. Revision approved September 29, 1987. Revision approved May 15, 1990. Revision approved June 1, 1993. Revision approved June 7, 1994.

**WSR 94-13-050  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Order 3741—Filed June 8, 1994, 10:47 a.m.]

Date of Adoption: June 8, 1994.

Purpose: Implements the supplemental budget (ESSB 6244) which requires the department to deem a portion of an alien sponsor's income to a GAU sponsored alien. This item brings GAU eligibility rules concerning a sponsored alien's and sponsor's income into conformity with existing AFDC rules.

Citation of Existing Rules Affected by this Order: Amending WAC 388-219-2000 Deeming of income of an alien's sponsor.

Statutory Authority for Adoption: ESSB 6244 Ch. 6 E. 1 1994 53rd legislature.

Pursuant to notice filed as WSR 94-10-086 on May 4, 1994.

Changes Other than Editing from Proposed to Adopted Version: None, subsection (2) clarifies legislative intent in ESSB 6244 to count income of an alien's sponsor for GAU applicants only.

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

June 8, 1994  
Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94.)

**WAC 388-219-2000 Deeming of income of an alien's sponsor.** The department shall ((not)) deem the income of

an alien's sponsor as available to the alien as provided for the AFDC program in chapter 388-218 WAC:

(1) At application, for applications filed on or after July 8, 1994. For the purposes of this rule, reapplications filed following a break in assistance of thirty days or more shall be considered an application; or

(2) For all other general assistance-unemployable clients, the department shall not deem the income of an alien's sponsor as available to the client.

**WSR 94-13-058  
PERMANENT RULES  
WASHINGTON STATE  
SCHOOL FOR THE DEAF**

[Filed June 8, 1994, 2:10 p.m.]

Date of Adoption: May 27, 1994.

Purpose: To prescribe a comprehensive student conduct code and the minimum standards for any disciplinary proceeding.

Statutory Authority for Adoption: RCW 72.40.022.

Pursuant to notice filed as WSR 94-08-066 on April 4, 1994.

Effective Date of Rule: Thirty days after filing.

June 1, 1994  
Dr. Gary L. Holman  
Superintendent

**Chapter 148-120 WAC  
STUDENT CONDUCT CODE**

NEW SECTION

**WAC 148-120-010 Student responsibilities and duties.** Washington school for the deaf is dedicated to offering its students an opportunity for the best education for deaf and hearing impaired students in the state of Washington. Concomitant to the rights and privileges guaranteed by federal and state law to students are duties and responsibilities which guarantee the rights of all students, including respect for the rights of others, compliance with written rules adopted herein and set forth in student handbooks, and submission to reasonable disciplinary action for violation(s) for such rules. This chapter is intended to assure that disciplinary action is imposed for just cause and in a fair and reasonable manner.

NEW SECTION

**WAC 148-120-015 Student rights.** (1) Each student is guaranteed the following rights, within the limitations of statutory law and school policy which are deemed necessary to achieve the school's educational goals:

(a) Students possess the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(b) Students possess the rights, guaranteed under the Constitution, to freedom of expression, free inquiry, and peaceful assembly upon and within school facilities that are generally open and available to the public.

(c) Students possess the rights, guaranteed under the Constitution, to the free exercise of religion and to have their

PERMANENT

school free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising such right.

(d) Students possess the constitutional right to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures, subject to limitations set forth in RCW 28A.600.210 through 28A.600.240 as now or hereafter amended.

(e) Students have the right to be free from unlawful interference in their pursuit of an education while enrolled at the Washington school for the deaf.

(f) Students shall not be deprived of the right to an equal educational opportunity in whole or in part by the Washington school for the deaf without due process including:

(i) Notice to the accused student of the nature of the charges and the proposed disciplinary action; and

(ii) The opportunity to request a hearing as set forth in this chapter.

(2) The foregoing enumeration of rights shall not be construed to deny or disparage other rights guaranteed in the Constitution and the laws of the state of Washington.

(3) The school shall publish and make available to all students and parents, on an annual basis, written rules which state with reasonable clarity the types of misconduct for which disciplinary action may be imposed.

## CONDUCT RULES

### NEW SECTION

**WAC 148-120-100 Conduct violations.** A student who, either as actor, aider, abettor, or accomplice as defined in RCW 9A.08.020, violates any provision of this chapter shall be subject to the disciplinary actions herein adopted.

The following offenses are prohibited:

(1) Physical abuse. Actual, attempted, or threatened physical abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally causes a reasonable apprehension of harm to any person.

(2) Destroying or damaging property. Destroying, defacing, or damaging school property or the property of others on school premises or at school-sponsored activities.

(3) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(4) Disruption. Disorderly, intimidating or abusive behavior which interferes with the rights of others, school, or school-sponsored activities; obstructing the free movement of people or vehicles; inciting others to engage in prohibited conduct; or threatening disruption.

(5) Insubordination. Refusal or failure to follow instructions and proper orders of school officials, while on school property, during transportation to and from school, or at school-sponsored activities, thereby infringing upon the rights and privileges of others, and/or refusal to desist from prohibited conduct.

(6) False alarms. Falsely setting off, improper use or disabling of any safety equipment, alarm, exit sign, or other device.

(7) False information. Filing a formal complaint which falsely accuses another with violation of this chapter, falsifying information to school officials, or forging or tendering any forged instrument to the school.

(8) Theft. Actual or attempted theft of property or services belonging to the school, any student, school employee, or school visitor, including knowing possession of stolen property.

(9) Academic dishonesty. All forms of cheating, plagiarism and fabrication, including submitting any work product that the student misrepresents as his or her work product for the purpose of fulfilling any assignment or task required as part of the student's course of studies.

(10) Conversion. Unauthorized use or possession of school equipment or services.

(11) Unlawful entry and trespassing. Entering and/or remaining in any administrative or other employee office or any locked or otherwise closed school facility, in any manner, at any time, without permission.

(12) Smoking. Students are not allowed to smoke or use tobacco products on school property or during school-sponsored activities.

(13) Alcohol. Use, possession, distribution of, or visible intoxication from alcoholic beverages is prohibited on school property or at school-sponsored activities.

(14) Drugs and controlled substances. Use, possession, distribution, or being visibly under the influence of any narcotic or controlled substance as defined in the Uniform Controlled Substances Act, chapter 69.50 RCW, as amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(15) Weapons and dangerous chemicals. Unauthorized use, possession or storage of any weapon, explosives, dangerous chemicals, substances or instruments, which may be used to inflict bodily harm on another or damage upon school property or personal property.

(16) Other conduct. Any other conduct or action, the terms and violations of which are published annually in the student/parent handbook, in which the school can demonstrate a clear and distinct interest and which substantially threatens the educational process or other legitimate function of the school or the health or safety of any member of the school community is prohibited.

### NEW SECTION

**WAC 148-120-120 Misdemeanor and/or felony.** Any student who commits any other act on school property or at a school-sponsored event which is punishable as a misdemeanor or felony under the laws of the state of Washington and which act is not a violation of any other provision of the student conduct code, shall be subject to disciplinary action.

When a student has been apprehended for the violation of law, the school will not request or agree to special consideration for the student because of his/her status as a student. The school will cooperate, however, with law enforcement and other agencies on any student rehabilitation program.

**DISCIPLINARY PROCESS AND PROCEDURES****NEW SECTION**

**WAC 148-120-200 Policy.** The Washington school for the deaf has established standards of conduct for students and the disciplinary process to protect members of the school community, maintain and advance its educational mission, and provide for the orderly conduct of the school's activities. Disciplinary procedures used by the school are considered part of its educational process. In every case of misconduct, the nature and circumstances of the violation will be considered and appropriate disciplinary actions will be administered on a less restrictive alternative basis, including but not limited to time out, detention, behavior contracts, restriction of privileges, reprimand, restitution, suspension or expulsion.

**NEW SECTION**

**WAC 148-120-205 Limitations.** (1) No form of disciplinary action shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirement: *Provided*, That a student's academic grade or credit in a particular subject or course may be adversely affected as a result of excessive tardiness or absences.

(2) Corporal punishment as defined by the board of education in WAC 180-40-235 as now or hereafter amended, is prohibited.

**NEW SECTION**

**WAC 148-120-210 Emergency removal from class or activity.** (1) Notwithstanding any other provision of this chapter, a student may be removed immediately from a class, subject, or activity by a certificated teacher or an administrator and sent to the principal or his/her designee: *Provided*, That the teacher or administrator has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to the student, other students, or school personnel, or an immediate and continuing threat of substantial disruption of the class, subject, activity, or educational process of the school. The removal from classes, subjects, or activities shall continue only until:

(a) The danger or threat ceases; or  
 (b) The principal or his/her designee acts to impose disciplinary action pursuant to this chapter.

(2) The principal or his/her designee shall meet with the student as soon as reasonably possible following the student's removal and take appropriate disciplinary action. In no case shall the student's opportunity for such meeting be delayed beyond the commencement of the next school day. Prior to or at the time any such student is returned to the class(es), subject(s), or activity(ies), the principal or his/her designee shall notify the teacher or administrator who removed the student therefrom of the action which has been taken.

**NEW SECTION**

**WAC 148-120-220 Short-term suspension.** (1) As used in this chapter, "short-term suspension" shall mean a denial of attendance at any class or admission to or entry

upon school property for up to and not exceeding ten consecutive school days.

(2) Unless otherwise prohibited, short-term suspension may be imposed upon a student for violation(s) of student conduct code rules.

(3) A student may be suspended for a short-term after another less restrictive form of disciplinary action, reasonably calculated to modify his or her conduct, has been imposed as a consequence of misconduct of the same nature: *Provided*, That the school may resort to immediate short-term suspension in cases involving exceptional misconduct. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, (a) of such frequent occurrence, notwithstanding prior attempts by the school to control such misconduct through the use of other forms of disciplinary action, as to warrant immediate resort to short-term suspension, and/or (b) so serious in nature and/or in terms of the disruptive effect upon the operation of the school, as to warrant immediate resort to short-term suspension.

(4) Any student subject to short-term suspension shall be provided the opportunity upon return to make up assignments and tests missed by reason of the suspension if such assignments or tests have a substantial effect upon academic standing.

**NEW SECTION**

**WAC 148-120-225 Short-term suspension—Notice and conference—Grievance procedure.** (1) Prior to the short-term suspension of any student pursuant to WAC 148-120-220, a conference shall be conducted with the student as follows:

(a) Notice of the alleged misconduct and violation(s) of school rules shall be provided to the student in writing or the mode of communication of the student;

(b) An explanation of the evidence in support of the allegation(s) shall be provided to the student in writing or the mode of communication of the student;

(c) An explanation of the disciplinary action which may be imposed shall be provided to the student in writing or the mode of communication of the student; and

(d) The student shall have the opportunity to present his/her explanation.

(2) In the event a suspension is to exceed one calendar day the parent(s) or guardian(s) of the student shall be notified of the reason for the student's suspension and the duration of the suspension orally and/or by letter deposited in the United States mail as soon as reasonably possible. The notice shall also inform the parent or guardian of the right to a brief adjudicative proceeding and that the suspension may possibly be reduced as a result of such proceeding.

(3) Any student, parent, or guardian aggrieved by the imposition of a short-term suspension pursuant to WAC 148-120-220, shall have the right to a brief adjudicative proceeding under WAC 148-108-100 as soon as reasonably possible. The disciplinary action may continue notwithstanding the implementation of the brief adjudicative proceeding set forth in this section.

(4) The presiding officer shall give a written decision including a brief statement of the reasons for the decision within ten days of the brief adjudicative proceeding.

NEW SECTION

**WAC 148-120-230 Long-term suspension.** (1) As used in this chapter, "long-term suspension" shall mean a denial of attendance at any class or admission to or entry upon school property in excess of ten consecutive school days.

(2) Unless otherwise prohibited, long-term suspensions may be imposed on a student for violation(s) of student conduct code rules.

(3) When a student engages in conduct that would warrant long-term suspension, the student, parent(s) or guardian(s) shall be notified immediately of the misconduct, the disciplinary action proposed, and the time and location of any individualized education program (IEP) team meeting review.

(4) If long-term suspension is recommended, the school shall convene a meeting to review the student's IEP pursuant to WAC 148-171-210. The IEP team shall determine whether the misconduct is a manifestation of or is substantially related to the student's handicapping condition(s).

(5) If the IEP team concludes that the misconduct is not a manifestation of the student's handicapping condition(s), the student may be disciplined under the procedures set forth in WAC 148-120-234 through 148-120-236.

(6) If the IEP team concludes that the misconduct is a manifestation of the student's handicapping condition(s), suspension for more than ten days shall not be imposed unless:

(a) The school and parent(s) or guardian(s) agree otherwise; or

(b) The IEP team recommends a change of placement.

(7) A student involved in the complaint shall remain at the school during the pendency of any administrative or judicial proceeding, unless:

(a) The student's misconduct poses an immediate threat to the safety of others or where maintaining the student in his/her current placement at the school has a substantial likelihood of resulting in injury either to the student or to others; or

(b) The school, student, and parent(s) agree otherwise.

(8) A party may request a hearing pursuant to WAC 148-171-600, on any manner described in this section.

(9) Nothing in this section shall be construed to limit the superintendent's ability to seek injunctive relief in appropriate cases from a court of competent jurisdiction.

NEW SECTION

**WAC 148-120-234 Long-term suspension—Misconduct unrelated to handicapping condition(s)—Notice.** (1) A student may be suspended for a long term after another less restrictive form of disciplinary action, reasonably calculated to modify his or her conduct, has been imposed as a consequence of misconduct of the same nature: PROVIDED, That the school may resort to immediate long-term suspension in cases involving exceptional misconduct. For the purposes of this section, "exceptional misconduct" means misconduct, other than absenteeism, (a) of such frequent occurrence, notwithstanding prior attempts by the school to control such misconduct through the use of other forms of disciplinary action, as to warrant immediate resort to long-term suspension, and/or (b) so serious in nature

and/or in terms of the disruptive effect upon the operation of the school, as to warrant immediate resort to long-term suspension.

(2) Prior to the long-term suspension of any student for misconduct unrelated to his/her handicapping condition(s), written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible;

(b) Specify the alleged misconduct and the rule(s) alleged to have been violated;

(c) Set forth the disciplinary action proposed;

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s).

(e) State that a written request for a hearing must be received by the school employee designated, or by his or her office within three school days after receipt of the notice of opportunity for a hearing; and

(f) State that if such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed.

**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.

NEW SECTION

**WAC 148-120-236 Long-term suspension—Misconduct unrelated to handicapping condition(s)—Hearing—Appeal.** (1) If a request for a hearing is received pursuant to WAC 148-120-234 within the required time period, the school shall schedule a hearing to commence within seven school days after the date upon which the request for a hearing was received.

(2) The student and parent(s) or guardian(s) has the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school intends to introduce at the hearing;

(b) Be advised or represented by an attorney;

(c) Present relevant evidence, confront and compel the attendance of witnesses.

(3) The designee of the school assigned to present the school's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence which the student and parent(s) or guardian(s) intends to introduce at the hearing;

(4) The person(s) hearing the case shall not be a witness and the decision on the suspension shall be based solely on the evidence presented at the hearing.

(5) A written or electronic verbatim record of the hearing shall be made.

(6) A written decision setting forth findings of fact, conclusions, and the nature and duration of the long-term suspension or lesser form of disciplinary action to be imposed, if any, shall be provided to the student, parent(s) or guardian(s), and attorney.

(7) If a request for hearing is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed without any further opportunity for the student or his or her parent(s) to contest the matter.

(8) A decision which imposes a long-term suspension upon a student shall be final and no further appeal within the school is provided.

(9) During the pendency of any administrative or judicial proceeding involving suspension under this section, unless the school and the parent(s) of the student (or the adult student as defined in WAC 148-171-010(1)) agree otherwise, the student shall remain in the educational placement he or she was in when the request for hearing was made: *Provided*, That nothing in this section shall be construed to limit the superintendent's ability to seek injunctive relief in appropriate cases from a court of competent jurisdiction.

**WSR 94-13-068**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Order 5048—Filed June 9, 1994, 4:10 p.m.]

Date of Adoption: June 9, 1994.

Purpose: Sets license fees, late renewal fees, and expiration date.

Citation of Existing Rules Affected by this Order: Amending chapter 16-605A WAC.

Statutory Authority for Adoption: Chapter 16.58 RCW.

Pursuant to notice filed as WSR 94-10-076 on May 4, 1994.

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

June 9, 1994

Jim Jesernig

Director

NEW SECTION

**WAC 16-605A-001 Certified feed lot license fee.**

The fee license a certified feed lot shall be seven hundred fifty dollars.

NEW SECTION

**WAC 16-605A-010 Certified feed lot handling fee.**

The licensee shall pay to the director a fifteen cent fee for each head of cattle handled through the licensee's certified feed lot.

**WSR 94-13-069**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Order 5049—Filed June 9, 1994, 4:13 p.m.]

Date of Adoption: June 9, 1994.

Purpose: Sets livestock market license fees, brand inspection regulations, and facilities requirements.

Citation of Existing Rules Affected by this Order: Amending chapter 16-604 WAC.

Statutory Authority for Adoption: Chapter 16.65 RCW.

Pursuant to notice filed as WSR 94-10-074 on May 4, 1994.

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

June 9, 1994

Jim Jesernig

Director

NEW SECTION

**WAC 16-604-008 License fees.** License fees for individuals wishing to operate public livestock markets shall be based upon audited average gross sales volume per official sales day of that market. The fee schedule shall be established as follows:

(1) For markets producing gross sales up to and including ten thousand dollars a license fee of one hundred fifty dollars;

(2) For markets producing gross sales over ten thousand dollars up to and including fifty thousand dollars, a license fee of three hundred fifty dollars;

(3) For markets producing gross sales over fifty thousand dollars, a license fee of four hundred fifty dollars.

AMENDATORY SECTION (Amending WSR 92-06-013, filed 2/24/92, effective 3/26/92)

**WAC 16-604-010 Brand inspection regulations.** (1) All cattle and horses shall be inspected for brands by the director prior to sale at any public livestock market.

(2) A minimum daily inspection fee of ninety dollars shall be paid by the licensee to the department.

(3) Whenever any cattle or horses are offered for sale at a market and not sold, the identical animals may be offered for sale at the same market within eight days of the original inspection date without being required to pay a second brand inspection fee, upon presentation of the prior brand inspection certificate. In any such instance the unsold cattle or horses must be presented for brand inspection without any animals having been taken from, or other animals having been added to, such lot or group of livestock and must be retained on the premises where first offered for sale within the time limit specified above.

~~((3))~~ (4) It shall be the responsibility of the licensee to identify each head of cattle and horses consigned to a market by placing a numbered tag or other method of identification as approved by the director on each animal before the animals are brand inspected. Certain lots of one brand cattle or no brand cattle may be exempted by the director. The licensee or any consignor shall, at the request of the director, make visible any brand on any animal. The licensee shall provide the director with a sale ticket or sale sheet immediately after the animal is sold which shall show the name of the new buyer and the number identifying the animals.

~~((4)) Brand inspection facilities shall be approved by the director and shall consist of:~~

~~(a) A chute which has a solid base on each side of sufficient strength to contain cattle and horses at least twenty four inches in height, but no more than thirty six inches in height. Above the base on each side, the chute shall have wire cables extended along its entire length separated by six inch intervals to a height of at least six feet. The cables shall be attached to a vertical post every sixteen feet, alternated with a pipe or stay every eight feet for~~

PERMANENT

~~support and to ensure that the cables are maintained in a tight condition;~~

~~(b) The brand chute shall be kept well lit with shop, spot, or flood lights on both sides of the chute at a height of five feet above the highest cable. The lighting shall extend for a distance of three-fourths of the length of the chute beginning at the head of the chute;~~

~~(c) Electrical outlets for clippers at chutes;~~

~~(d) The brand inspection area shall be kept free of any leaking or water build-up of any kind and well covered by adequate roofing;~~

~~(e) The work area for brand inspectors on each side of the chute shall be protected from cattle and horses being unloaded or moved by fencing or any other permanent structure allowing at least thirty inches of work space along the length of the chute;~~

~~(f) An office shall be provided in the brand inspection area with dimensions of at least eight feet by ten feet. The office shall contain adequate heating and a counter approximately eighteen inches in width at a standing work level.)~~

(5) No person shall remove any cattle or horses from the premises of any market without first obtaining a release from the licensee. The licensee or any agent or employee of the licensee shall not allow the removal of any cattle or horses from the premises of the market without first obtaining a brand inspection clearance issued by the director for the cattle or horses to be removed.

NEW SECTION

**WAC 16-604-012 Brand inspection facilities.** Brand inspection facilities shall be approved by the director and shall consist of:

(1) A chute which has a solid base on each side of sufficient strength to contain cattle and horses at least twenty-four inches in height, but no more than thirty-six inches in height. Above the base on each side, the chute shall have wire cables extended along its entire length separated by six-inch intervals to a height of at least six feet. The cables shall be attached to a vertical post every sixteen feet, alternated with a pipe or stay every eight feet for support and to ensure that the cables are maintained in a tight condition;

(2) The brand chute shall be kept well lit with shop, spot, or flood lights on both sides of the chute at a height of five feet above the highest cable. The lighting shall extend for a distance of three-fourths of the length of the chute beginning at the head of the chute;

(3) Electrical outlets for clippers at chutes;

(4) The brand inspection area shall be kept free of any leaking or water build-up of any kind and well covered by adequate roofing;

(5) The work area for brand inspectors on each side of the chute shall be protected from cattle and horses being unloaded or moved by fencing or any other permanent structure allowing at least thirty inches of work space along the length of the chute;

(6) An office shall be provided in the brand inspection area with dimensions of at least eight feet by ten feet. The office shall contain adequate heating and a counter approximately eighteen inches in width at a standing work level.

**WSR 94-13-070**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Order 5050—Filed June 9, 1994, 4:16 p.m.]

Date of Adoption: June 9, 1994.

Purpose: Sets livestock registration and inspection fees and criteria.

Citation of Existing Rules Affected by this Order: Amending chapter 16-620 WAC.

Statutory Authority for Adoption: Chapter 16.57 RCW.

Pursuant to notice filed as WSR 94-10-075 on May 4, 1994.

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

June 9, 1994

Jim Jesernig

Director

AMENDATORY SECTION (Amending Order 2059, filed 11/21/90, effective 12/22/90)

**WAC 16-620-010 Definitions.** For the purpose of ~~((these regulations, the definitions provided in RCW 16.57.010 shall apply))~~ this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or a duly appointed representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(4) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, poultry and rabbits.

(5) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the director to be used in conjunction with a brand or by itself.

(6) "Production record brand" means a number brand which shall be used for production identification purposes only.

(7) "Brand inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined.

(8) "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the director.

(9) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering a horse.

(10) "Poultry" means chickens, turkeys, ratites, and other domesticated fowl.

(11) "Ratite" means, but is not limited to, ostrich, emu, rhea, or other flightless bird used for human consumption, whether live or slaughtered.

PERMANENT

(12) "Ratite farming" means breeding, raising, and rearing of an ostrich, emu, or rhea in captivity or an enclosure.

(13) "Microchipping" means the implantation of an identification microchip in the pipping muscle of a chick ratite or the implantation of a microchip in the tail muscle of an otherwise unidentified adult ratite.

#### NEW SECTION

**WAC 16-620-015 The livestock identification advisory board.** (1) The livestock identification advisory board established in RCW 16.57.015 shall be composed of six members appointed by the director. The advisory board shall meet at least once annually with the director to perform its advisory functions. Additional meetings may be convened at the request of the director or a majority of the membership.

(2) Advisory board members must be residents of the state of Washington and actively engaged in the industry they represent. The director shall serve as an ex officio member of the livestock identification advisory board.

(3) Appointments shall be made for three-year terms, except that initial appointments shall be as follows:

- (a) Two members appointed for three-year terms;
- (b) Two members appointed for two-year terms; and
- (c) Two members appointed for one-year terms.

(4) Positions shall be numbered one through six as follows:

- (a) Position one - beef producers;
- (b) Position two - public livestock market operators;
- (c) Position three - horse owners;
- (d) Position four - dairy farmers;
- (e) Position five - cattle feeders; and
- (f) Position six - meat processors.

(5) Initially positions one and four will serve a one-year term; positions two and five will serve a two-year term; and positions three and six will serve a three-year term.

(6) Subsequent to the initial appointments, terms shall commence July 1 and expire June 30.

(7) Vacancies in membership may be filled by the director for the remainder of the unexpired term. Active members of the advisory board and presidents of affected state-wide industry groups may submit names to the director for consideration in filling vacancies.

(8) The director shall solicit nominations to fill vacancies from state-wide industry groups associated with a vacant position. Nominations from industry groups for full terms shall be submitted to the director for consideration prior to May 1 of the year the term is scheduled to expire.

AMENDATORY SECTION (Amending Order 2059, filed 11/21/90, effective 12/22/90)

**WAC 16-620-280 Inspection—Annual and lifetime certificates.** Pursuant to RCW 16.57.400, the owner of any horses or cattle may apply for an annual or lifetime identification certificate. The fee for an annual certificate shall be ~~((three dollars))~~ seven dollars and fifty cents for any ~~((horse bearing a brand readily visible and currently registered with the director under the provisions of chapter 16.57 RCW or five dollars for any other))~~ horses or cattle. The fee for a lifetime certificate shall be ~~((seven))~~ fifteen dollars ~~((and~~

~~fifty cents))~~ for any ~~((horse bearing a brand readily visible and currently registered with the director under the provisions of chapter 16.57 RCW or twelve dollars and fifty cents for any other))~~ horses or cattle. In the event the fees collected do not cover the cost of the inspector in performing any such inspection, an additional charge may be added at actual costs.

AMENDATORY SECTION (Amending Order 1944, filed 7/29/87)

**WAC 16-620-290 Fees—Regular inspection points.** The fee for the brand inspection of horses at public livestock markets and slaughterhouses shall be ~~((two))~~ three dollars per animal inspected. Such inspection fees shall be applicable only during the scheduled time which the director of agriculture has established as regular brand inspecting time at each such public livestock market or slaughterhouse. Inspection performed upon request during any other time at such public livestock markets or slaughterhouses may be actual costs.

AMENDATORY SECTION (Amending Order 2059, filed 11/21/90, effective 12/22/90)

**WAC 16-620-340 Inspection, special sales.** Inspection shall be mandatory at all special horse sales wherein horses of more than one owner are offered for sale either by private treaty or auction. Inspection charges at any such sale shall be collected and paid to the department of agriculture by the person or business entity conducting the sale. The department of agriculture may require the prepayment of said inspection charges. The charge for inspection at special horse sales shall be ~~((two))~~ three dollars per animal. If the inspection charges do not cover the total cost incurred by the department, the remainder shall be the responsibility of the person or business entity conducting the sale at actual cost.

AMENDATORY SECTION (Amending Order 2059, filed 11/21/90, effective 12/22/90)

**WAC 16-620-380 Inspection fee.** The fee for inspecting cattle for brands and proof of ownership shall be ~~((fifty))~~ seventy-five cents per head. In any case when the department determines that a request for inspection is unreasonable due to time or distance, the department shall charge its actual costs.

#### NEW SECTION

**WAC 16-620-400 Recording fee.** The director shall record any instrument affecting the title of a brand which is correctly executed and acknowledged upon presentation and payment of a fifteen dollar recording fee.

#### NEW SECTION

**WAC 16-620-410 Fee for certified copy of brand record.** The owner of a brand of record may procure from the director a certified copy of the record upon payment of a seven dollar and fifty cent fee.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-620-270 Actual costs established.

WSR 94-13-077
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 94-51—Filed June 10, 1994, 4:34 p.m.]

Date of Adoption: June 7, 1994.

Purpose: Amend coastal bottomfish rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 94-10-073 on May 4, 1994.

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

June 7, 1994

Robert Turner
Director

AMENDATORY SECTION (Amending Order 93-16, filed 3/22/93, effective 4/22/93)

WAC 220-44-050 Coastal bottomfish catch limits.

It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29 or Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated. All weights are in round pounds:

(1) The following definitions apply to this section:

(a) ~~((Fixed two week fishing period. Each of the following is defined as a fixed, two week fishing period (hours given are on a 24 hour basis):~~

- 0001 hours January 1 to 2400 hours January 12;
0001 hours January 13 to 2400 hours January 26;
0001 hours January 27 to 2400 hours February 9;
0001 hours February 10 to 2400 hours February 23;
0001 hours February 24 to 2400 hours March 9;
0001 hours March 10 to 2400 hours March 23;
0001 hours March 24 to 2400 hours April 6;
0001 hours April 7 to 2400 hours April 20;
0001 hours April 21 to 2400 hours May 4;
0001 hours May 5 to 2400 hours May 18;
0001 hours May 19 to 2400 hours June 1;
0001 hours June 2 to 2400 hours June 15;
0001 hours June 16 to 2400 hours June 29;
0001 hours June 30 to 2400 hours July 13;
0001 hours July 14 to 2400 hours July 27;
0001 hours July 28 to 2400 hours August 10;
0001 hours August 11 to 2400 hours August 24;
0001 hours August 25 to 2400 hours September 7;
0001 hours September 8 to 2400 hours September 21;
0001 hours September 22 to 2400 hours October 5;
0001 hours October 6 to 2400 hours October 19;

- 0001 hours October 20 to 2400 hours November 2;
0001 hours November 3 to 2400 hours November 16;
0001 hours November 17 to 2400 hours November 30;
0001 hours December 1 to 2400 hours December 14;
0001 hours December 15 to 2400 hours December 31;

(b) Fixed four week periods. Each of the following is defined as a fixed, four week fishing period (hours given are on a 24 hour basis):

- 0001 hours January 1 to 2400 hours January 26;
0001 hours January 27 to 2400 hours February 23;
0001 hours February 24 to 2400 hours March 23;
0001 hours March 24 to 2400 hours April 20;
0001 hours April 21 to 2400 hours May 18;
0001 hours May 19 to 2400 hours June 15;
0001 hours June 16 to 2400 hours July 13;
0001 hours July 14 to 2400 hours August 10;
0001 hours August 11 to 2400 hours September 7;
0001 hours September 8 to 2400 hours October 5;
0001 hours October 6 to 2400 hours November 2;
0001 hours November 3 to 2400 hours November 30;
0001 hours December 1 to 2400 hours December 31;

(e)) Cumulative limit. A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed in a specified period of time, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

((d)) (b) Vessel trip. A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

((e)) (c) Vessel trip limit. The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

((f)) (d) Daily trip limit. The maximum amount of fish that may be taken and retained, possessed, or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours local time.

((g) Week. Wednesday through the following Tuesday)) (e) Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

(f) Groundfish open access fishery - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

(2) ((Widow rockfish (Sebastes entomelas) Cumulative limit of 30,000 pounds in a fixed four week period. No minimum size. Unless the fishery for widow rockfish is closed, a vessel which has landed its four week cumulative limit may begin to fish on the cumulative limit for the next four week period, provided that the fish are not landed until the next four week period has commenced. If a closure or reduction in cumulative limit for widow rockfish occurs

PERMANENT

while a vessel is fishing, the vessel must cease fishing for widow rockfish and discard any catch or overage. Such discard is not wastage pursuant to RCW 75.12.120.

(3) Shortbelly rockfish (*Sebastes jordani*)—no cumulative or vessel trip limit; no minimum size.

(4) Pacific Ocean perch (*Sebastes alutus*)—No restriction on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific Ocean perch represent 20 percent or less of total weight of fish on board per vessel trip. Under no circumstances may a vessel land more than 3,000 pounds of Pacific Ocean perch in any one vessel trip.

(5) All other species of rockfish (includes all *Sebastes* spp. except Pacific Ocean perch, widow rockfish, shortbelly rockfish and thornyhead or idiot rockfish)—cumulative limit of 50,000 pounds per fixed two week period, of which no more than 8,000 pounds may be yellowtail rockfish (*Sebastes flavidus*). No minimum size. Unless the fishery for the *Sebastes* complex or yellowtail rockfish is closed, a vessel which has landed its two week cumulative limit may begin to fish on the cumulative limit for the next two week period, provided that the fish are not landed until the next two week period has commenced. If a closure or reduction in cumulative limit for the *Sebastes* complex or yellowtail rockfish occurs while a vessel is fishing, the vessel must cease fishing for the *Sebastes* complex or yellowtail rockfish, and discard any catch or overage. Such discard is not wastage pursuant to RCW 75.12.120. The following limits apply to black rockfish (*Sebastes melanops*) taken with hook and line gear under this subsection:

(a) A vessel trip limit of 100 pounds or 30 percent of the total weight of fish aboard, whichever is greater, (including salmon, if the black rockfish are taken incidental to salmon trolling in Pacific Ocean waters), is established for those waters of the Strait of Juan de Fuca west of the mouth of the Sekiu River and Pacific Ocean waters south to Cape Alava (48°09'30" N. latitude) and Pacific Ocean waters between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude).

(b) Any vessel fishing in the waters set out in (a) of this subsection during any portion of a vessel trip is prohibited from retaining, possessing, or landing black rockfish in excess of 100 pounds or 30 percent of the total weight of fish on board, whichever is greater.

(6) Deepwater complex: Sablefish, Dover sole and thornyhead or idiot rockfish (*Sebastes* spp.)—cumulative limit of 45,000 pounds per fixed two week period, of which no more than 20,000 pounds can be thornyhead rockfish. No minimum size for Dover sole or thornyhead [thornyhead] rockfish. Unless the fishery for the deepwater complex is closed, a vessel which has landed its two week cumulative limit may begin to fish on the cumulative limit for the next two week period, provided that the fish are not landed until the next two week period has commenced. If a closure or reduction in cumulative limit for the deepwater complex occurs while a vessel is fishing, the vessel must cease fishing for the deepwater complex and discard any catch or overage. Such discard is not wastage pursuant to RCW 75.12.120.

The following limits apply to sablefish taken under this subsection:

(a) Trawl vessels—No restrictions on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if sablefish represent 25 percent or less of the total combined round weight of the deepwater complex on board. To convert sablefish to round weight from dressed weight multiply the dressed weight by 1.6. Sablefish minimum size 22 inches in length, unless dressed in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Trawl vessels are allowed an incidental sablefish catch less than the minimum size of 5,000 pounds. This undersize sablefish incidental allowance is inclusive in the trip limit for the deepwater complex.

(b) Nontrawl vessels—250 pound (round weight) daily trip limit.

To convert to round weight from dressed weight multiply the dressed weight by 1.6.

(7) Pacific Whiting—0001 hours January 1 through 2400 hours April 14, no landings of more than 10,000 pounds (round weight) per vessel trip. No limit on the number of vessel trips.

(8)) Groundfish limited entry fishery limits:

(a) Pacific Ocean perch - No limit on the number of vessel trips landings less than 1,000 pounds per vessel trip. Landings greater than 1,000 pounds but not to exceed 3,000 pounds allowed only if Pacific Ocean perch represent 20 percent or less of fish aboard per vessel trip. No landings of more than 3,000 pounds per vessel trip. No minimum size.

(b) Widow rockfish - Cumulative limit of 30,000 pounds. No minimum size.

(c) Shortbelly rockfish - No maximum poundage. No minimum size.

(d) Black rockfish - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

(e) Yellowtail rockfish -

(i) North of Cape Lookout (45°20'15" N.) - Cumulative limit of 14,000 pounds. No minimum size.

(ii) South of Cape Lookout - Cumulative limit of 30,000 pounds provided the licensee has made a declaration as follows:

(A) The declaration must be made at least 12 hours prior to departing from port by telephoning the department Montesano office at (206) 249-4628, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. The declarer will receive a declaration number from the department.

(B) The declaration must include: Vessel name; federal limited entry permit number; operator's name, phone number and address; anticipated date and port of departure; anticipated date and port of return.

(C) Phone declarations must be followed by a written declaration, signed by the operator and mailed or delivered to the Montesano office at 48A Devonshire Road, Montesano, WA 98563, prior to the day of departure. Forms are available at that office or from coastal processors.

(D) No fishing north of Cape Lookout is allowed after declaring for fishing south of Cape Lookout until the vessel has landed at a Washington or Oregon port and notified the Montesano office during business hours.

(iii) There is a maximum cumulative limit for landings from both north and south of Cape Lookout of 30,000 pounds.

(iv) Wholesale fish dealers purchasing any yellowtail rockfish caught south of Cape Lookout must enter the declaration number on the fish receiving ticket.

(f) DTS Complex - (sablefish, dover sole and thornyhead rockfish) - Cumulative limit of 50,000 pounds, of which no more than 30,000 pounds may be thornyhead rockfish.

The following limits apply to sablefish taken under this subsection:

(i) Trawl vessels - Cumulative limit of 12,000 pounds. Vessel trip limit of 1,000 pounds or 25 percent of the DTS complex, whichever is greater (the sablefish allowance equals .33 x the combined weight of dover sole and thornyhead rockfish). In the trip limit, no more than 5,000 pounds may be sablefish less than 22 inches in length. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(ii) Nontrawl vessels - Vessel trip limit of 250 pounds (round weight). To convert round weight from dressed weight, multiply the dressed weight by 1.6.

(g) *Sebastes complex* - All other species of rockfish except Pacific Ocean perch, widow, shortbelly, thornyhead (*Sebastolobus* spp.) - Cumulative limit of 80,000 pounds. No minimum size. Black rockfish and yellowtail rockfish taken under other provisions of this section count as part of the *Sebastes complex*.

(h) Pacific Whiting - No vessel trip limit. No minimum size.

(3) Groundfish open access fishery limits:

(a) Rockfish.

(i) Vessel trip limit of 10,000 pounds. The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

(ii) Cumulative trip limit of 40,000 pounds of which no rockfish may exceed the cumulative limits for the limited entry fisheries.

(b) Sablefish - Daily trip limit of 250 pounds.

(4) It is unlawful for the operator of any vessel, including shrimp trawl vessels, during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a cumulative limit, vessel trip limit, or a daily trip limit.

~~(5)~~ (5) The fishers copy of all fish receiving tickets showing landings of species provided for in this section must be retained aboard the landing vessel for 90 days after landing.

(6) The following rules apply to all vessels fishing with trawl gear, or having bottom fish and trawl gear aboard the vessel, and licensed by the state of Washington, except for

vessels in continuous transit from outside the fisheries management boundary to a Washington state port:

(a) It is unlawful for any vessel, except a shrimp trawl vessel, to fish or possess bottomfish without having a limited entry permit valid for that vessel affixed with a gear endorsement for trawl gear.

(b) A shrimp trawl vessel is not required to have a limited entry permit, provided that the total round pounds weight of bottomfish aboard the vessel may not exceed thirty percent of the cumulative weight of the bottomfish and shellfish aboard. It is unlawful to retain more than 1,500 pounds per fishing day of any bottomfish species taken incidental to a shrimp trawl fishery in which ocean pink shrimp comprise more than one-half of the volume of shrimp aboard. It is unlawful to retain more than 1,000 pounds per fishing day of any bottomfish species taken incidental to a shrimp trawl fishery in which spot prawns comprise more than one-half of the volume of shrimp aboard. It is unlawful for any shrimp trawl vessel to exceed a cumulative or trip limit established for the groundfish limited entry fishery as applied to trawl vessels.

**WSR 94-13-080  
PERMANENT RULES  
PARKS AND RECREATION  
COMMISSION**

[Filed June 13, 1994, 10:52 a.m.]

Date of Adoption: June 10, 1994.

Purpose: To set fees for camping and the use of certain facilities in state parks.

Citation of Existing Rules Affected by this Order: Amending WAC 352-32-250.

Statutory Authority for Adoption: RCW 43.51.060.

Pursuant to notice filed as WSR 94-10-048 on May 2, 1994.

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

Anne Cox Preecs  
Chair

AMENDATORY SECTION (Amending WSR 94-08-036, filed 3/31/94, effective 5/1/94)

**WAC 352-32-250 Standard fees charged.** The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

(1) Overnight camping - standard campsite: \$10.00 per night;

(2) Overnight camping - utility campsite: \$15.00 per night. Payment for utility campsite will be collected whether utility hookups are actually used or not, except when otherwise specified by a ranger. The electrical hookup surcharge reference in WAC 352-32-252(3) shall be \$3.00 per night;

(3) Overnight camping - primitive campsite: \$5.00 per night for nonmotorized vehicle and \$7.00 per night for motorized vehicle;

(4) Overnight camping - reservation fee: As specified in WAC 352-32-035;

(5) Overnight camping - multiple campsites: Where campsites are designated and posted as a "multiple camp-

PERMANENT

site," an individual may rent the multiple campsite by paying the multiple campsite fee. The multiple campsite fee will be calculated by multiplying the standard utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite;

(6) Group camping area - certain parks: \$1.00 per person for groups of 20 or more per day and/or night; nonrefundable reservation/registration fee - \$25.00. Camping units must pay the primitive campsite fee or other appropriate fee based on facilities available;

(7) Environmental learning center - overnight camping: \$5.50 per camper per night;

(a) Camp Wooten environmental learning center during the season the swimming pool is operational: \$6.85 per camper per night;

(b) Environmental learning center - day use only: \$2.00 multiplied by the minimum capacity established for each environmental learning center or \$2.00 for each member of the group - whichever is higher;

(c) A late check-in fee of \$50.00 shall be charged if arrival is more than one hour after the scheduled check-in time, unless the group contacts the park ranger prior to scheduled check-in time in order to reschedule the check-in;

(8) Hot showers: \$.25 for a maximum of six minutes shower time;

(9) Electric stoves: \$.25 for thirty minutes cooking time;

(10) Adirondacks - not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(11) Extra vehicle overnight parking fee: \$5.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: *Provided*, An extra vehicle overnight parking fee shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(12) Marine park moorage facilities - see WAC 352-12-020 and 352-12-030;

(13) Overnight camping - emergency camp area: The fee shall be the standard campsite fee.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

(14) Unattended vehicle overnight parking permit: \$5.00 per night per vehicle. Unoccupied vehicles parked overnight in designated areas must register and pay the nightly permit fee. The permit must be prominently displayed in the vehicle;

(15) Boat launch permit fee - \$4.00 per day per watercraft for use of all boat launches designated by the commission with maintained bathrooms, parking areas, and docking facilities. \$3.00 per day per watercraft for use of all other boat launches designated by the commission. Boat launch permit shall not be required for:

(a) Vehicles registered for camping or overnight mooring in the park containing the boat launch area;

(b) Vehicles of persons using any recreational housing or conference facilities at Fort Worden State Park;

(c) Vehicles of persons holding limited-income senior citizen, disability or disabled veteran passes;

(d) Vehicles displaying a valid annual boat launch permit;

(16) Annual boat launch permit fee - \$40.00 per boat launching vehicle per calendar year. Valid January 1 - December 31 at any launch designated by the commission. Permit must be displayed as instructed on permit backing;

(17) Trailer dump station fee - \$3.00 per use: Fee shall not be required for registered camping vehicles in the park containing the dump station;

(18) Popular destination park fee - \$1.00 surcharge for use of standard or utility campsite located in a popular destination park during the period of April 1 through September 30;

(19) Marine trail camping area fee - certain parks: \$1.00 per person per day and/or night;

(20) ~~(Day-use parking permit - \$2.00 per vehicle per day for parking in all designated state parks Thursday through Monday year-round. The director shall implement day-use parking at those parks that meet the following criteria:~~

~~(a) High revenue potential;~~

~~(b) Facilities suitable for fee collection;~~

~~(c) Availability of staff to collect fees; and~~

~~(d) Minimal impact on surrounding neighborhoods.~~

~~Day-use parking permit requirements shall not be imposed on the following:~~

~~(i) Any administrative vehicle;~~

~~(ii) Vehicles used for boat launching which are subject to a boat launch fee as set forth in subsection (15) of this section;~~

~~(iii) Vehicles of persons camping/overnight mooring within the park use area;~~

~~(iv) Vehicles of persons using any recreational housing or conference facilities at Fort Worden State Park;~~

~~(v) Vehicles of persons using the environmental learning centers at the park;~~

~~(vi) In snow parks between October 1 and May 1, vehicles of persons with current snow park permits;~~

~~(vii) Vehicles of persons holding limited income senior citizen, disability or disabled veteran passes;~~

~~(viii) Vehicles of persons that paid the unattended vehicle overnight parking permit;~~

~~(ix) Vehicles displaying a valid annual day-use parking permit;~~

~~(21) Annual day-use parking permit - \$15.00 per vehicle per calendar year valid January 1 through December 31 at any designated state park area Thursday through Monday;~~

~~(22) Those permit payments required in subsections (20) and (21) of this section shall sunset December 31, 1995.~~

~~(23)) A surcharge of \$5.00 per collection shall be assessed for any staff collected fee at a self-registration overnight facility.~~

WSR 94-13-081  
PERMANENT RULES  
PARKS AND RECREATION  
COMMISSION

[Filed June 13, 1994, 10:53 a.m.]

Date of Adoption: June 10, 1994.

Purpose: Provides the director of state parks the authority to close parks or park areas to alcohol possession or consumption on a temporary basis.

Citation of Existing Rules Affected by this Order: Amending WAC 352-32-210.

Statutory Authority for Adoption: RCW 43.51.040.

Pursuant to notice filed as WSR 94-10-069 on May 3, 1994.

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

Anne Cox Preecs  
Chair

AMENDATORY SECTION (Amending WSR 91-07-014, filed 3/12/91, effective 4/12/91)

**WAC 352-32-210 Consumption of alcohol in state park areas.** (1) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages in any state park or state park area (~~is~~) is prohibited except in the following designated areas and under the following circumstances in those state parks or state park areas not posted by the director as closed to alcohol pursuant to subsection (4) of this section:

(a) In designated (~~campgrounds~~) campsites, by registered campers or their guests;

(b) In designated picnic areas, which shall include those sites within state park areas where picnic tables, benches, fireplaces, and/or outdoor kitchens are available, even though not signed as designated picnic areas; and

(c) In any building operated and maintained under a concession agreement, wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(2) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages (~~is~~) is prohibited at (~~Dash Point State Park and Saltwater State Park except in~~) the following (~~designated areas and under the following circumstances~~) locations:

(a) Dash Point State Park;

(b) Saltwater State Park;

Except in the following designated areas and under the following circumstances:

(i) In designated (~~campgrounds~~) campsites, by registered campers or their guests.

(~~(b)~~) (ii) In any building operated and maintained under a concession agreement wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(~~(c)~~) (iii) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager.

(3) The director may, for a specified period or periods of time, close any state park or state park area to alcohol if the director concludes that an alcohol closure is necessary for the protection of the health, safety and welfare of the public, park visitors or staff, or commission property. The director shall consider factors including but not limited to the effect or potential effect of alcohol on public and employee safety, park appearance, atmosphere, and noise levels, conflicts with other park uses or users, the demand for law enforcement, and the demand on agency staff. Prior to closing any park or park area to alcohol, the director or the director's designee shall hold a public hearing in the general area of the park or park area to be closed to alcohol. Prior notice of the meeting shall be published in a newspaper of general circulation in the area. In the event the director determines that an immediate alcohol closure is necessary to protect against an imminent and substantial threat to the health, safety and welfare of the public, park visitors or staff, or commission property, the director may take emergency action to close a park or park area to alcohol without first complying with the publication and hearing requirements of this subsection. Such emergency closure may be effective for only so long as is necessary for the director to comply with the publication and hearing requirements of this subsection.

(4) The director shall ensure that any park or park area closed to alcohol pursuant to subsection (3) of this section is conspicuously posted as such at the entrance to said park or park area. Additionally, the director shall maintain for public distribution a current list of all parks and park areas closed to alcohol pursuant to subsection (3) of this section.

(5) Dispensing alcoholic beverages from (~~kegs or~~) containers larger than two gallons is prohibited in state park areas except when authorized in writing (~~group use permit~~) and in advance by the park manager.

(~~(4)~~) (6) The provisions of this rule shall not apply to any part of the Seashore Conservation Area, as designated and established by RCW 43.51.655.

(~~(5)~~) (7) Opening, consuming, or storing alcoholic beverages in Fort Simcoe State Park and Squaxin Island State Park (~~is~~) is prohibited.

(8) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

WSR 94-13-082  
PERMANENT RULES  
PARKS AND RECREATION  
COMMISSION

[Filed June 13, 1994, 10:56 a.m.]

Date of Adoption: June 10, 1994.

Purpose: To enable the commission to award federal or state funds to public and private entities for construction of boat sewage disposal facilities and public environmental education programs.

Statutory Authority for Adoption: RCW 88.12.325.

Pursuant to notice filed as WSR 94-10-070 on May 3, 1994.

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

PERMANENT

Ann Cox Preecs  
Chair

**Chapter 352-76 WAC  
CLEAN VESSEL FUNDING PROGRAM**

**NEW SECTION**

**WAC 352-76-010 Purpose.** Sewage discharged by recreational boaters is a contributor to localized degradation of water quality in Washington state. The discharge of untreated sewage by boaters is prohibited under federal law in all areas within the navigable waters of the United States and under state law in all waters of the state. Many boaters have Type III marine sanitation devices (holding tanks), or portable toilets for sewage. However, there is currently an inadequate number of pumpout stations and dump stations for boaters to dispose of their sewage. The purpose of this chapter is to provide funds to public and private marinas for the purchase, construction, and renovation of pumpout and boater waste reception facilities and to provide funds to educational institutions, public agencies and boating organizations for boater environmental education activities.

Funding for this program will come from the federal "Clean Vessel Act of 1992," Pub.L. 102-587, Subtitle F, and state funds appropriated by the legislature for such purposes. This chapter establishes the procedures by which the commission will award funds for clean vessel projects and the conditions related to the use of funds.

**NEW SECTION**

**WAC 352-76-020 Definitions.** When used in this chapter, the following words and phrases shall have the meaning designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

"Boater" means any person on a recreational vessel on waters of the state of Washington.

"Boater sewage" or "boat sewage" means liquid and solid human waste material generated by boaters while using recreational vessels.

"Boating environmental committee" means a committee of the boating safety council, the volunteer advisory body created by the commission to advise on matters related to the state boating program, and composed of representatives of Washington's boating community and other concerned interests.

"Clean Vessel Act" or "act" means the federal Clean Vessel Act, Pub.L. 102-587, Subtitle F.

"Commission" means the Washington state parks and recreation commission.

"Construction" means activities which produce new capital improvements and increase the value or usefulness of existing property.

"Director" means the director of the Washington state parks and recreation commission.

"Education/information" means the education/information program designed to make recreational boaters and others aware of the environmental pollution problem resulting from sewage discharges from vessels, to inform them of facility locations, and to encourage environmentally responsible behavior.

"Eligible cost" for sewage pumpout and sewage dump stations means that portion of the cost of the facility that can be financed under the provisions of this chapter and guidelines developed pursuant to this chapter.

"Facility" means a pumpout station, dump station or other device for the disposal, holding and/or transport of boater sewage.

"Funding recipient" is the entity which has been awarded a contract with state parks to receive funding for activities identified in WAC 352-76-040.

"Maintenance" means those activities necessary for upkeep of a facility. These are activities that allow the facility to function and include routine recurring custodial maintenance such as housekeeping and minor repairs as well as the supplies, materials, and tools necessary to carry out the work. Also included is nonroutine cyclical maintenance to keep facilities fully functional.

"Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial service includes, but is not limited to, overnight or live-aboard boating accommodations.

"Operation" means those activities necessary for the functioning of a facility to produce desired results. These are activities that make the facility work.

"Plan" is the plan identified in the technical guidelines as published in the *Federal Register*, for construction or renovation of pumpout and dump stations necessary to ensure that there are adequate and reasonably available stations to meet the needs of recreational vessels using the coastal waters of the state titled *Comprehensive Plan for Boat Sewage Disposal for Washington State*.

"Private entities" means any individual firm, corporation, association, partnership, consortium, joint venture, industry, or any other nonpublic entity which operates or has the potential to operate a facility or a boater education program.

"Project" means a facility or a boater environmental education program for which a public or private entity applies for and receives funding.

"Public entities" means all elected or appointed bodies and agencies of government, including tribal governments, responsible for collecting and spending public funds.

"Recreational vessel" means a watercraft manufactured for operation, or operated, primarily for pleasure. This term includes any watercraft leased, rented, or chartered to another for the latter's pleasure.

"Renovation" means major rehabilitation of a facility to restore it to its original intended purpose.

"Sewage dump station" means a facility specifically designed to receive sewage from portable toilets carried on vessels. Sewage dump stations do not include lavatories or restrooms.

"Sewage pumpout station" means a mechanical device, fixed or portable, generally stationed on a dock, pier, float, barge, vessel or other location convenient to boaters, designed to remove sewage waste from Type III marine sanitation devices (holding tanks) installed onboard vessels.

"State parks" means the operating arm of the Washington state parks and recreation commission, which is responsible for implementation of commission programs established pursuant to statute or policy.

"Type III marine sanitation device" (holding tank) means any equipment for installation onboard a vessel which

is specifically designed to receive, retain, and discharge sewage.

#### NEW SECTION

**WAC 352-76-030 Eligible applicants.** The commission may award funding to the owner(s) of public, tribal or private marinas, boat launches, boater destination sites, marine service enterprises, and to schools, public agencies, and boating and environmental organizations.

#### NEW SECTION

**WAC 352-76-040 Eligible activities.** (1) Subject to any limitations imposed by the director pursuant to WAC 352-76-050(2), eligible activities may include:

(a) Construction/renovation of facilities including floating restrooms in the water, not connected to land or structures connected to the land used solely by boaters.

(b) Any activity necessary to hold and transport sewage to sewage treatment plants, such as holding tanks, piping, and haulage costs.

(c) Any activity necessary to get sewage treatment plants to accept sewage, such as installing bleed-in facilities.

(d) Education/information program to educate/inform the following audiences about the environmental pollution problems resulting from sewage discharges from recreational vessels, to inform them of the location of pumpout and dump stations, and to encourage environmentally responsible behaviors:

- (i) Boat owners and operators;
- (ii) Marina owners and operators;
- (iii) Sewage treatment plant owners and operators;
- (iv) Federal, state and local governmental authorities and organizations;

(v) Boating supply and retailers; and

(vi) The general public.

(2) The following activities are ineligible:

- (a) Activities that do not provide public benefits.
- (b) Enforcement activities.
- (c) Construction/renovation of upland restroom facilities.
- (d) Construction/renovation, operation and maintenance of on-site sewage treatment plants, such as package treatment plants and septic systems, and of municipal sewage treatment plants for primary and secondary treatment.

#### NEW SECTION

**WAC 352-76-050 Limitations on the availability and use of funds.** (1) The director may establish limitations on the availability and use of clean vessel project funds for a funding application period when the director believes that doing so would assist the commission in providing for an efficient network of boater sewage disposal facilities and/or an effective boater education and information program. Any limitations shall be defined in the application package for each funding period. The director shall establish such limitations only after considering the following:

- (a) Consistency with the *Comprehensive Plan for Boat Sewage Disposal for Washington State*.
- (b) Availability of funds.
- (c) Advice from the commission's "boating environmental committee."

(d) Information which identifies emerging technology, user trends, public education opportunities or other studies or data which can direct the proper disposal of boater sewage.

Limitations established by the director shall be confined to those set forth in subsections (2) through (5) of this section.

(2) Eligible activities. For each funding period the director shall determine which activities specified in WAC 352-76-040 shall be eligible for project funding, and shall determine the amount of project funding to be allocated to each category of activity.

(3) Cost sharing. The director may determine that applicants be required to make a matching contribution to be eligible for funding.

(4) Allowable costs. The director may limit the amount of funding available for any element(s) of a project including but not limited to; design, engineering and consultant fees, construction, equipment, floats or other related appurtenances, and applicant staff costs.

(5) Fees charged. A maximum of a five-dollar fee may be charged per use, with no justification, for use of pumpout facilities constructed with grant funds. If higher fees are charged, they must be justified to the director before the proposal can be approved. Such proceeds shall be retained, accounted for, and used by the operator to defray operation and maintenance costs as long as the facility is needed and it serves its intended purpose. The maximum fee shall be evaluated for inflation each year.

#### NEW SECTION

**WAC 352-76-060 Application process.** In order to be considered by the commission for receipt of clean vessel project funding an eligible applicant must:

(1) Complete an application form prescribed by the director and file the application on or before the filing date set by the director in the application package.

(2) Provide a statement of intent from the governing body of the requesting public entity or private entity that the necessary matching funds will be made available for the project as described in the application and that project funding will be accepted on a reimbursement basis.

(3) Agree to all the terms and conditions established in this chapter and as specified in the project contract.

#### NEW SECTION

**WAC 352-76-070 Project selection.** The selection criteria and the selection process which will be used by the commission in the review and disbursement of clean vessel project funds are as follows:

(1) Selection criteria. The director shall select any or all of the following criteria in evaluating applications for project funding. The appropriate criteria shall be identified in the application packet. Each proposal must be compatible with the comprehensive plan for boat sewage disposal for Washington state.

(a) Proposals that provide for public/private partnership efforts to develop and operate sewage pumpout and dump stations;

(b) Proposals for innovative ways to increase the availability and use of pumpout and dump stations, e.g., where private parties put in more than the minimum amount;

(c) Proposals that include an education/information component;

(d) Proposals that benefit the waters most likely to be affected by the discharge of sewage from vessels, including the waters as defined in the technical guidelines as published in the *Federal Register*, 59 *Federal Register* 11299;

(e) Proposals in areas with high vessel/pumpout or dump station ratios;

(f) Proposals which show consideration for the economics of installation or implementation to provide greatest cost benefit ratio;

(g) Proposals which can demonstrate their feasibility for construction or implementation;

(h) Proposals which contribute to the statewide network of facilities or programs in terms of proximity to existing facilities and geographic balance.

(2) Selection process.

(a) Applications will be reviewed by state parks staff to determine eligibility and consistency with the requirements of this chapter.

(b) The director will receive and consider the recommendations of the boating environmental committee and will present final recommendations to the commission.

(c) The commission retains the authority and the responsibility to make the final decision concerning the funding of a project.

#### NEW SECTION

**WAC 352-76-080 Conditions on use of funds.** The following conditions apply to the use of clean vessel project funds.

(1) Project contract. For every funded project a contract must be executed by the director or designee on behalf of the commission and by the funding recipient. The funding recipient may not proceed with the project until the contract has been executed by both parties.

(2) Design criteria. The funding recipient shall ensure that design and installation of the facilities are in accordance with the technical standards provided by state parks.

(3) Signage. A state or national symbol provided by state parks shall be installed to be clearly visible to direct boaters entering the facility to sewage pumpout and dump stations. Appropriate information shall be installed at sewage pumpout and dump stations. Such information shall indicate fees, restrictions, hours of operation, operating instructions, and a contact name and telephone number if the facility is inoperable. State parks will identify required wording.

(4) Public access. All recreational vessels must have access to sewage pumpout and dump stations funded under this grant program. Facilities shall be operated, maintained, and continue to be reasonably accessible to all recreational vessels for the full period of their useful life.

(5) Operation and maintenance. All facilities funded under this program shall be operated and maintained by the funding recipient for the full period of their useful life. All structures and related assets are to be used for their stated purpose.

(6) Reporting requirements. The funding recipient shall submit the reports required by state parks as directed in the funding contract.

(7) Compliance with state and federal laws, regulations, and policies. In accepting project funding, the funding recipient must agree to and certify compliance with all applicable federal and state laws, regulations and policies.

(8) Accountability. Funding recipients shall maintain accurate accounting records on the expenditure of project funds, provide state parks with these records consistent with the agreement or upon request, and permit state parks to audit the use of funds in accordance with generally accepted audit practices and standards. State parks reserves the right to terminate its participation in any program which fails to perform according to the requirements of this chapter.

#### **WSR 94-13-091**

#### **PERMANENT RULES**

#### **PERSONNEL RESOURCES BOARD**

[Filed June 14, 1994, 4:07 p.m., effective January 1, 1995]

Date of Adoption: May 12, 1994.

Purpose: The purpose of this new chapter is to establish rules and assign responsibilities for providing employee training and development to employees of state agencies, higher education institutions, and related boards.

Citation of Existing Rules Affected by this Order: New sections WAC 359-39-010, 359-39-020, 359-39-030, 359-39-040, 359-39-050, 359-39-090 and 359-39-140.

Statutory Authority for Adoption: Chapter 41.06 RCW, RCW 41.06.150.

Pursuant to notice filed as WSR 94-10-009 on April 21, 1994.

Changes Other than Editing from Proposed to Adopted Version: In WAC 359-39-030, subsection (2)[(3)](e) was added. In WAC 359-39-040, subsection (1)(c) was removed and subsection (3) was added. In WAC 359-39-050, subsection (1)(g) new text was inserted and the sequencing of subsections (h), (i), and (j) were revised for adjustment purposes. Subsection (1)(k) was added. In WAC 359-39-090, the proposed text of subsection (3) was modified and inserted into the adopted subsection (1) and subsections were renumbered for adjustment purposes. In WAC 359-39-140, subsection (3) was added to the adopted version.

Effective Date of Rule: January 1, 1995.

June 8, 1994  
Dennis Karras  
Secretary

#### NEW SECTION

**WAC 359-39-010 Purpose.** The purpose of this chapter is to establish rules and assign responsibilities for providing training and development to employees of state agencies, higher education institutions, and related boards. The objective of these rules is to provide opportunity for development of occupational or professional skills of employees to ensure the full utilization of the state's human resources.

NEW SECTION

**WAC 359-39-020 Definitions.** (1) **Career development.** The progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies, higher education institutions and related boards.

(2) **Career planning.** A process designed to provide opportunities for employee career growth through job experience, training and/or continuing education.

(3) **Human resource training and development plan.** Each organization's written methods or design that specifies opportunities for training and development of occupational or professional skills of employees to ensure the full utilization of the state's human resources.

(4) **Training.** Activities designed to develop job-related knowledge and skills of employees.

NEW SECTION

**WAC 359-39-030 Assignment of responsibilities.** The responsibility for human resource training and development is shared by the department of personnel, other agencies, higher education institutions, related boards, and employees.

(1) Each agency, higher education institution, and related board is responsible for:

(a) Developing a human resource training and development plan;

(b) Submitting a summary of the human resource training and development plan, including estimated costs, to the director or director's designee of the department of personnel; and

(c) Providing employee orientation, required job-related training, and assistance with career planning.

(2) Each employee is responsible for participating in training associated with maintenance of required licenses and certifications, required training, and, if desired, personal career planning.

(3) The director or director's designee of the department of personnel shall support human resource training and development by:

(a) Providing training which is interagency and/or intrasystem in scope;

(b) Consulting with agencies and higher education institutions and related boards in their human resource training and development activities, upon request;

(c) Providing guidelines for human resource training and development planning and evaluation; and

(d) Reviewing human resource training and development plans to promote intrasystem sharing of resources for training and career development.

(e) Providing for the evaluation of training and career development programs and plans based on the minimum standards established in WAC 359-39-050.

NEW SECTION

**WAC 359-39-040 Assignments for career development purposes.** (1) Agencies, higher education institutions, and related boards may make the following planned training assignments for employee career development without incurring reallocation or compensation obligations:

(a) Performance of responsibilities outside the current job classification on a time-limited basis.

(b) Rotational or special project assignments.

(2) The employee and the employer(s) shall mutually agree in writing, including time limits, to assignments identified in (1)(a) and (b) of this section.

(3) Assignments of responsibilities outside of the current job classification for purposes other than identified in (1) of this section are subject to classification and compensation provisions elsewhere in these rules.

NEW SECTION

**WAC 359-39-050 Human resource training and development plan - Criteria - Availability.** (1) Each agency, higher education institution, and related board shall prepare a human resource training and development plan, with revision as needed. The plan shall be based on an assessment of the organization's human resource training and development needs. The plan shall state the policies and objectives for human resource training and development and the policies shall address, at a minimum, the following:

(a) Identification of the position(s) responsible for employee training and development.

(b) Criteria for employee eligibility.

(c) Criteria for employees' leave, release time, or compensation while participating in human resource training and development activities.

(d) Criteria for educational leave.

(e) Tuition reimbursement or fee waiver policy.

(f) Mandated training in accordance with state and federal regulations.

(g) Provisions for entry-level management/supervisory training.

(h) Provisions for the assessment of employee training and development needs.

(i) Provisions for the involvement of employees in the development of training policies and plans.

(j) Provisions for the evaluation of the training and development programs.

(k) Provisions for assignments for career development as described in WAC 359-39-040(1) and approval of such assignments by the immediate supervisor and the organization's designee(s). The designee(s) shall be identified in the plan.

(2) Copies of the human resource training and development plan shall be made available to employees upon request.

NEW SECTION

**WAC 359-39-090 Required entry-level management/supervisory training - Agency.** (1) Each agency shall require employees appointed to a supervisory or management position to successfully complete an entry-level supervisory or management training course as approved by the director

of the department of personnel. Employees shall be enrolled in this training within nine months of the date of their appointment, or if training is not available, as soon thereafter as it becomes available. When training opportunities are available, the agency may suspend the entry-level training requirement, for up to a maximum of an additional six months.

(2) The director or director's designee of the department of personnel shall establish criteria by which such training is approved or considered equivalent.

(3) An agency may waive the requirement for entry-level training in cases where an employee has occupied a designated supervisory or management position for at least one year, prior to the present appointment, and has demonstrated experience and competence as a substitute for training.

(a) The agency shall advise an affected employee in writing of waiver to this training.

(b) The record of such waiver shall be placed in the employee's personnel file and shall be reported following procedures outlined by the department of personnel.

(4) Each agency shall designate individual positions, or groups of positions, as being supervisory or entry-level management positions. Criteria for such designations shall be published by the department of personnel.

**NEW SECTION**

**WAC 359-39-140 Employee attendance at training.**

(1) Agencies, higher education institutions, and related boards may require employees to attend training which is job related or meets an identified employer need. Such required attendance during and/or outside of working hours shall be considered time worked and compensated in accordance with these rules.

(2) Employee attendance, either on approved leave or outside of working hours, at training that is not required shall be voluntary and not considered time worked.

(3) Employers may provide release time for non-required training.

**WSR 94-13-097  
PERMANENT RULES  
OFFICE OF  
FINANCIAL MANAGEMENT**  
[Filed June 15, 1994, 2:14 p.m.]

Date of Adoption: June 7, 1994.

Purpose: Establish state paydates for calendar year 1995.

Citation of Existing Rules Affected by this Order: Amending WAC 82-50-021.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Pursuant to notice filed as WSR 94-10-055 on May 3, 1994.

Effective Date of Rule: Thirty-one days after filing.  
June 15, 1994  
Mike Cheney  
for Carl Wieland  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 93-24-041, filed 11/23/93, effective 12/24/93)

**WAC 82-50-021 Official lagged, semimonthly pay dates established.** Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years ((1993 and)) 1994 and 1995:

<u>((CALENDAR YEAR 1993</u>	<u>CALENDAR YEAR 1994</u>
<del>Monday, January 11, 1993</del>	Monday, January 10, 1994
<del>Monday, January 25, 1993</del>	Tuesday, January 25, 1994
<del>Wednesday, February 10, 1993</del>	Thursday, February 10, 1994
<del>Thursday, February 25, 1993</del>	Friday, February 25, 1994
<del>Wednesday, March 10, 1993</del>	Thursday, March 10, 1994
<del>Thursday, March 25, 1993</del>	Friday, March 25, 1994
<del>Friday, April 9, 1993</del>	Monday, April 11, 1994
<del>Monday, April 26, 1993</del>	Monday, April 25, 1994
<del>Monday, May 10, 1993</del>	Tuesday, May 10, 1994
<del>Tuesday, May 25, 1993</del>	Wednesday, May 25, 1994
<del>Thursday, June 10, 1993</del>	Friday, June 10, 1994
<del>Friday, June 25, 1993</del>	Friday, June 24, 1994
<del>Friday, July 9, 1993</del>	Monday, July 11, 1994
<del>Monday, July 26, 1993</del>	Monday, July 25, 1994
<del>Tuesday, August 10, 1993</del>	Wednesday, August 10, 1994
<del>Wednesday, August 25, 1993</del>	Thursday, August 25, 1994
<del>Friday, September 10, 1993</del>	Friday, September 9, 1994
<del>Friday, September 24, 1993</del>	Monday, September 26, 1994
<del>Friday, October 8, 1993</del>	Friday, October 7, 1994
<del>Monday, October 25, 1993</del>	Tuesday, October 25, 1994
<del>Wednesday, November 10, 1993</del>	Thursday, November 10, 1994
<del>Wednesday, November 24, 1993</del>	Wednesday, November 23, 1994
<del>Friday, December 10, 1993</del>	Friday, December 9, 1994
<del>Thursday, December 23, 1993</del>	Friday, December 23, 1994))

<u>CALENDAR YEAR 1994</u>	<u>CALENDAR YEAR 1995</u>
<u>Monday, January 10, 1994</u>	<u>Tuesday, January 10, 1995</u>
<u>Tuesday, January 25, 1994</u>	<u>Wednesday, January 25, 1995</u>
<u>Thursday, February 10, 1994</u>	<u>Friday, February 10, 1995</u>
<u>Friday, February 25, 1994</u>	<u>Friday, February 24, 1995</u>
<u>Thursday, March 10, 1994</u>	<u>Friday, March 10, 1995</u>
<u>Friday, March 25, 1994</u>	<u>Friday, March 24, 1995</u>
<u>Monday, April 11, 1994</u>	<u>Monday, April 10, 1995</u>
<u>Monday, April 25, 1994</u>	<u>Tuesday, April 25, 1995</u>
<u>Tuesday, May 10, 1994</u>	<u>Wednesday, May 10, 1995</u>
<u>Wednesday, May 25, 1994</u>	<u>Thursday, May 25, 1995</u>
<u>Friday, June 10, 1994</u>	<u>Friday, June 9, 1995</u>
<u>Friday, June 24, 1994</u>	<u>Monday, June 26, 1995</u>
<u>Monday, July 11, 1994</u>	<u>Monday, July 10, 1995</u>
<u>Monday, July 25, 1994</u>	<u>Tuesday, July 25, 1995</u>
<u>Wednesday, August 10, 1994</u>	<u>Thursday, August 10, 1995</u>
<u>Thursday, August 25, 1994</u>	<u>Friday, August 25, 1995</u>
<u>Friday, September 9, 1994</u>	<u>Monday, September 11, 1995</u>
<u>Monday, September 26, 1994</u>	<u>Monday, September 25, 1995</u>
<u>Friday, October 7, 1994</u>	<u>Tuesday, October 10, 1995</u>
<u>Tuesday, October 25, 1994</u>	<u>Wednesday, October 25, 1995</u>
<u>Thursday, November 10, 1994</u>	<u>Thursday, November 9, 1995</u>
<u>Wednesday, November 23, 1994</u>	<u>Wednesday, November 22, 1995</u>
<u>Friday, December 9, 1994</u>	<u>Monday, December 11, 1995</u>
<u>Friday, December 23, 1994</u>	<u>Friday, December 22, 1995</u>

**WSR 94-13-098  
PERMANENT RULES  
GAMBLING COMMISSION**  
[Order 252—Filed June 15, 1994, 3:30 p.m.]

Date of Adoption: June 10, 1994.

PERMANENT

Purpose: Packet of rules would add pai gow poker as an authorized card game, restructure the wagering of various card games without increasing limits and allow cardroom operators to provide a dealer in card games.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-010, 230-40-120, and 230-40-225. Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 94-10-006 on April 21, 1994.

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

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

June 14, 1994  
Shanna R. Lingel  
Rules Coordinator

AMENDATORY SECTION (Amending Order 205, filed 2/14/90, effective 3/17/90)

**WAC 230-40-010 Types of card games authorized.** ~~((The commission hereby authorizes the following))~~ Only card games that have been specifically authorized are allowed to be played in public ((card rooms and)) or social card rooms licensed by the commission. The commission hereby authorizes the following card games:

(1) Poker((-)) - Any poker game described in *Hoyle's Modern Encyclopedia of Card Games*, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974, 1st edition, pages 219 through 277; Provided, That only a maximum of five betting rounds per hand are permitted.

(2) Hearts.

(3) Pinochle.

(4) Cribbage.

(5) Rummy.

(6) Mah-jongg (tiles).

(7) Pan.

(8) Pitch.

(9) Washington Blackjack - as set forth in WAC 230-40-125.

~~((Card games not herein authorized are prohibited.))~~

(10) Pai-Gow Poker.

(11) Pan-9.

AMENDATORY SECTION (Amending Order 205, filed 2/14/90, effective 3/17/90)

**WAC 230-40-120 Limits on wagers in card games** ~~((—Exception—Washington blackjack)).~~ ~~((The following limits shall not be exceeded in making wagers on any card game. For games in which the following method of wagering is allowed:~~

~~(1) Multiple wagers per player per hand during each round, each wager or raise shall not exceed \$5.00. There shall be no more than a total of two raises per round irrespective of the number of players: Provided, That in card games providing for three or more rounds of betting, the wager or raise for the last round of betting, shall not exceed \$10.00.~~

~~(2) Single wagers per player per hand during each round (no raises), each wager shall not exceed \$5.00.~~

~~(3) Single wager per player per game, each wager shall not exceed \$5.00.~~

~~(4) Amount per point, each point shall not equal more than five cents in value.~~

~~(5)) Social and public card room licensees shall not allow wagering limits set by the commission to be exceeded in any card game. The number and value of wagers in card games are limited as follows:~~

~~(1) The maximum number of wagers in any betting round shall be three, comprised of an initial wager plus two raises.~~

~~(2) The maximum number of a wager in any betting round shall be as follows:~~

~~(a) Games with a single betting round - ten dollars per wager;~~

~~(b) Games with multiple betting rounds:~~

~~(i) Two betting round games - wagers for the first round shall not exceed five dollars, and the second round shall not exceed ten dollars;~~

~~(ii) Three betting round games - wagers for the first two betting rounds shall not exceed five dollars, and wagers for the third betting round shall not exceed ten dollars;~~

~~(iii) Four betting round games - the wagers for each round may be structured by house rule: *Provided, That the total wagers for all four betting rounds shall not exceed twenty-five dollars, and any single wager shall not exceed ten dollars; and*~~

~~(iv) Five betting round games - the wagers for each round may be structured by house rule: *Provided, That the total wagers for all five betting rounds shall not exceed thirty dollars, and any single wager shall not exceed ten dollars.*~~

~~(c) Games that do not allow raises - single wager not to exceed ten dollars for each betting round.~~

~~(3) Games based on achieving a specific number of points - each point shall not exceed five cents in value.~~

~~(4) An ante, except for panguingue (pan), shall not be more than ~~(((\$6.00))~~ ten dollars. The ante may, by house rule, be made by one or more players, but the total ante may not exceed ~~(((\$6.00))~~ ten dollars. No one player can ante more than ~~((five dollars))~~ the maximum wager allowed in the first round. An ante may be used as part of a player's wager. ~~((The maximum betting on the first round when an ante is used may not exceed \$15.00 per person, including the ante.~~~~

~~(6))~~ (5) Panguingue (pan) - maximum value of a chip for payoff will not exceed ~~(((\$2.00))~~ four dollars. Ante will not exceed one chip. No doubling of conditions. Players going out((-)) may collect not more than two chips from each participating player.

~~((No licensee shall allow these wagering limits to be exceeded in a card game on his premises.))~~ (6) Provided, Washington blackjack shall be subject to the rules and wagering limits set forth in WAC 230-40-125.

AMENDATORY SECTION (Amending Order 29, filed 1/23/75)

**WAC 230-40-225 House dealer allowed in "pan" or poker games.** Notwithstanding the provisions of WAC 230-40-200, any licensee may furnish a dealer or "mucker" in any pan or poker game played on the licensed premises((- who)). Dealers shall have no financial interest, directly or indirectly, in the outcome of such game and ~~((who))~~ shall not otherwise participate or play in the game.

**WSR 94-13-099  
PERMANENT RULES  
GAMBLING COMMISSION**

[Order 253—Filed June 15, 1994, 3:33 p.m.]

Date of Adoption: June 10, 1994.

Purpose: Housekeeping change to amend RCW reference.

Citation of Existing Rules Affected by this Order: Amending WAC 230-12-040, 230-12-050, and 230-12-070.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 94-10-005 on April 21, 1994.

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

Effective Date of Rule: Thirty-one days after filing.  
June 14, 1994  
Shanna R. Lingel  
Rules Coordinator

AMENDATORY SECTION (Amending Order 158, filed 6/13/86)

**WAC 230-12-040 No firearms as prizes.** No firearms, air guns which are capable of discharging dangerous projectiles, including but not limited to, BB's; or CO<sup>2</sup> guns, including but not limited to, rifles, shotguns, pistols, or revolvers; shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by chapter 9.46 RCW ((9.46.030)): *Provided*, That bona fide charitable or nonprofit organizations licensed to conduct a raffle, may award legal shotguns or hunting rifles as merchandise prizes not deemed unlawful as defined by WAC 232-12-047: *Provided further*, That the organization shall not award the actual prize but will provide a certificate for the prize redeemable at a licensed firearms dealer.

AMENDATORY SECTION (Amending Order 186, filed 2/13/89)

**WAC 230-12-050 Extension of credit, loans, or gifts prohibited, limited exception.** No licensee, member or employee thereof shall extend credit, make a loan, or grant a gift to any person playing in an authorized activity, or which enables a person to play in an authorized activity. The consideration required to participate in the activity shall be collected in full, by cash or check, prior to participation. *Provided*, this prohibition shall not apply to the following situations:

(1) The consideration paid for the opportunity to play a punchboard or pull tab series may be collected immediately after the play is completed only when such consideration is ten dollars or less; or

(2) When a bona fide charitable or bona fide nonprofit organization conducting any of the activities authorized by chapter 9.46 RCW ((9.46.030)) or commission rules has a regular billing system for all of the activities of its members with such organization, such billing system may be utilized in connection with the playing of any of the activities authorized hereunder if:

(a) The playing of such activity is limited to regular members of such organization who have become regular members prior to the commencement of such activity and

whose qualifications for membership were not dependent upon, or in any way related to, the playing of such activity; and

(b) The commission has given its prior written consent to the use of such billing system in connection with the conduct of activities authorized under these rules.

AMENDATORY SECTION (Amending Order 53, filed 5/25/76)

**WAC 230-12-070 Conduct of gambling activity.** No person operating any activity authorized by chapter 9.46 RCW ((9.46.030)) shall, directly or indirectly, in the course of such operation:

(1) Employ any device, scheme or artifice to defraud;

(2) Make any untrue statement of a fact, or omit to state a fact necessary in order to make a statement not misleading, in consideration of the circumstance under which such statement was made;

(3) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any person.

**WSR 94-13-126  
PERMANENT RULES  
LIQUOR CONTROL BOARD**

[Filed June 20, 1994, 11:02 a.m.]

Date of Adoption: June 8, 1994.

Purpose: To set forth limits of no more than nine liters of beer or one liter of wine per crew member per week of each voyage. Also prescribes additional limits of beer and wine in lieu of spirits. Prohibits combined sale of tax paid and tax free liquor products exceeding specific amounts.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 94-10-003 on April 21, 1994.

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

Effective Date of Rule: Thirty-one days after filing.  
June 9, 1994  
Joseph McGavick  
Chairman

NEW SECTION

**WAC 314-25-050 Sales limits.** (1) The per voyage quantity of beer and wine sold by a ships chandler to a vessel in foreign commerce or employees thereof is as follows: (a) nine liters of beer per crew member per week, or (b) one liter of wine per crew member per week. (2) Additional per voyage quantities of beer and wine may be substituted for the U.S. Customs per liter spirits allotment as follows: (a) nine liters of beer per crew member per week, or (b) one liter of wine per crew member per week. (3) The combined sale of tax paid and tax free liquor products shall not exceed the amounts set forth in Section 1 and 2 of this rule.

**WSR 94-13-127**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed June 20, 1994, 11:03 a.m.]

Date of Adoption: June 8, 1994.

Purpose: To put the board's "Sunday brunch policy" into rule form.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 94-10-004 on April 21, 1994.

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

June 9, 1994

Joseph McGavick  
Chairman

NEW SECTION

**WAC 314-16-199 Cocktail lounge declassification—Sunday dining events.** (1) Pursuant to RCW 66.44.310(2), the board may classify the cocktail lounge portion of a Class H premises as a restaurant for Sunday dining events.

(2) Class H licensees may utilize their cocktail lounge for all age dining events on Sundays subject to the following conditions, (a) written board approval, (b) no preparation, sale or service of liquor from within the cocktail lounge area, (c) all entertainment is prohibited except recorded and live background music which requires prior approval of the board, (d) withdrawal of approval if violations occur.

**WSR 94-13-128**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**

[Filed June 20, 1994, 11:05 a.m., effective September 1, 1994]

Date of Adoption: June 8, 1994.

Purpose: To establish a handling charge for split case or part case liquor orders placed with the board by class H licensees in order to off-set the increased costs of doing business the board experiences when filling such orders versus filling full case orders.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 94-10-067 on May 3, 1994.

Effective Date of Rule: September 1, 1994.

June 9, 1994  
Joseph McGavick  
Chairman

NEW SECTION

**WAC 314-16-111 Split case handling fee for class H liquor purchases.** Beginning September 1, 1994, there shall be a handling charge assessed to cover the costs incurred by the board in filling split case class H orders as described in WAC 314-16-110. That handling charge shall be:

(a) No more than \$.30 per bottle including the taxes as set forth in RCW 82.08.150 and shall be added to the cost of any purchase quantity less than a full manufacturer's case by a class H licensee.

(b) The handling charge shall not apply when a class H licensee places a full case order of identical product or for orders of 50 ml products to be used in hotel honor bars.

**WSR 94-13-179**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 (Sex Offender Treatment Providers)  
 [Filed June 21, 1994, 1:30 p.m.]

Date of Adoption: May 27, 1994.

Purpose: Adopt the rules listed below for proposal and amendment.

Citation of Existing Rules Affected by this Order: WAC 246-930-010 General definitions, 246-930-020 Requirement for underlying credential as a health professional, 246-930-030 Education requirement for full certification applicants, 246-930-040 Professional experience requirement for full certification applicants, 246-930-050 Education requirement for affiliate certification applicants, 246-930-060 Professional experience requirement for affiliate certification applicants, 246-930-070 Training for applicants for full or affiliate certification, 246-930-075 Supervision of affiliates, 246-930-200 Application and examination, 246-930-210 Examination appeal procedures, 246-930-220 Reexamination, 246-930-300 Mandatory reporting, 246-930-301 Purpose—Professional standards and ethics, 246-930-310 Standards for professional conduct and client relationships, 246-930-320 Standards for SSOSA and SSODA assessment and evaluation reports, 246-930-330 Standards for treatment, 246-930-340 Standards for communication with other professionals, 246-930-410 Continuing education requirements and 246-930-990 Sex offender treatment provider fees; and new sections WAC 246-930-420 Inactive status, 246-930-430 Reinstatement, and 246-930-490 Sexual misconduct.

Statutory Authority for Adoption: RCW 18.155.040.

Pursuant to notice filed as WSR 94-09-027 on April 15, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-924-210 added (a) in front of a paragraph where it was missing; WAC 246-930-320 (3)(e)(v) inserted "WAC 246-930-330" which was referenced but not stated previously; and WAC 246-930-330 (4)(i) was amended to delete the word "to" as it was redundant.

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

June 20, 1994  
Bruce Miyahara  
Secretary

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-010 General definitions.** ~~((Whenever used))~~ In these rules, ~~((unless expressly otherwise stated, or unless the context or subject matter requires a different meaning,))~~ the following terms shall have the ~~((following meanings))~~ definition described below, unless another definition is stated:

(1) "Department" means the department of health ~~((; professional licensing services division)).~~

(2) "Secretary" means the secretary of the department of health, or designee.

(3) "Provider" means a certified sex offender treatment provider.

(4) "Affiliate" means affiliate sex offender treatment provider.

(5) "Committee" means the sex offender treatment providers advisory committee.

(6) "Credential" or its derivative means the process of licensing, registration, certification or the equivalent through which a person is legally recognized by a state agency as lawfully authorized to practice a health profession.

(7) "Evaluation."

(a) For purposes of determining eligibility for certification, ~~((evaluation))~~ is defined as the direct provision of comprehensive evaluation and assessment services to persons who have been investigated by law enforcement or child protective services for commission of a sex offense, or who have been adjudicated or convicted of a sex offense. Such evaluation shall ~~((have had direct relevance))~~ be related to a client's offending behavior. Such services shall have resulted in preparation of a formal written report. To qualify, the individual shall have had primary responsibility for interviewing the offender and shall have completed the written report. Only hours in face-to-face contact with a client may be counted for evaluation credit. Evaluation hours performed by affiliate providers under the supervision of fully certified providers count toward certification under this definition. Note that limited assessments for the purpose of institution classification, treatment monitoring, and reporting do not qualify for evaluation credit under this definition.

(b) Standards for evaluations of clients by certified providers as defined in RCW 9.94A.120 (7)(a) and 13.40.160 are set forth in WAC 246-930-320.

(8) "Treatment" for purposes of determining eligibility for certification, ~~((treatment))~~ is defined as the ~~((direct))~~ provision of face-to-face individual, group, or family therapy with persons who have been investigated by law enforcement or child protective services for commission of a sex offense, or who have been adjudicated or convicted of a sex offense. The professional ~~((shall have had))~~ seeking certification has formal responsibility for ((provision of)) providing primary treatment services, and such services shall have had direct relevance to a client's offending behavior. Face-to-face treatment hours performed by affiliate providers under the supervision of ((fully)) certified providers count toward certification under this definition. "Co-therapy hours" are defined as the actual number of hours the applicant spent facilitating a group session. Co-therapists may ((both)) each claim credit for therapy hours as long as both persons have formal responsibility for the group sessions. Time spent in maintaining collateral contacts and written case/progress notes ((can)) are not ((be)) counted under this definition.

(9) A ~~((fully))~~ certified sex offender treatment provider is an applicant who has met the educational, experience and training requirements as specified for full certification, has satisfactorily passed the examination, and has been issued a ~~((certification))~~ certificate by the department to evaluate and treat sex offenders pursuant to chapter 18.155 RCW.

(10) An "affiliate sex offender treatment provider" is an applicant who has met the educational, experience and training requirements as specified for affiliate certification applicants, and has satisfactorily passed the examination. An affiliate sex offender treatment provider evaluates and treats sex offenders pursuant to chapter 18.155 RCW under the supervision of a ~~((fully))~~ certified sex offender treatment

provider in accordance with the supervision requirements set forth in WAC 246-930-075.

(11) "SSOSA" is special sex offender sentencing alternative as defined in RCW 9.94A.120 (7)(a).

(12) "SSODA" is special sex offender disposition alternative as defined in RCW 13.40.160.

(13) "Supervising officer" means the designated representative of the agency having oversight responsibility for a client sentenced under SSOSA or SSODA, under the sentence or disposition order, ~~((e.g.))~~ for example, community correction officer, probation officer.

(14) ~~((Evaluation))~~ Treatment plan means the plan set forth in the evaluation detailing how the treatment needs of the client ~~((might))~~ will be met ((and)) while the community is protected during the course of treatment.

(15) ~~((Provider-client))~~ Community protection contract means the document specifying the treatment rules and requirements the client has agreed to follow in order to maximize community safety.

(16) "Parties" means the defendant, the prosecuting attorney, the community corrections officer and the juvenile probation officer.

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-020 ((Requirement for)) Underlying credential as a health professional required.** (1) Under RCW 18.155.020(1), only credentialed health professionals may be certified as providers.

(2) A person who is credentialed as a health professional in a state or jurisdiction other than Washington ~~((shall))~~ may satisfy this requirement by submitting the following:

(a) A copy of the current nonexpired credential issued by the credentialing state;

(b) A copy of the statute, administrative regulation, or other official document of the issuing state which sets forth the minimum requirements for the credential;

(c) A statement from the issuing authority:

(i) That the credential is in good standing;

(ii) That there is no disciplinary action currently pending; and

(iii) Listing any formal discipline actions taken by the issuing authority with regard to the credential;

(d) A statement signed by the applicant, on a form provided by the department, submitting to the jurisdiction of the Washington state courts for the purpose of any litigation involving his or her practice as a sex offender treatment provider;

(e) A statement signed by the applicant on a form provided by the department, that the applicant does not intend to practice the health profession for which he or she is credentialed by another state within the state of Washington without first obtaining an appropriate credential to do so from the state of Washington, except as may be authorized by Washington state law; and

(f) Evidence to show compliance with the AIDS education requirement:

(i) Education and training shall be consistent with the model curriculum available from the office on AIDS within the department of health pursuant to chapter 70.24 RCW. Such education and training shall be a minimum of four

clock hours and shall include, but not be limited to, the following: Etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

(ii) Documentation. The applicant shall:

(A) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1987;

(B) Keep records for two years documenting attendance and description of the learning; and

(C) Be prepared to validate, through submission of these records, that attendance has taken place.

(3) Underlying registration, certification, or licensure shall be maintained in good standing. If an underlying registration, certification, or licensure is not renewed or is revoked, certification as a sex offender treatment provider, affiliate sex offender treatment provider, or temporary or provisional treatment provider ~~((shall be immediately))~~ is revoked. If an underlying license is suspended, the sex offender treatment provider certification is suspended. If there is a stay of the suspension of an underlying license the sex offender treatment provider program must independently evaluate the reasonableness of a stay for the sex offender treatment provider.

**AMENDATORY SECTION** (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-030 Education ~~((requirement for full certification applicants))~~ required prior to examination.**

(1) An applicant for full certification shall have completed:

(a) A master's or doctoral degree in social work, psychology, counseling, or educational psychology from a ~~((fully))~~ regionally accredited ~~((college or university))~~ institution of higher education; or

(b) A medical doctor or doctor of osteopathy degree if the individual is a board certified/eligible psychiatrist; or

(c) A master's or doctoral degree in ~~((a closely related))~~ an equivalent field ~~((when there is))~~ from a regionally accredited institution of higher education with documentation of thirty graduate semester hours or forty-five graduate quarter hours in approved subject content. Approved subject content includes at least five graduate semester hours or seven graduate quarter hours in (c)(i) and (ii) of this subsection and five graduate semester hours or seven graduate quarter hours in at least two additional content areas from ~~((the entire list))~~ (c)(i) through (viii) of this subsection:

- (i) Counseling and psychotherapy.
- (ii) Personality theory.
- (iii) Behavioral science and research.
- (iv) Psychopathology/personality disorders.
- (v) Assessment/tests and measurement.
- (vi) Group therapy/family therapy.
- (vii) Human growth and development/sexuality.
- (viii) Corrections/criminal justice.

(d) The applicant is responsible for submitting proof that the hours used to meet this requirement are in fact, equivalent.

(2) Transcripts of all graduate work shall be submitted directly to the department from the ~~((college or university))~~ institution where earned.

**AMENDATORY SECTION** (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-040 Professional experience ~~((requirement for full certification applicants))~~ required prior to examination.** (1) ~~((In order))~~ To qualify for examination, ~~((the))~~ an applicant ~~((shall have))~~ must complete at least two thousand hours of ~~((direct))~~ treatment and evaluation experience, as defined in WAC 246-930-010. These two thousand hours shall include at least two hundred fifty hours of evaluation experience and at least ~~((five hundred))~~ two hundred fifty hours of treatment experience.

(2) All of the prerequisite experience shall have been within the seven-year period preceding application for certification as a provider.

**AMENDATORY SECTION** (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-050 Education ~~((requirement))~~ required for affiliate ~~((certification applicants))~~ prior to examination.** (1) An applicant for affiliate certification shall have completed: Effective July 1, 1995, new applicants must have a master's or doctorate degree to meet the minimum requirement for affiliate certification.

(a) A bachelor's, master's, or doctorate degree in social work, psychology, counseling, or educational psychology from a ~~((fully))~~ regionally accredited institution of higher education; or

(b) A medical doctor or doctor of osteopathy degree if the individual is a board certified/eligible psychiatrist; or

(c) A bachelor's, master's, or doctorate degree in ~~((a closely related))~~ an equivalent field from a regionally accredited institution of higher education when there is documentation of thirty semester hours or forty-five quarter hours in approved subject content. Approved subject content includes at least five semester hours or seven quarter hours in (c)(i) and (ii) of this subsection and five semester hours or seven quarter hours in at least two additional content areas from ~~((the entire list))~~ (c)(i) through (viii) of this subsection:

- (i) Counseling and psychotherapy.
- (ii) Personality theory.
- (iii) Behavioral science and research.
- (iv) Psychopathology/personality disorders.
- (v) Assessment/tests and measurement.
- (vi) Group therapy/family therapy.
- (vii) Human growth and development/sexuality.
- (viii) Corrections/criminal justice.

(d) The applicant is responsible for submitting proof that the hours used to meet this requirement are in fact, equivalent.

(2) Transcripts of all academic work shall be submitted directly to the department from the ~~((college or university))~~ institution where earned.

**AMENDATORY SECTION** (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-060 Professional experience (~~requirement~~) required for affiliate (~~certification applicants~~) prior to examination.** (1) An applicant meeting only the minimal academic requirements for affiliate status (bachelor's degree), shall have a total of two thousand hours of experience in evaluation and/or treatment as defined in WAC 246-930-010. No specific minimum number of hours in either category is required for an affiliate applicant.

(2) All of the prerequisite experience shall have been within the seven-year period preceding application for certification as a provider.

(3) If the applicant for affiliate status meets the academic requirements for full certification, post-graduate degree as outlined in WAC 246-930-030, no experience requirement applies.

**AMENDATORY SECTION** (Amending Order 168, filed 5/16/91, effective 6/16/91)

**WAC 246-930-070 Training required for (~~applicants for full~~) certified or affiliate (~~certification~~) providers.** Effective July 1, 1995, applicants for affiliate status will not be required to have fifty hours of training.

(1) All applicants for certification as providers or affiliate providers shall submit documentation of attendance at fifty hours of formal conferences, symposia, or seminars directly related to the treatment and evaluation of sex offenders (~~or abuse victims~~). No more than ten hours of training may be related to victims of abuse.

(2) All such training shall have been received within the three years preceding application for certification.

**AMENDATORY SECTION** (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-075 Description of supervision of affiliates.** Supervision of affiliates is considerably different than consultation with other professionals. Consultation is solely advisory; consultants do not assume responsibility for those individuals to whom they consult. Supervision of affiliates requires that the provider take full ethical and legal responsibility for (~~the professional work and for~~) the quality of work of the affiliate. The following rules apply to providers and affiliates when service is being provided to SSOSA and SSODA clients:

(1) Whether providing training, consultation, or supervision, sex offender treatment providers shall avoid presenting themselves as having qualifications in areas where they do not have expertise.

(2) The supervisor shall provide sufficient training and supervision to the affiliate to insure the health and safety of the client and community. The supervisor shall have the expertise and knowledge to directly supervise the work of the affiliate.

(3) The supervisor shall insure that any person he or she supervises has sufficient education, background, and preparation for the work they will be doing.

(4) Supervision of an affiliate shall require that the supervisor and supervisee enter into a formal written contract defining the parameters of the professional relationship.

This supervision contract shall be submitted to the department for approval and shall be renewed on a yearly basis. (~~This document~~) The contract shall include, but is not limited to:

(a) (~~The~~) Supervised areas of professional activity (~~for which supervision will occur~~);

(b) (~~The~~) Amount of supervision time and the frequency of supervisory meetings (~~to be provided~~). This information may be presented as a ratio of supervisory time to clinical work conducted by the affiliate;

(c) (~~The~~) Supervisory fees and business arrangements, when applicable;

(d) (~~The~~) Nature of the supervisory relationship and the anticipated process of supervision;

(e) (~~The manner in which clinical cases will be~~) Selected and (~~reviewed~~) review of clinical cases;

(f) (~~The~~) Methodology for recordkeeping, evaluation of the affiliate, and feedback; and

(g) (~~The manner in which~~) How the affiliate (~~shall be~~) is represented to the public.

(5) Supervision of affiliates shall involve regular, direct, (~~on-site~~) face-to-face supervision. Based on the affiliate's skill and experience levels, supervision shall include a reasonable degree of direct observation of the affiliates by means of the supervisor sitting in sessions, audio tape recording, videotape, etc. (~~However, it is recognized that certain geographic locales do not have sufficient resources to enable immediate, direct supervision of affiliates.~~) In (~~these~~) some cases, special flexible supervision arrangements which deviate from the standard are (~~encouraged; these~~) permitted, for example, due to geography or disability; special flexible supervision contracts shall be submitted to the department for approval.

(6) The level of supervision (~~provided~~) shall insure that the affiliate (~~'s preparedness~~) is prepared to conduct (~~his or her~~) professional work and provide adequate oversight. There shall be a minimum of one hour of supervision time for every ten hours of supervised professional work. Supervision meetings shall regularly occur at least every other week.

(7) A certified sex offender treatment provider shall undertake no (~~supervision~~) contract which exceeds the provider's ability to comply with supervision standards. A supervisor shall not supervise more than thirty hours of SSOSA and SSODA case clinical work each week.

(8) Generally, a supervisor shall not provide supervision for more than two affiliates. However, the special needs of certain locales, particularly rural areas, are recognized. Where appropriate, deviation from the standards (~~for amount of supervision time, frequency of supervision, and limitations on supervision by a supervisor are encouraged~~) in subsections (4)(b), (6) and (7) of this section are permitted subject to department approval, if quality of supervision can be maintained. Special supervisory arrangements shall be submitted for approval (~~as part of~~) with the supervision contract to the department. (~~As necessary,~~) A supervisor may adjust a supervision plan, as necessary, but shall notify the department of the amendment to the contract within thirty days.

(9) The status of the affiliate's relationship to the supervisor is to be accurately communicated to the public, other professionals, and to all clients served.

(10) An affiliate sex offender treatment provider ~~((shall))~~ may represent himself or herself as an affiliate only when doing clinical work supervised by the contracted sex offender treatment provider. If the affiliate is providing unsupervised clinical services to clients who are not SSOSA or SSODA cases, the individual shall not utilize the title "affiliate" ~~((in that context))~~. This is not intended to prohibit an affiliate from describing their experience and qualifications to potential referral sources.

(11) All written reports and correspondence ~~((conducted))~~ by the affiliate acting under SSOSA or SSODA shall be cosigned by the supervisor, indicating the supervisory relationship. The work shall be represented as conducted by the affiliate ~~((and))~~ with oversight provided by the supervisor.

(12) All work relating to SSOSA and SSODA clients ~~((s))~~ conducted by the affiliate ~~((shall be))~~ is the responsibility of the supervisor. The supervisor shall have ~~((full))~~ authority ~~((over))~~ to direct the practice of the affiliate involving SSOSA and SSODA clients.

(13) Supervision ~~((shall))~~ includes, but is not limited to the following:

- (a) Discussion of services provided by the affiliate;
- (b) Case selection, service plan, and review of each case or work unit of the affiliate;
- (c) Discussions regarding theory and practice ~~((regarding))~~ of the work being conducted;
- (d) Review of Washington statutes, rules, and criminal justice procedures relevant to the work being conducted;
- (e) Discussion of the standards of practice for providers as adopted by the department and the ethical issues involved in providing professional services for sex offenders;
- (f) Discussion regarding coordination of work with other professionals;
- (g) Discussion of relevant professional literature and research; and
- (h) Periodic review of the supervision itself.

(14) Both the supervisor and affiliate shall maintain full documentation of the work done and supervision provided.

(15) ~~((Timely evaluation of))~~ The supervisor will evaluate the affiliate's work and professional progress ~~((shall be provided by the supervisor))~~ on an ongoing basis.

(16) It is the responsibility of the supervisor to remedy the problems or terminate the supervision contract. If the work of the supervisee does not meet sufficient standards to protect the best interests of the clients and the community ~~((it is the responsibility of the supervisor to remedy the problems or terminate the supervision contract. If a supervision contract is terminated,))~~. The supervisor shall notify the department and provide the department with a letter of explanation, if a supervision contract is terminated.

(17) Supervision is a power relationship and the supervisee-supervisor relationship is not to be exploited. This standard in no way precludes reasonable compensation for supervisory services.

(18) It is the responsibility of the supervisor to provide, on request, accurate and objective letters of reference and work documentation regarding the affiliate, when requested by affiliate.

(19) If a supervisee is in the employ of a provider it is the responsibility of the supervisor to provide:

- (a) Appropriate working conditions;

(b) Opportunities to further the supervisee's skills and professional development; and

(c) Consultation in all areas of professional practice appropriate to the supervisee's employment.

(20) All records of both affiliate and supervisor ~~((shall be))~~ are subject to audit to determine compliance with appropriate statutes and rules.

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-200 Application and examination.** (1) In order to be certified to practice under this chapter as a provider or affiliate provider in the state of Washington all applicants shall pass an examination approved by the secretary.

(2) An applicant shall meet all education, experience, and training requirements and be a health care provider before being allowed to sit for the examination.

(3) Examinations shall be given ~~((twice annually))~~ at a time and place determined by the secretary.

(4) A completed application with the appropriate fee for certification shall be received in the office of the department, no later than sixty days prior to the examination ~~((administration))~~ date. All supporting documentation shall be received no later than twenty days prior to the scheduled examination date.

(5) Any applicant who fails to follow written or oral instructions relative to the conduct of the examination, is observed talking or attempting to give or receive information, or attempting to remove materials from the examination or using or attempting to use unauthorized materials during any portion of the examination shall be terminated from the examination and not permitted to complete it.

(6) The department shall approve the method of grading each examination, and ~~((shall))~~ apply ~~((such))~~ the method uniformly to all applicants taking the examination.

(7) ~~((An applicant shall))~~ Applicants will be notified in writing of ~~((his or her))~~ their examination scores.

(8) ~~((An))~~ Applicant's examination scores ~~((shall))~~ are not ~~((be))~~ disclosed to anyone other than the applicant, unless requested to do so in writing by the applicant.

(9) An applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a reexamination fee for each subsequent examination ~~((determined by the secretary))~~. ~~((Upon))~~ After failure of three examinations, the secretary may require remedial education before admission to future examinations.

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-210 Examination appeal procedures.** (1) Any candidate who takes and does not pass the sex offender treatment provider examination may request an informal review of the results of the examination.

(a) The examination results shall not be modified unless the candidate presents clear and convincing evidence of error in the examination content or procedure, or bias, prejudice, or discrimination in the examination process.

PERMANENT

(b) Any challenges to examination scores shall not be considered unless the total of the potentially revised score would result in issuance of a certificate.

(2) The procedure for requesting an informal review of examination results is as follows: The request shall be in writing and shall be received by the department within thirty days of the date on the letter of notification of examination results sent to the candidate.

~~(3) ((The advisory committee shall schedule a closed session meeting to review the failed examination questions and forms completed by the candidate. The candidate shall be notified in writing of the decision.~~

~~(a))~~ The candidate shall be identified only by candidate number for the purpose of this review. The candidate shall be notified in writing of the decision.

~~((b))~~ Letters of referral or requests for special consideration shall not be read or considered.

(4) Any candidate not satisfied with the results of the informal examination review may request a formal hearing before the secretary to challenge the informal review decision. The procedures for requesting a formal hearing are as follows:

(a) The candidate shall complete the informal review process before requesting a formal hearing.

(b) The request for formal hearing shall be received by the department within twenty days of the date on the notice of the results of the informal review.

(c) The written request shall specifically identify the challenged portion(s) of the examination and shall state the specific reason(s) why the candidate believes the examination results should be modified.

~~((5) Before the hearing is scheduled the parties shall attempt by informal means to resolve the following:~~

- ~~(a) The simplification of issues;~~
- ~~(b) Amendments to the candidate's notice identifying the challenged portion(s) of the examination and the statement of the specific reason(s) why the candidate feels the results of the examination should be changed;~~
- ~~(c) The possibility of obtaining stipulations, admission of facts, and documents;~~
- ~~(d) The limitation of the number of expert witnesses;~~
- ~~(e) A schedule for completion of all discovery; and~~
- ~~(f) Such other matters as may aid in the disposition of the proceeding.~~

~~If the parties are unable to resolve any of these issues informally, either party may request a prehearing conference to be held before an administrative law judge.~~

~~(6) In the event there is a prehearing conference, the administrative law judge shall enter an order which sets forth the actions taken at the conference, the amendments allowed to the pleading, and the agreements made by the parties of their qualified representatives as to any of the matters considered, including the settlement or simplification of issues. The prehearing order limits the issues for hearing to those not disposed of by admissions or agreements. Such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent prehearing order.~~

~~(7) Candidates shall receive at least twenty days' notice of the time and place of the formal hearing.~~

~~(8))~~ (d) Appeals are brief adjudicative proceedings, as provided under the Administrative Procedure Act, chapter

34.05 RCW and chapter 246-11 WAC. The presiding officer is the secretary or the secretary's designee.

(5) The hearing shall be restricted to the specific portion(s) of the examination the candidate had identified in the request for formal hearing.

~~((9) The formal hearing shall be conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW.)~~

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-220 Reexamination.** (1) An applicant for certification who has been previously certified shall retake the examination and achieve a passing score before recertification under any of the following circumstances:

(a) The applicant has been uncertified voluntarily for more than ~~((thirty-six))~~ twenty-four calendar months; or

(b) The applicant's certificate has been revoked or suspended by reason of a disciplinary action by the secretary.

(2) The secretary may require reexamination in any disciplinary order as a condition of reissuing a certificate or confirming certification.

(3) Whenever reexamination is required, the applicant shall pay the ~~((appropriate))~~ examination fees set forth in WAC 246-930-990.

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-300 Mandatory reporting.** (1) Pursuant to RCW 18.130.070, the persons designated in subsection (2) of this section are required to report to the department(:

~~(a))~~ any conviction, determination, or finding of which they have personal knowledge that any person certified as a provider or affiliate provider has committed an act which constitutes unprofessional conduct under RCW 18.130.180(;

~~(b) Any information of which they have personal knowledge which indicates that any person certified as a provider or affiliate provider may not be able to practice with reasonable skill and safety to the public as a result of a mental or physical condition)).~~

(2) The following persons are required to report the information identified in subsection (1) of this section:

(a) Persons certified as providers or affiliate providers;

(b) The president, chief executive officer, or designated official of any professional association or society whose members are certified providers or affiliate providers;

(c) Prosecuting attorneys and deputy prosecuting attorneys;

(d) Community corrections officers employed by the department of corrections;

(e) Juvenile probation or parole counselors who provide counseling or supervision to juveniles;

(f) The president, chief executive officer, or designated official of any public or private agency which employs certified providers or affiliate providers;

(g) The president, chief executive officer, or designated official of any credentialing agency for health professionals.

(3) Reports under this section shall be made in writing, and must include the name, address, and telephone number

of the person making the report, the name and address of the person about whom the report is made, and complete information about the circumstances giving rise to the report.

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-301 Purpose—Professional standards and ethics.** (1) ~~((The standards set forth in WAC 246-930-301 through 246-930-340 apply to sex offender treatment providers (SOTP) while evaluating or treating SSOSA or SSODA clients.~~

~~((2)) Sex offender treatment providers ((shall be otherwise)) are also credentialed health professionals, and are subject to the standards of practice of their primary field of practice. However, standards of practice vary from profession to profession, and sex offender evaluation and treatment represents significant differences in practice from general mental health interventions.~~

~~((3) Given the uniqueness)) (2) The standards set forth in WAC 246-930-301 through 246-930-340 apply to all sex offender treatment providers evaluating or treating SSOSA or SSODA clients. Failure to comply with these standards in providing evaluation and/or treatment to SSOSA/SSODA clients may constitute unprofessional conduct pursuant to RCW 18.130.180(7).~~

~~(3) Standards of practice specific to this area of specialization are necessary due to the unique characteristics of this area of practice, the degree of control that a provider exercises over the lives of clients, and the community protection issues inherent in this work((-standards of practice specific to this area of specialization are necessary.~~

~~(4) The purpose of these rules is to establish standards of practice for sex offender treatment providers. Failure to comply with these standards in providing evaluation and/or treatment to clients sentenced under SSOSA or SSODA may constitute unprofessional conduct pursuant to RCW 18.130.180(7).~~

~~((5) When there is a conflict between the terms or conditions of a court order in a specific case and these standards, the provider shall comply with the court order)).~~

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-310 Standards for professional conduct and client relationships.** (1) General considerations. Sex offender treatment providers shall:

(a) ~~((Report to the department any unethical or incompetent practices by other sex offender treatment providers that jeopardize public safety or cause a risk of harm to clients;~~

~~((b)) Not discriminate against clients with regard to race, religion, gender or disability; and~~

~~((c)) (b) Treat clients with dignity and respect, regardless of the nature of their crimes or offenses.~~

(2) Competence in practice. Providers shall:

(a) Be fully aware of the standards of their area of credentialing as health professionals and adhere to those standards;

(b) Be knowledgeable of statutes and scientific data relevant to ~~((this area of))~~ specialized sex offender treatment and evaluation practice;

(c) Be familiar with the statutory requirements for assessments, treatment plans and reports for the court ~~((for))~~ under SSOSA and SSODA;

(d) Perform professional duties with the highest level of integrity, maintaining confidentiality within the scope of statutory responsibilities;

(e) Be committed to community protection and safety;

(f) Be aware of all statutes related to client confidentiality;

(g) Not make claims regarding the efficacy of treatment that exceed what can be reasonably expected;

~~((g))~~ (h) Make appropriate referrals when they are not qualified or are otherwise unable to offer services to a client; and

~~((h))~~ (i) Exercise due prudence and care in making referral to other professionals.

(3) Confidentiality. Providers shall:

(a) Insure that the client fully understands the scope and limits of confidentiality, and the relevance to the client's particular situation. The provider shall inform the client of the provider's method of reporting disclosures made by the client and to whom disclosures are ~~((made))~~ reported, before evaluation and treatment commence;

(b) Inform clients of any circumstances which may trigger an exception to the agreed upon confidentiality;

(c) Not require or seek waivers of privacy or confidentiality beyond the requirements of evaluation, treatment, training, or community safety. Providers shall evaluate the impact of authorizations for release of information upon their clients; and

(d) Understand and explain to their juvenile clients the rights of their parents and/or guardians to obtain information relating to the client.

(4) Conflict of interest. Providers shall:

(a) Refrain from using professional relationships to further their personal, religious, political, or economic interest other than accepting customary fees;

(b) Avoid relationships with clients which may constitute a conflict of interest, impair professional judgment and risk exploitation. (For example, bartering, service for service, and/or treating individuals where a social, business, or personal relationship exists); and

(c) Have no sexual relationships with a client.

(5) Fee-setting and client interaction. Providers shall:

(a) Prior to commencing service, fully inform the client of the scope of professional services to be provided and the fees associated with the services;

(b) Review any changes in financial arrangements and requirements with the client pursuant to the rules initially specified; ~~((and))~~

(c) Neither offer nor accept payment for referral; and

(d) Provide clients or their responsible person timely statements accurately indicating all services provided, the fees charged, and payments made.

(6) Termination or alteration of therapist/client relationship. Providers shall:

(a) Not unreasonably withdraw services to clients, and shall take care to minimize possible adverse effects on the client and the community;

(b) Notify clients promptly when termination or disruptions of services are anticipated, and provide for a transfer,

referral, or continuation of service consistent with client needs and preferences, when appropriate; and

(c) Refrain from knowingly providing treatment services to a client who is in mental health treatment with another professional without consultation with the current provider.

(7) The department neither requires nor prohibits the use of ~~((plethysmographs or polygraphs))~~ psychological or physiological testing. The use of these and other treatment and evaluation techniques is at the discretion of the provider, subject to the terms of the court order in a particular case. The following standards apply when such techniques are used.

~~(a) ((Use of plethysmography: The use of physiological assessment measures, such as penile plethysmography, can yield valuable information regarding the sexual arousal patterns of sex offenders. This data can be useful in assessing therapy progress and in monitoring for community safety. When obtained, physiological assessment data shall not be used as the sole basis for offender risk assessment and shall not be used to determine if an individual has committed a specific sexually deviant act. Providers who utilize this data shall be aware of the limitations of plethysmography and shall recognize that plethysmographic data is only meaningful within the context of a comprehensive evaluation and/or treatment process. Sex offender treatment providers shall insure that physiologic assessment data is interpreted only by sex offender treatment providers who possess the necessary training and experience. Sex offender treatment providers shall insure that particular care is taken when performing physiological assessment with juvenile offenders and other special populations, due to concerns about exposure to deviant materials. Given the intrusiveness of this procedure, care shall be given to the dignity of the client.))~~ Psychological testing: Psychological testing may provide valuable data during the assessment phase and in determining treatment progress. However, psychological testing should not be conducted by a provider who is not a licensed psychologist, unless the specific test(s) standardized administration procedures provide for administration by a nonpsychologist.

Psychological assessment data provided by a psychologist, other than the examiner, shall not be integrated into an assessment report unless the provider is familiar with the psychological instruments used and aware of their strengths and/or limitations.

The interpretation of psychological testing through blind analysis has significant limitations. Providers reporting psychological test data derived in this manner shall also report the way in which the information was derived and the limitations of the data.

It is important to report any information which might influence the validity of psychological test findings. Examples of such information include, but are not limited to, the context of the evaluation, the information available to the professional who interpreted the data, whether the interpretations were computer derived and any special population characteristics of the person examined.

(b) Use of polygraph: The use of the polygraph examination may enhance the assessment, treatment and monitoring ~~((process))~~ processes by encouraging disclosure of information relevant and necessary to understanding the extent of present risk and compliance with treatment and

court requirements. When obtained, the polygraph data achieved through periodic examinations is an important asset in monitoring the sex offender client in the community. Other alternative sources of verification may also be utilized. Sex offender treatment providers shall be knowledgeable of the limitations of the polygraph and shall take into account its appropriateness with each individual client and special client populations. Examinations shall be given in accordance with the treatment plan. Sex offender treatment providers shall not base decisions solely on the results of the polygraph examination.

(c) Use of plethysmography: The use of physiological assessment measures, such as penile plethysmography, may yield useful information regarding the sexual arousal patterns of sex offenders. This data can be useful in assessing baseline arousal patterns and therapeutic progress. Decisions about the use of plethysmography should be made on a case-by-case basis with due consideration given to the limitations and the intrusiveness of the procedure. Consideration also should be given to the available literature on the usefulness of the information obtained as it relates to a specific sex offender population.

When obtained, physiological assessment data shall not be used as the sole basis for offender risk assessment and shall not be used to determine if an individual has committed a specific sexually deviant act. Providers shall recognize that plethysmographic data is only meaningful within the context of a comprehensive evaluation and/or treatment process. Sex offender treatment providers shall ensure that physiologic assessment data is interpreted only by sex offender treatment providers who possess the necessary training and experience. Sex offender treatment providers shall insure that particular care is taken when performing physiological assessment with juvenile offenders and other special populations, due to concerns about exposure to deviant materials. Given the intrusiveness of this procedure, care shall be given to the dignity of the client.

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-320 Standards for SSOSA and SSODA assessment and evaluation reports.** (1) General considerations in evaluating clients. Providers shall:

(a) Be knowledgeable of assessment procedures ~~((utilized))~~ used;

(b) Be aware of the strengths and limitations of self-report and make reasonable efforts to verify information provided by the offender;

(c) Be knowledgeable of the client's legal status including any court orders applicable. Have a full understanding of the SSOSA and SSODA process and be knowledgeable of relevant criminal and legal considerations;

(d) Be impartial; provide an objective and accurate base of data; and

(e) Avoid addressing or responding to referral questions which exceed the present level of knowledge in the field or the expertise of the evaluator~~(;)~~

~~((f) Assure that their written reports are accurate, comprehensive and address all of the issues necessary for court disposition;~~

~~(g) Assure that their written reports present all knowledge relevant to the matters at hand in a clear and organized manner;~~

~~(h) Assure that their written reports include the referral sources, the conditions surrounding the referral and the referral questions addressed; and~~

~~(i) Assure that their written reports state the sources of information utilized in the evaluation).~~

(2) Scope of assessment data.

~~((a) Comprehensive evaluations shall include a compilation of data from as many sources as reasonable, appropriate, and available. These sources may include:~~

~~(i) Collateral information (i.e. police reports, CPS information, criminal correctional history and victim statements);~~

~~(ii) Psychological testing information;~~

~~(iii) Physiological testing information;~~

~~(iv) Interviews with the offender;~~

~~(v) Previous assessments conducted (i.e. medical, substance abuse, psychological, sexual deviancy); and~~

~~(vi) Interviews with significant others.~~

~~(b) The written report shall reflect the information considered including:)) Comprehensive evaluations under SSOSA and SSODA shall include a compilation of data from as many sources as reasonable, appropriate, and available. These sources may include but are not limited to:~~

(a) Collateral information (i.e., police reports, child protective services information, criminal correctional history and victim statements);

(b) Interviews with the offender;

(c) Interviews with significant others;

(d) Previous assessments of the offender conducted (i.e., medical, substance abuse, psychological and sexual deviancy);

(e) Psychological/physiological tests;

(f) If a report fails to include information specified in (a) through (e) of this subsection, the evaluation should indicate the information not included and cite the reason the information is not included; and

(g) Second evaluations shall state whether other evaluations were considered. The decision regarding use of other evaluations prior to conducting the second evaluation is within the professional discretion of the provider. The second evaluation need not repeat all assessment or data compilation measures if it reasonably relies on existing current information. The second evaluation must address all issues outlined in subsection (3) of this section, and include conclusions, recommendations and a treatment plan if one is recommended.

(3) Evaluation reports.

(a) Written reports shall be accurate, comprehensive and address all of the issues required for court disposition as provided in the statutes governing SSOSA and SSODA;

(b) Written reports shall present all knowledge relevant to the matters at hand in a clear and organized manner;

(c) Written reports shall include the referral sources, the conditions surrounding the referral and the referral questions addressed; and

(d) Written reports shall state the sources of information utilized in the evaluation. The evaluation and written report shall address, at a minimum, the following issues:

(i) A description of the current offense(s) including, but not limited to, the evaluator's conclusion about the reasons for any ~~((discrepancies))~~ discrepancy between the official and offender's versions of the offenses;

(ii) A sexual history, sexual offense history and patterns of sexual arousal/preference/interest;

(iii) Prior attempts to remediate and control offense behavior including prior treatment;

(iv) Perceptions of significant others, when appropriate, including their ability and/or willingness to support treatment efforts;

(v) Potentiators of offending behavior to include alcohol and drug abuse, stress, mood, sexual patterns, use of pornography, and social and environmental influences;

(vi) A personal history to include medical, marital/relationships, employment, education and military;

(vii) A family history;

(viii) History of violence and/or criminal behavior;

(ix) Mental health functioning to include coping abilities, adaptational styles, intellectual functioning and personality attributes; and

(x) The overall findings of psychological/physiological/medical assessment when such assessments have been conducted.

~~((3))~~ (e) Conclusions and recommendations~~((The conclusions and recommendations))~~ shall ~~((flow from))~~ be supported by the data presented in the body of the report and include:

~~((a))~~ (i) The evaluator's conclusions regarding the appropriateness of community treatment;

~~((b))~~ (ii) A summary of the clinician's diagnostic impressions;

~~((c))~~ (iii) A specific assessment of relative risk factors, including the extent of the offender's dangerousness in the community at large;

~~((d))~~ (iv) The client's amenability to outpatient treatment and conditions of treatment necessary to maintain a safe treatment environment.

~~((4))~~ (f) Proposed treatment plan~~((The plan))~~ shall be described ~~((with sufficient))~~ in detail and clarity and include:

~~((a))~~ (i) Anticipated length of treatment, frequency and type of contact with providers, and supplemental or adjunctive treatment;

~~((b))~~ (ii) The specific issues to be addressed in treatment and a description of planned treatment interventions including involvement of significant others in treatment and ancillary treatment activities;

~~((c))~~ (iii) Recommendations for specific behavioral prohibitions, requirements and restrictions on living conditions, lifestyle requirements, and monitoring by family members and others that are necessary to the treatment process and community safety;

~~((d))~~ (iv) Proposed methods for monitoring and verifying compliance with the conditions and prohibitions of the treatment program; and

~~((e))~~ (v) If the evaluator will not be providing ~~((the ensuing))~~ treatment, a specific certified provider should be identified to the court. ~~((Such))~~ The provider shall adopt the proposed treatment plan or submit an alternative treatment plan for approval by the court, ~~((to include))~~ including each

of the ~~((foregoing))~~ elements in WAC 246-930-330 (5)(a) through (d).

~~((Such))~~ (4) The provider shall submit to the court and the parties a statement that the provider is either adopting the proposed treatment plan or submitting an alternate plan. The plan and the statement shall be provided to the court before sentencing.

**AMENDATORY SECTION** (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-330 Standards for treatment.**

**Introduction-SSOSA/SSODA offender treatment:** It is recognized that effective sexual deviancy treatment will involve a broad set of planned therapeutic experiences and interventions designed to ultimately reduce the risk of a client engaging in criminal sexual behavior. Such treatment shall be consistent with current professional literature ~~((and practices))~~ and shall ~~((maximize))~~ emphasize community safety.

**(1) General considerations.**

~~((Clients shall generally be seen a minimum of once per week for at least forty five minutes by a certified or affiliate sex offender treatment provider.~~

~~((Circumstances may make a temporary reduction in duration or frequency of contacts appropriate and shall be determined on an individual case basis.))~~ In most cases clients shall be seen by a certified or affiliate treatment provider a minimum of once per week for at least forty-five minutes for individual or ninety minutes for group.

(b) Changes in client circumstances or treatment provider schedule may require a reduction in frequency or duration of contacts appropriate, provided that:

(i) Such changes are made on a case-by-case basis;

(ii) Any changes that constitute a permanent change in the treatment plan or that reduce community safety shall be communicated to the supervising officer, the prosecutor and the court prior to the implementation of the change; and

(iii) Other short term, temporary changes in the treatment plan due to illness, vacation, etc., should be reported in the regular progress report.

(c) Any reduction in frequency or duration of contacts which constitutes a ~~((change in))~~ deviation from the treatment plan shall be reported to the supervising officer, the prosecutor, and the court~~((-));~~ and

(d) The treatment methods employed by the provider shall:

~~((Be supportable by the professional literature and practices;~~

~~((i))~~ Reflect concern for the well being of clients, victims and the safety of potential victims;

~~((iii))~~ (ii) Take into account the legal/civil rights of clients, including the right to refuse therapy and return to court for review; and

~~((iv))~~ (iii) Be individualized to meet the unique needs of each client.

**(2) Planning and interventions.** The treatment plan and the interventions used by the provider to achieve the goals of the plan shall:

~~((Be based on the needs detailed in the evaluation;))~~ Address the sexual deviancy treatment needs identified;

~~((for))~~ Include provisions for the protection of victims and potential victims;

~~((Prioritize))~~ Give priority to those ~~((therapy events))~~ treatment interventions most ~~((necessary))~~ likely to avoid sexual reoffense; and

(d) Take reasonable care to not cause victims to have unsafe, or unwanted contact with their offenders.

~~((3) Provider client contract. The provider client contract shall:~~

~~((a) Include treatment requirements and rules that are directly related to community safety;~~

~~((b) Be signed by the client and acknowledge the contract, treatment requirements, and rules; and~~

~~((c) Be provided to the supervising officer after sentencing and within ninety days of the start of treatment.))~~ (3)

**Community protection contract.** The provider shall present a contract to the client within ninety days of the start of treatment which:

(a) Details the treatment rules and requirements which the client must follow in order to preserve community safety;

(b) Outlines the client's responsibility to adhere to the contract and the provider's responsibility to report any violations;

(c) Is a separate document from any other evaluation or treatment agreements between the client and the provider; and

(d) Is signed by both client and provider, sent to the supervising officer after sentencing, and updated when conditions change throughout the course of treatment.

(4) Treatment methods. The methods used by the provider shall:

(a) Address clients' deviant sexual urges and recurrent deviant sexual fantasies;

~~((Attempt to))~~ Educate clients and the individuals who are part of their support systems about the potential for reoffense, and risk factors;

~~((Attempt to))~~ Teach clients to ~~((utilize))~~ use self control methods to avoid sexual reoffense;

(d) Consider the effects of trauma and past victimization as factors in reoffense potential where applicable;

(e) Address clients' thought processes which facilitate sexual reoffense and other victimizing or assaultive behaviors;

~~((Attempt to))~~ Modify client thinking errors and cognitive distortions;

~~((Attempt to))~~ Enhance clients appropriate adaptive/legal sexual functioning;

~~((Attempt to))~~ Insure that clients have accurate knowledge about the effect of sexual offending upon victims, their families, and the community;

~~((Assist))~~ Help clients ~~((to))~~ develop a sensitivity to the effects of sexual abuse upon victims;

(j) Address clients' personality traits and personality deficits which are related to increased reoffense potential;

(k) Address clients' deficits in coping skills ~~((in present life circumstances where applicable));~~

(l) Include and integrate clients' families, guardians, and residential program staff into the ~~((therapy))~~ treatment process when appropriate; and

~~((Attempt))~~ To maintain communication with other significant persons in the client's support system, when

deemed appropriate by the provider ~~((to assist in meeting treatment goals)).~~

~~(5) Monitoring of treatment ((and sentence)) requirements.~~ The monitoring of the client's compliance with treatment ~~((and sentence))~~ requirements by the provider shall:

~~(a) Recognize the reoffense potential of the sex offender client, the damage that may be caused by sexual reoffense or attempted reoffense, and the limits of self report by the sex offender client;~~

~~(b) ((Employ)) Consider multiple sources of input regarding the client's out of office behavior ((when possible and utilize methods which are objective in nature));~~

~~(c) As a general principle, increase monitoring during those times of increased risk and notify the supervising officer:~~

~~(i) When a client is in crisis;~~

~~(ii) When visits with victims or potential victims are authorized; and~~

~~(iii) When clients are in high risk environments.~~

~~(d) Work in collaboration with the supervising officer ((in the independent verification of a client's:~~

~~(i) Compliance with sentence requirements and treatment directives;~~

~~(ii) Cessation of sexually deviant behaviors;~~

~~(iii) Reduction in those behaviors most likely to be related to sexual reoffense; and~~

~~(iv) Living, work and social environments to insure that these environments have sufficient protection against the client's reoffense potential.~~

~~(6) Contacts with victims/vulnerable children. When sex offender clients have any contact with the victims or children, the provider shall recognize that supervision during contact with children is critical for those offenders who have had crimes against children, or have the potential to abuse children. Providers shall:~~

~~(a) Consider victims' wishes about contact and ensure that all contact is safe and in accordance with any court directives;~~

~~(b) Limit child molester decision-making authority over vulnerable children;~~

~~(c) Collaborate with other relevant professionals and solicit their input regarding contact with victims, rather than make isolated decisions;~~

~~(d) Consult with parents, custodial parents, or guardians prior to authorizing any contact between offenders and children;~~

~~(e) Include educational experiences for chaperones/supervisors of SSOSA/SSODA clients; and~~

~~(f) Establish plans/protocols for reuniting or returning SSOSA/SSODA clients to homes where children reside that emphasizes child safety.~~

~~(7)) to verify that the client is following the treatment plan by reducing the frequency of those behaviors that are most closely related to sexual reoffense and that the client's living, work and social environments have sufficient safeguards and protection for victims and potential victims; and~~

~~(e) The provider and the supervising officer should discuss the verification methods used so that each can more fully collaborate to protect community safety and assist the client in successfully completing treatment.~~

(6) **Contacts with victims/vulnerable persons for SSOSA clients.** When authorizing SSOSA clients to have contact with victims or children, the provider shall recognize that supervision during contact with children is critical for those offenders who have had crimes against children, or have the potential to abuse children. Providers shall:

(a) Consider victim's wishes about contact and reasonably ensure that all contact is safe and in accordance with court directives;

(b) Restrict, as necessary, offender decision-making authority over victims and vulnerable children;

(c) Prior to offender contact with children, collaborate with other relevant professionals regarding contact with victims, rather than make isolated decisions;

(d) Consult with the victim's parents, custodial parents, or guardians prior to authorizing any contact between offenders and children;

(e) Include educational experiences for chaperones/supervisors of SSOSA clients; and

(f) Devise a plan/protocol for reuniting or returning SSOSA clients to homes where children reside. Such plan/protocol should emphasize child safety, and provide for some monitoring of the impact on the victim and other children.

(7) **Contacts with victims/vulnerable persons for SSODA clients.** While the rationale behind the standards for SSOSA clients in subsection (6)(a) through (f) of this section is equally relevant for juvenile SSODA clients, there are some substantial differences that warrant specific standards. The prohibitions on contact with children are not intended to prohibit reasonable peer-age social or educational contacts for juvenile SSODA clients. It is further understood that providers working with juvenile SSODA clients have limited authority over their clients, and that they have limited authority to govern the decisions or supervision of a juvenile client's parents. Reasonable and practical supervision plans/strategies for juvenile SSODA clients require the cooperation and involvement of parents, foster parents, group home staff, and the supervising officer. Providers shall work in collaboration with the supervising officer to meet the following standards:

(a) Establish reasonable guidelines for contacts with victims or vulnerable children commensurate with the offender's offending history, treatment progress, and the current disposition order.

(b) Make reasonable efforts to advise, inform, and educate adults who will be in contact with and responsible for the offender's behavior around victims or vulnerable children.

(c) Restrict, as necessary, offender decision-making authority over victims and vulnerable children.

(d) Devise plans/protocols for reuniting or returning SSODA clients to homes where the victim or other children reside, specifically considering the victim's wishes and victim impact of reunification.

(e) Closely scrutinize victim requests for offender contact to ensure the request is free of emotional strain and is in the victim's best interests.

(8) **Documentation of treatment.** Providers shall maintain and safeguard client files in accordance with the professional standards of their individual disciplines and with

PERMANENT

Washington state law regarding health care records ~~((and shall:~~

~~(a) Document the goals of treatment, the methods used and the observed progress of clients towards reaching the goals;~~

~~(b))~~ Providers shall insure that the client files ~~((accurately))~~ reflect the content of professional contact, treatment progress, sessions attended and treatment plan change information necessary for completion of the required SSOSA/SSODA reports; and

~~((e) Safeguard the confidentiality of client files in recognition of the sensitive nature of the contents.~~

~~(8)) (9) Completion of court ordered treatment. ((The sex offender treatment provider shall make treatment completion decisions that logically follow the evaluation, treatment plan, course of treatment sequence.)) In ((addition to)) fulfilling the SSOSA((SSODA)) requirements for the end of court ordered treatment hearing, the treatment provider shall:~~

~~(a) ((Assess actual changes in a client's reoffense potential prior to recommending treatment termination;~~

~~(b) Attempt to repeat, where appropriate, those assessments which might show client change;~~

~~(e)) Assess and document how the goals of the treatment plan have been met, what ((actual)) changes in the client's reoffense potential have been accomplished, and what risk factors remain;~~

~~((d) Seek input from others knowledgeable about a client's progress as part of the treatment completion/termination decision process;~~

~~(e)) (b) Report to the court in a timely manner regarding the client's compliance with treatment and monitoring requirements and make a recommendation regarding modification of conditions of community supervision, and either termination of treatment or extension of treatment for up to the remaining period of community supervision.~~

~~((f) When appropriate, inform the client regarding the end of court ordered treatment recommendation.)) (10) Completion of treatment for SSODA. Sex offender treatment providers who are treating juvenile offenders shall comply with subsection (9) of this section.~~

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-340 Standards for communication with other professionals.** (1) Professional relationships with corrections/probation officers and other supervising agencies.

(a) The provider shall establish a cooperative ~~((and collaborative))~~ relationship with the supervising officer and/or responsible agency for purposes of the effective supervision and monitoring of an offender's behavior in the community.

(b) All violations of the provider client contract shall be reported immediately to the supervising officer.

(c) Quarterly progress reports documenting dates of attendance, treatment activities and duration, changes in the treatment plan, client compliance with requirements, and treatment progress shall be made in a timely manner to the court and parties. Providers shall provide additional infor-

mation regarding treatment progress when requested by the court or a party ~~((to include:~~

~~(i) Changes in treatment plan;~~

~~(ii) Dates of attendance;~~

~~(iii) Client compliance with requirements;~~

~~(iv) Treatment activities;~~

~~(v) Client's relative progress in treatment; and~~

~~(vi) Any other material as specified by the court at sentencing)). If there is more than one provider, the primary provider shall confer on all quarterly reports and provide one report to the required parties in a timely manner.~~

(d) ~~((Specific))~~ Prior to implementation, plans for ~~((any and all))~~ contact with the victim, potential victims and plans for family reunification or return (where appropriate) should be reviewed with the supervising officer.

(e) Prior to implementation the provider shall communicate with the supervising officer when approving chaperones and ~~((knowledgeable))~~ supervisors for offender contact with children. If an urgency of circumstances requires independent approval of a chaperone by a provider, the provider will notify the community correction officer or supervising officer in a timely manner.

(2) Communication with the department of social and health services or other agencies responsible for the care or supervision of the client. When appropriate, the provider shall seek an authorization for release of information from the client to communicate with such agencies for treatment or monitoring purposes.

(3) Communication with others. Where appropriate and consistent with the offender's informed consent, the provider shall communicate with the victim's therapist, guardian ad litem, custodial parent, guardian, caseworker, or other involved professional in making decisions regarding family reunification or return, or victim contact with the offender.

(4) Reporting of additional victims.

(a) Providers are expected to comply with the mandatory reporting law, RCW 26.44.030.

(b) All clients shall be notified of the limits of confidentiality imposed on therapists by the mandatory reporting law (RCW 26.44.030).

AMENDATORY SECTION (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-410 Continuing education requirements.** (1) **Purpose and scope.** The aim of continuing education for sex offender treatment providers is to ensure that professionals practicing in this specialty field are knowledgeable of current scientific and practice principles that affect the supervision and treatment of sex offenders in community-based treatment. Since the treatment of sex offenders in communities raises significant public safety concerns, continuing education is required to help sex offender treatment providers deliver the highest quality of professional service by being familiar with current developments in a rapidly changing profession. Certified sex offender treatment providers, regardless of certification status (e.g., full, affiliate, or provisional), shall meet the continuing education requirements set forth in this section as a prerequisite to license renewal.

(2) **General requirements.** Certified sex offender treatment providers shall complete forty credit hours of

continuing (~~(sexual deviancy)~~) education (hereafter referred to as ((CSDE)) CE) every two years. One clock hour of acceptable ((CSDE)) CE activity equals one credit hour. The number of creditable hours will be determined by counting the actual contact hours of instruction or, in the case of workshops or conferences, the formal hours of the workshop or conference. All certified sex offender treatment providers will have two years in which to accrue the required ((CSDE)) CE credit, and renewals of sex offender treatment provider certificates on alternate years will require documentation of forty credit hours of ((CSDE)) CE. This requirement will be implemented with the 1993 renewal year.

**(3) Specific requirements.**

(a) A minimum of thirty hours of the ((CSDE)) CE shall be earned through attendance at courses, workshops, institutes, and/or formal conference presentations with direct, specific relevance to the assessment and treatment of sex offenders.

(i) Consultative or supervisory training obtained from other certified sex offender treatment providers is not creditable under this ((CSDE)) CE definition.

(ii) Independent study of audio or video tapes of seminar presentations not actually attended are creditable under this definition, up to a maximum of ten hours in any two-year period. Credit for independent study will only be granted if accompanied by documentation of the learning activity, such as a written summary of the independent study activity.

(iii) ((CSDE)) CE credit for (~~(sexual deviancy)~~) assessment and treatment of sex offender training courses presented to other professionals may be claimed by the certified provider who provides the training one time only (usually the first time it is taught, unless there is substantial revision), up to a maximum of ten hours in any two-year period.

(iv) Courses specifically oriented toward assessment or treatment of sex offenders may be claimed as ((CSDE)) CE. The following are examples of subjects that qualify under this definition:

- (A) Ethics and professional standards;
- (B) Relapse prevention with sex offenders;
- (C) Plethysmographic assessment;
- (D) Sexual arousal assessment and reconditioning;
- (E) Risk assessment with sex offenders;
- (F) Psychopharmacological therapy with sex offenders;
- (G) Family therapy with sex offenders;
- (H) Research concerning sexual deviancy;
- (I) Sexual addiction; and
- (J) Therapy/clinical methods specific to sex offenders.

(b) In addition to the thirty hours of ((CSDE)) CE with direct, specific relevance to the assessment and treatment of sex offenders, ten hours of the total requirement may be earned through participation in training courses with indirect relevance to the assessment and treatment of sex offenders. The following subjects qualify under this definition:

- (i) Victimology/victim therapy;
- (ii) General counseling methods;
- (iii) Psychological test interpretation;
- (iv) Addiction/substance abuse;
- (v) Family therapy;
- (vi) Group therapy; and
- (vii) Legal issues.

(4) **Program or course approval.** The department shall accept any ((CSDE)) CE that reasonably falls within the above categories and requirements. The department relies upon each individual provider's integrity with the intent and spirit of the ((CSDE)) CE requirements.

(5) **Enforcement.** Failure to meet the ((CSDE)) CE requirements within each two-year time period will result in nonrenewal of the certificate.

(6) **Exemptions.** In the event a provider fails to meet requirements because of illness, retirement (with no further provision of sex offender treatment provider services to clients), failure to renew, or other extenuating circumstances, the department may grant a time extension. The department shall review each case on an individual basis.

(7) **Proof of compliance.** Every two years the sex offender treatment provider shall submit an affidavit and proof of compliance with the ((CSDE)) CE requirement with the annual renewal application. Documentation to prove compliance includes, but is not limited to, course or program certificates of training, transcripts, course or workshop brochure descriptions. It is the responsibility of the sex offender treatment provider to maintain such documentation. Year of collection is determined by year of birth, i.e., a provider born in an odd-numbered year shall submit proof of compliance each odd-numbered year; a provider born in an even-numbered year shall submit proof of compliance each even-numbered year.

**(8) CE requirement for newly certified providers.** Providers who are newly certified within six months of their renewal date shall not be required to submit proof of continuing education for the preceding twelve-month period. Providers who are newly certified from six to nine months prior to the renewal date shall be required to submit proof of ten hours of the annual CE requirement for the preceding twelve-month period. Providers who are newly certified from nine to twelve months prior to the renewal date shall be required to submit proof of the full twenty hour annual CE requirement at the renewal date. The above noted prorated CE requirements apply only to the first renewal following certification. If proof of CE is not required at the first renewal (dependent on birthdate), the prorated amount shall be added to the full twenty hour annual requirement for the second year following certification.

**NEW SECTION**

**WAC 246-930-420 Inactive status.** Sex offender treatment providers, in good standing, may place their certification on inactive status by providing written notice in advance to the secretary, and may within five years thereafter resume active practice upon payment of a late renewal fee, accompanied by proof of completion of the continuing education requirements as specified in WAC 246-930-410, and proof of a current underlying certification/license. To resume active status after five years or longer of inactive status, a provider must submit an original application with appropriate fees and retake the examination. A person may not practice as a sex offender treatment provider while the certification is on inactive status.

**NEW SECTION**

**WAC 246-930-430 Reinstatement.** A sex offender treatment provider who has allowed their certificate to lapse for two years or less shall submit the overdue renewal fees including the late fee, provide proof the continuing education requirement is completed and complete the reinstatement form required by the secretary. If the certificate has been lapsed for two years or more, a provider is required to submit an original application with appropriate fees and retake the examination. A person may not practice as a sex offender treatment provider while the certification is expired.

**NEW SECTION**

**WAC 246-930-490 Sexual misconduct.** (1) The sex offender treatment provider shall not engage in sexual contact or sexual activity with SSOSA/SSODA clients.

(2) Sexual contact or sexual activity is prohibited with former SSOSA/SSODA clients for ten years after cessation or termination of professional services.

(3) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any former client if such contact or activity involves the abuse of the sex offender treatment provider and client relationship. Factors to be considered in evaluating if the sex offender treatment provider and client relationship is abused include, but are not limited to:

- (a) The amount of time that has passed since the last therapeutic contact;
- (b) The nature and duration of the therapy;
- (c) The circumstances of cessation or termination;
- (d) The client's personal history;
- (e) The client's current mental status;
- (f) The likelihood of adverse impact on the client and others; and
- (g) Any statements or actions made by the therapist during the course of therapy suggesting or inviting the possibility of a post termination sexual or romantic relationship with the client.

(4) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any person participating in the treatment process of a SSOSA or SSODA client while the therapy is ongoing.

(5) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any person formally participating in the treatment process, if such contact or activity involves the abuse of the sex offender treatment provider and client relationship. Factors to be considered in evaluating if the sex offender treatment provider and client relationship is abused include, but are not limited to:

- (a) The amount of time that has passed since the last therapeutic contact;
- (b) The amount of time that has passed since the last professional contact between the provider and the other person;
- (c) The knowledge the provider has obtained about the person because of the professional contact; and
- (d) The likelihood of adverse impact on the former client.

**AMENDATORY SECTION** (Amending Order 275, filed 5/28/92, effective 6/28/92)

**WAC 246-930-990 Sex offender treatment provider fees.** The following fees shall be charged by the professional licensing services division of the department of health:

Title of Fee	Fee
<b>Sex offender treatment provider:</b>	
Application and examination	\$ 650.00
Reexamination	325.00
Initial certification	100.00
Renewal	1,175.00
<u>Inactive status</u>	<u>585.00</u>
Late renewal penalty	200.00
Duplicate certificate	15.00
Extension fee	1,475.00
<b>Affiliate treatment provider:</b>	
Application and examination	300.00
Reexamination	150.00
Initial certification	50.00
Renewal	600.00
<u>Inactive status</u>	<u>300.00</u>
Late renewal penalty	200.00
Duplicate certificate	15.00
Extension fee	850.00

**WSR 94-13-180  
PERMANENT RULES  
DEPARTMENT OF HEALTH**  
[Filed June 21, 1994, 1:40 p.m.]

Date of Adoption: May 20, 1994.

Purpose: Implement legislation and update rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 246-316-270; and amending WAC 246-316-001, 246-316-010, 246-316-020, 246-316-030, 246-316-040, 246-316-045, 246-316-050, 246-316-060, 246-316-070, 246-316-080, 246-316-090, 246-316-100, 246-316-110, 246-316-120, 246-316-130, 246-316-140, 246-316-150, 246-316-160, 246-316-170, 246-316-180, 246-316-190, 246-316-200, 246-316-210, 246-316-220, 246-316-230, 246-316-240, 246-316-250, 246-316-260, 246-316-280, 246-316-290, 246-316-300, 246-316-310, 246-316-320, 246-316-330, 246-316-340, and 246-316-990.

Statutory Authority for Adoption: RCW 43.70.110 and 43.70.250 for WAC 246-316-990; and RCW 18.20.090 for remainder of chapter.

Pursuant to notice filed as WSR 94-08-040 on March 31, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-316-001 [246-316-010], special care needs was changed to "dementia care" with no substantive change to the definition at the request of Washington State Alzheimer Society. "Special care unit" was changed to "dementia care unit" with no substantive changes to the definition at the request of the Alzheimer Society; WAC 246-316-020 (2)(b)(i) and (ii), were consolidated to read "construction review" for simplicity without changing the meaning; WAC 246-316-040 (1)(e), extends effective date by one month from July to August 1, 1994, to coincide with

PERMANENT

effective date of these rules and will not adversely affect licensees; WAC 246-316-045 (3)(a), added the Department of Social and Health Services as a source to obtain criminal history background checks per the new law, chapter 214, Laws of 1994, Long-term care facilities—Resident rights. This change will make criminal background checks less costly to licensees and does not substantially change the criminal background check requirement; WAC 246-316-080(2), the July 1, 1994, implementation date was changed to January 1, 1995, to allow some additional time for some current licensees to implement this communication system requirement but does not substantially change the requirement; WAC 246-316-160 (2), (3), (4), these subsections were merely reworded for clarity; WAC 246-316-265(1), "physician" was added as an option to an RN to supervise limited nursing services since the Nurse and Medical Practice Acts clearly allow a physician to supervise RNs and LPNs. This change clarifies what is allowed by law and additionally offers an option to using an RN; WAC 246-316-265 (2)(b), (c), glucometer testing and injections more properly were transferred to and addressed as necessary in WAC 246-316-300(5); WAC 246-316-265 (3)(c), (d), these subsections were consolidated and made clearer by adding ". . . when the resident is unable to supervise these activities"; WAC 246-316-268(2), "emergency power supply" was added where life support systems are used to clarify its need even though the state fire and/or building code may cover such a situation. This clarification was added at the request of Washington State Health Care Association; WAC 246-316-300 (5), (6), glucometer testing was more appropriately placed under this section from WAC 246-316-265 Limited nursing services; WAC 246-316-300 (7)(e), a statement was placed here to clarify when documentation is necessary for medications given and taken; WAC 246-316-335, the term "dementia care" replaces the term "special care" at the request of the state Alzheimer Society. See WAC 246-316-001 [246-316-010] Definitions; and WAC 246-316-335 (2)(g), "if exiting doors restrict egress" clarifies when the following safety systems are needed. Also, the clarification that local approvals are necessary before the Washington state director of fire protection can approve.

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

June 20, 1994  
Bruce Miyahara  
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-316-001 ((Legal authority of the department.)) Purpose and scope.** ((See RCW 18.20.090.)) Chapter 246-316 WAC implements chapter 18.20 RCW by establishing minimum standards for boarding homes.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-316-010 Definitions.** ((For the purposes of these regulations, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

(1) "Abuse" means the injury, sexual use or sexual mistreatment of an individual resident by any person under

circumstances which indicate the health, welfare, and safety of the resident is harmed thereby. Abuse includes emotional, as well as physical, abuse.

(a) "Physical abuse" means ~~damaging or potentially damaging nonaccidental acts or incidents which may result in bodily injury or death.~~

(b) "Emotional abuse" means ~~verbal or nonverbal actions which constitute harassment.~~

(2) "Ambulatory" means ~~physically and mentally capable of walking or traversing a normal path to safety, including the ascent and descent of stairs, without the physical assistance of another person.~~

(a) "Semi-ambulatory" means ~~physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another person.~~

(b) "Nonambulatory" means ~~physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another person.~~

(e) "Physical assistance" as used in subsection (2)(a) and (b) of this section means ~~carrying, pushing, pulling, holding, or dragging a resident along a normal path to safety.~~

(3) "Area," except when used in reference to a major section of a boarding home, means ~~a portion of a room which contains the equipment essential to carry out a particular function and is separated from other facilities of the room by a physical barrier or adequate space.~~

(4) "Bathing facility" means ~~a bathtub, shower or sit-down shower.~~

(5) "Bathroom" means ~~a room containing at least one bathing facility.~~

(6) "Board" as used in RCW 18.20.020(2) means ~~the provision of daily meal service and lodging.~~

(7) "Boarding home" means:

(a) A facility as defined in RCW 18.20.020(2) and in this chapter;

(b) The licensee or person granted a license by the department to operate a boarding home.

(8) "Department" means ~~the Washington state department of health (DOH).~~

(9) "Dietitian" means ~~an individual meeting the eligibility requirements for active membership in the American dietetic association described in *Directory of Dietetic Programs Accredited and Approved*, American Dietetic Association, edition 100, 1980.~~

(10) "Domiciliary care," as used in RCW 18.20.020 and this chapter, means ~~the care offered an individual in his or her living accommodation which includes the assumption of a general responsibility for the safety and well-being of the individual and provision of assistance in the activities of daily living, as needed.~~

(11) "Facilities" means ~~a room or area and/or equipment to serve a specific function.~~

(12) "Foot candle" means ~~a measurement of light approximately equal to the light produced by a lighted candle at the distance one foot away from the candle.~~

(13) "Functional abilities" means ~~the physical, mental, emotional and social abilities to cope with the affairs and activities of daily living.~~

(14) "Grade" means ~~the level of the ground adjacent to the building measured at required windows with ground level~~

or sloping downward for a distance of at least ten feet from the wall of the building.

(15) "Health care practitioner" means any individual, group or organization providing health care as authorized by Washington state law, including, but not limited to, physician, chiropractor, naturopath, certified registered nurse, physician's assistant.

(16) "Home health care agency" means any nursing or other service provided by licensed nurses, other practitioners or aides on a periodic or short term basis excluding continuous nursing care.

(17) "Infirmity," as used in RCW 18.20.020 and this chapter, means a disability which materially limits normal activity without causing an individual to need inpatient medical or nursing care of a type provided by institutions licensed under the provisions of chapters 18.46, 18.51, 70.41 or 71.12 RCW. An infirmity may be based on conditions including, but not limited to, physical handicap, mental illness, developmental disability, chemical addiction or habituation or mental confusion, disability or disturbance.

(18) "Lavatory" means a plumbing fixture designed and equipped to serve for handwashing purposes.

(19) "May" means to permit, at the discretion of the department.

(20) "Medication" means all pharmaceuticals, vitamins, and nutrient supplements, both over the counter and prescribed.

(21) "Medication administration" means an act in which a single dose of a medication is given to a resident by an authorized person, other than the resident, under laws and regulations governing such acts and entailing:

(a) Removing an individual dose from a previously dispensed, properly labeled container;

(b) Reviewing the label on the container with prescriber's order or with a direct copy of a verified transcription of the order;

(c) Giving an individual dose to the proper resident; and

(d) Properly recording the time and dose given.

(22) "Minor alteration" means:

(a) Physical or functional modification in a boarding home without changing department approved use of the modified room or area; and

(b) Prior department review of the plan specified in WAC 246-316-070 is not required.

(23) "Neglect" means negligent treatment or maltreatment; an act or omission which evinces a disregard of consequences of such a magnitude as to constitute a clear and present danger to a resident's health, welfare, and/or safety.

(24) "New construction" means:

(a) Constructing or building a new physical plant or facility to be used as a boarding home;

(b) Additions to an existing facility or physical plant constructed for intended use as part of a boarding home;

(c) A physical alteration, modification, or renovation changing department approved use of a room or area excluding "minor alteration."

(25) "Nurse" means either a licensed practical nurse under provisions of chapter 18.78 RCW or a registered nurse.

(26) "Nursing care" means services:

(a) Designed to maintain or promote achievement of optimal, independent function, and health status; and

(b) Planned, supervised, and evaluated by a registered nurse in the context of an overall individual plan of care as in WAC 248-14-001.

(27) "Physician" or "doctor," as used in RCW 18.20.160 and in this chapter, means an individual licensed as a physician under chapters 18.57 or 18.71 RCW.

(28) "Prescriber" means a physician, dentist under chapter 18.32 RCW, or registered nurse with prescriptive authority or others legally authorized in Washington state to prescribe drugs.

(29) "Registered nurse" means an individual licensed under chapter 18.88 RCW.

(30) "Resident" means an individual who, by reason of age or infirmity, requires domiciliary care and who is not related by blood or marriage to the operator of the boarding home.

(31) "Room" means a space set apart by floor to ceiling partitions on all sides with all openings provided with doors or windows.

(32) "Self administration of medication" means medication administration by a resident taking his or her own medication from a properly labeled container.

(33) "Sit down shower" means a shower which has a molded seat, fold down type of seat, or an equivalent means for sitting and is designed for bathing while in a sitting position.

(34) "Suitable chair" means a piece of furniture intended to accommodate the act of sitting which is sturdy, comfortable, and appropriate for the age and physical condition of a resident.

(35) "Supervised medication service Category A" means:

(a) A level of self medication or self administration; or

(b) Self directed medication service for a resident requiring limited assistance or no assistance, and monitoring by boarding home staff to assure medication is taken and stored properly.

(36) "Supervised medication service Category B" means a level of service for residents requiring assistance and monitoring by boarding home staff to assure:

(a) Medications taken in accordance with a health care practitioner's instructions; and

(b) Inaccessibility of medications to other residents.

(37) "Supervised medication service Category C" means a full medication administration service.

(38) "Toilet" means a disposal apparatus consisting of a hopper, fitted with a seat and flushing device, used for urination and defecation.

(39) "Usable floor space" means floor area available for:

(a) Use in a resident bedroom excluding areas with ceiling height under seven feet six inches and walk-in closets if initially and continuously licensed prior to December 31, 1988; or

(b) Living and sleeping, excluding bathrooms, toilets, toilet compartments, closets, halls, storage, or utility spaces if initially licensed after December 31, 1988.) For the purpose of this chapter, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

(1) "Abuse" means an act by any individual which injures, exploits or in any way jeopardizes a resident's health, welfare, or safety, including but not limited to:

(a) Physically damaging or potentially damaging nonaccidental acts;

(b) Emotionally damaging verbal behavior and harassment; and

(c) Sexual use, exploitation and mistreatment through inappropriate touching, inappropriate remarks or encouraging participation in pornography or prostitution.

(2) "Activities of daily living" means those tasks related to basic personal care such as bathing, toileting, dressing, grooming, hygiene, ambulation, and eating.

(3) "Aged person" means, according to RCW 18.20.020, a person of the age of sixty-five years or more, or a person of less than sixty-five years who by reason of infirmity requires domiciliary care.

(4) "Ambulatory" means capable of walking or traversing a normal path to safety without the physical assistance of another individual;

(a) "Semi-ambulatory" means physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another individual;

(b) "Nonambulatory" means unable to walk or traverse a normal path to safety without the physical assistance of another individual.

(5) "Bathing fixture" means a bathtub, shower or sit-down shower.

(6) "Bathroom" means a room containing at least one bathing fixture.

(7) "Board" means, in the definition of boarding home, the provision of meal service and lodging.

(8) "Boarding home" means any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(9) "Colostomy care, uncomplicated routine" means an act of changing a colostomy bag and dressing according to boarding home procedures approved by a RN or physician, when the resident does not:

(a) Have colostomy complications, including but not limited to obvious infection, constipation, diarrhea, painful, cracked or bleeding skin; or

(b) Need colostomy irrigations.

(10) "Construction" means:

(a) A new building to be used as a boarding home or part of a boarding home;

(b) An addition, modification or alteration to the facility which changes the department-approved use of an existing boarding home or portion of a boarding home; and

(c) An existing building or portion thereof to be converted for use as a boarding home.

(11) "Continuing care contract" means, as stated in RCW 70.38.025, a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(12) "Continuing care retirement community" means, as stated in RCW 70.38.025, an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service.

(13) "Contractor" means an agency or person who contracts with a licensee to provide resident-care services or equipment.

(14) "Dementia care" means a form of care unique to the needs of residents with dementia of the alzheimer type exhibiting symptoms such as impaired cognition, confusion, memory loss, personality change, disorientation, chronic wandering, loss of inhibitions, and other intellectual losses diminishing the ability to perform basic personal care functions, which:

(a) May or may not be provided in a dementia care unit; and

(b) Is not normally applied to developmentally disabled individuals as defined in chapter 71A.10 RCW.

(15) "Dementia care unit" means an area of a boarding home staffed by individuals trained in dementia care and designed to facilitate the provision of such care to residents with dementia of the alzheimer type.

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

(17) "Dietitian" means an individual certified under chapter 18.138 RCW.

(18) "Document" means to record, with signature, title, date and time:

(a) Information about medication administration or disposal, a nursing care procedure, accident, occurrence or change in resident condition that may impact the care or needs of a resident; and

(b) Processes, events or activities that are required by law, rule or policy.

(19) "Domiciliary care" means:

(a) Assistance with activities of daily living provided by the licensee either directly or by contract;

(b) Assuming general responsibility for the safety and well-being of the resident; and

(c) Limited nursing services, if provided by the licensee.

(20) "Exploitation" means the illegal or improper use of a resident's resources, labor, or services for another person's profit or advantage.

(21) "Functional abilities" means the physical, mental, emotional and social abilities of a resident to cope with the affairs and activities of daily living.

(22) "Health care practitioner" means any individual authorized by Washington state law to provide health care,

including but not limited to a physician, dentist, chiropractor, naturopath, advanced registered nurse practitioner or physician's assistant.

(23) "Incident report" means a written record of an event involving a resident including but not limited to injury, abuse, neglect, or exploitation.

(24) "Infectious" means capable of causing infection or disease by entrance of organisms into the body which grow and multiply there, including but not limited to bacteria, viruses, protozoans, and fungi.

(25) "Independent living unit" means an apartment, condominium or other self-sufficient dwelling unit occupied by an individual or individuals not receiving domiciliary care.

(26) "Independent senior housing" means an independent living unit occupied by an individual or individuals sixty or more years of age.

(27) "Individual's resident plan" means a statement, written by the licensee and approved by the resident or resident's representative, of services to be provided based on an evaluation of the resident's needs.

(28) "Infirmity" means a disability which materially limits normal activity without requiring inpatient medical or nursing care. An infirmity may be based on conditions, including but not limited to physical handicap, mental illness, developmental disability, mental confusion, disability or disturbance.

(29) "Licensee" means the person to whom the department issues the boarding home license.

(30) "Licensed resident bed capacity" means the resident occupancy level requested by the licensee and approved by the department.

(31) "Licensed room list" means a department-approved list identifying resident rooms, the dimensions and calculated square footage of each room, the number of approved bed spaces, and other information relative to the licensed resident bed capacity of a boarding home.

(32) "Limited nursing services" means nursing care, consistent with chapters 18.78 and 18.88 RCW, provided by the licensee which does not include continuous skilled nursing care and supervision of the type provided in nursing homes licensed pursuant to chapter 18.51 RCW.

(33) "Medication" means "drugs" as defined in RCW 18.64.011.

(34) "Medication administration" means the act of an authorized individual giving medication to a resident in accordance with the laws and regulations governing such acts and entails:

(a) Comparing the label on the container with the prescriber's order or with a direct copy of a verified transcription of the order;

(b) Removing an individual dose from a previously dispensed, properly labeled container;

(c) Giving an individual dose to the proper resident; and

(d) Properly recording the medication, dose, and time given in the resident record.

(35) "Neglect" means conduct resulting in the deprivation of care necessary to maintain the resident's minimum physical and mental health including:

(a) Physical and material deprivation;

(b) Lack of medical care;

(c) Inadequate food, clothing or cleanliness;

(d) Rejection;

(e) Lack of social interaction and physical activity;

(f) Lack of personal care; and

(g) Lack of supervision appropriate for the resident's level of functioning.

(36) "Nurse" means an individual licensed either as a:

(a) "Licensed practical nurse" or "LPN" under chapter 18.78 RCW; or

(b) "Registered nurse" or "RN" under chapter 18.88 RCW.

(37) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

(38) "Physician" means an individual licensed under chapter 18.57 or 18.71 RCW.

(39) "Prescriber" means a health care practitioner authorized by Washington state law to prescribe drugs.

(40) "Resident-care staff person" means any employee, temporary employee, volunteer, or contractor who provides direct care services to a resident.

(41) "Resident" means an individual living in a boarding home who is not related by blood or marriage to the operator of the boarding home and, by reason of age or infirmity, requires domiciliary care.

(42) "Resident's representative" means an individual legally appointed, or designated by the resident in writing, to act in the resident's behalf.

(43) "Respite care" means short term care of an aged person to temporarily relieve the family or other care-giver of providing that care.

(44) "Restraint" means any methods used to prevent or limit free body movement, including but not limited to:

(a) Confinement, unless agreed to as provided in WAC 246-316-335(3);

(b) An apparatus; and

(c) A drug given without, or contrary to, a legally prescribed order.

(45) "Room" means a space set apart by floor to ceiling partitions on all sides with all openings provided with doors or windows.

(46) "Staff person" means any employee, temporary employee, volunteer, or contractor.

(47) "State Building Code" means chapter 51-20 WAC, State Building Code adoption and amendment of the Uniform Building Code; chapter 51-22 WAC, State Building Code adoption and amendment of the Uniform Mechanical Code; chapter 51-24 WAC, State Building Code adoption and amendment of the Uniform Fire Code; and chapter 51-25 WAC, State Building Code adoption and amendment of the Uniform Fire Code.

(48) "Toilet" means a disposal apparatus fitted with a seat and flushing device used for urination and defecation.

(49) "Urethral catheter care, uncomplicated routine" means an act of performing perineal care, emptying the drainage bag, measuring the contents as required, and replacing and repositioning the drainage bag; but does not mean the act of inserting, irrigating, or removing the catheter.

(50) "Usable floor space" means:

(a) For boarding homes licensed prior to January 1, 1989, and continuously thereafter, floor area in resident bedrooms excluding walk-in closets; or

(b) For boarding homes licensed after December 31, 1988, floor area in living and sleeping rooms excluding bathrooms, toilets, toilet compartments, closets, halls, storage, and utility spaces.

(51) "Volunteer" means an individual who regularly provides planned and organized services within the boarding home without reimbursement, but does not mean an individual who visits residents or provides occasional entertainment.

(52) "Vulnerable adult" means an individual sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself.

(53) "WISHA" means the Washington Industrial Safety and Health Act, chapter 49.17 RCW administered by the Washington state department of labor and industries.

AMENDATORY SECTION (Amending Order 381, filed 7/26/93, effective 8/26/93)

**WAC 246-316-020 ((Boarding home license application—Department denial, suspension, revocation of license.)) Licensure—Initial, renewal, day care approval respite care, modifications. (((1) Boarding home license applicants shall:**

(a) Submit appropriate, signed, completed department application forms to the department;

(b) Apply at least thirty days prior to expiration of license for renewal;

(c) Promptly report changes in information related to the application including identity of:

(i) Officers and directors if operated by a legally incorporated entity; and

(ii) Partners if a legal partnership.

(2) The department shall:

(a) Evaluate qualifications of persons named in boarding home license application prior to granting initial and subsequent licenses;

(b) Deny, suspend, or revoke a boarding home license if the department finds persons named unqualified or unable to operate or direct operation of the facility as described in chapter 18.20 RCW and this chapter;

(c) Determine if reasonable relationship exists between any previous conviction of the applicant and ability to competently, safely oversee, or operate a boarding home;

(d) Deny, suspend, or revoke a boarding home license if any person named:

(i) Was previously denied a license to operate an agency for care of children, aged, ill, or infirm in Washington or elsewhere;

(ii) Had a license to operate an agency for treatment or care of people revoked or suspended;

(iii) Has a record of a criminal or civil conviction as specified in WAC 246-316-045(4);

(iv) Committed, permitted, aided, or abetted an illegal act on boarding home premises;

(v) Demonstrated cruelty, abuse, negligence, assault, or indifference to welfare and well-being of a resident;

(vi) Failed to exercise fiscal accountability and responsibility involving:

(A) A resident;

(B) The department;

(C) Public agencies; or

(D) The business community.

(3) The department may grant a license to operate a boarding home to previously disqualified licensees as specified in subsection (2) of this section if such person provides evidence including demonstrated ability to operate a boarding home according to applicable laws and rules.

(4)(a) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.70.115. An applicant or license holder has the right to an adjudicative proceeding to contest a license decision.

(b) A license applicant or holder contesting a department decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Administrative Hearings Unit, Department of Health, 1300 Quince Street S.E., P.O. Box 47851, Olympia, WA 98504-7851; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 246-08 WAC. If a provision in this chapter conflicts with chapter 246-08 WAC, the provision in this chapter governs.) (1) A person shall have a current license issued by the department before operating or advertizing a boarding home.

(2) An applicant for initial licensure shall submit to the department, forty-five days or more before commencing business:

(a) A completed application on forms provided by the department;

(b) Verification of department approval of facility plans submitted for construction review;

(c) A criminal history background check in accordance with WAC 246-316-045(2);

(d) The fee specified in WAC 246-316-990; and

(e) Other information as required by the department.

(3) A licensee shall apply for license renewal annually at least thirty days before the expiration date of the current license by submitting to the department:

(a) A completed application on forms provided by the department;

(b) A criminal history background check in accordance with WAC 246-316-045(2);

(c) The fee specified in WAC 246-316-990; and

(d) Other information as required by the department.

(4) A licensee, prior to accepting adults for day care, shall:

(a) Submit a letter to the department which includes:

(i) The maximum number of adults in the proposed day care program; and

(ii) An attestation of meeting the requirements in WAC 246-316-330;

(b) Obtain written department approval, including the maximum approved capacity for day care adults; and

(c) Maintain and post written approval in a conspicuous place on the boarding home premises.

(5) A licensee may provide respite care within the licensed bed capacity.

(6) A licensee, prior to changing the licensed bed capacity, shall:

(a) Submit a letter requesting approval to the department at least thirty days before the intended change;

(b) Submit the prorated fee as determined by the department; and

(c) Obtain an amended license indicating the new bed capacity.

(7) A licensee, prior to changing the location or use of rooms listed on the licensed room list shall:

(a) Notify the department in writing thirty days or more before the intended change; and

(b) Maintain a copy of the licensed room list.

(8) At least thirty days before selling, leasing, or renting the boarding home or changing officers or partners, and immediately upon a change of administrator, the licensee shall submit to the department:

(a) Name and address of the boarding home;

(b) Type of change;

(c) Full names of the present and prospective licensee;

(d) Date of proposed change;

(e) Names and addresses of all responsible officers or controlling partners; and

(f) A signed statement attesting that any new controlling officers are in compliance with this chapter.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-030 ((Change of licensee.)) Responsibilities and rights—Licensee and department. ((+)) Boarding homes shall:

(a) Notify the department in writing at least thirty days prior to planned change of boarding home license including:

(i) Full names of the present licensee and prospective licensee;

(ii) Name and address of the boarding home concerned;

(iii) The date of the proposed change; and

(iv) The kind of change to be made, such as sale, lease, or rental.

(b) If a corporation or partnership:

(i) Notify the department, in writing, with the name and address of the responsible officers in corporation or controlling partners; and

(ii) Submit a signed statement testifying the new controlling officer or officers is in compliance with WAC 246-316-020.

(2) Applicants for an initial boarding home license shall submit a new application thirty days or more before proposed effective date of license as specified in WAC 246-316-020.)) (1) The licensee shall:

(a) Comply with the provisions of chapter 18.20 RCW and this chapter;

(b) Maintain and post in a conspicuous place on the boarding home premises:

(i) A current boarding home license; and

(ii) The name, address and telephone number of the department, appropriate resident advocacy groups, and state and local long-term care ombudsman with a brief description of ombudsman services;

(c) Maintain the occupancy level at or below the licensed resident bed capacity of the boarding home;

(d) Cooperate with the department during on-site surveys and investigations;

(e) Respond to a statement of deficiencies by submitting to the department, according to the dates specified on the statement of deficiencies form:

(i) A written plan of correction for each deficiency stated in the report; and

(ii) A progress report of corrections.

(2) An applicant or licensee may contest a disciplinary decision or action of the department according to the provisions of RCW 43.70.115, chapter 34.05 RCW and chapter 246-10 WAC.

(3) The department shall:

(a) Issue or renew a license when the applicant or licensee and the boarding home facilities meet the requirements in chapter 18.20 RCW and this chapter;

(b) Verify with the state director of fire protection that the boarding home complies with the fire protection standards, chapter 212-12 WAC, before issuing a license;

(c) Evaluate qualifications of individuals named in each license application prior to granting an initial or renewal license;

(d) Conduct unannounced on-site surveys and investigations at any time to determine compliance with chapter 18.20 RCW and this chapter;

(e) Give the administrator a written statement of deficiencies of chapter 18.20 RCW and this chapter observed during on-site surveys and investigations;

(f) Provide the licensee with a licensed room list; and

(g) Deny, suspend, modify, or revoke a boarding home license in accordance with RCW 43.70.115, chapter 34.05 RCW and chapter 246-10 WAC.

(4) The department may:

(a) Deny, suspend, or revoke a boarding home license if the department finds any individual named in the license application is unqualified or unable to operate or direct operation of the boarding home according to chapter 18.20 RCW and this chapter; and

(b) Deny, suspend, or revoke a boarding home license if the department finds the applicant, any individual named in the application, or the licensee:

(i) Knowingly or with reason to know, makes false statements of material fact in the application for the license or the renewal of the license;

(ii) Obtains or attempts to obtain a license by fraudulent means or misrepresentation;

(iii) Fails or refuses to comply with the requirements of chapter 18.20 RCW or this chapter;

(iv) Fails to meet other applicable state and local regulations;

(v) Had a license to operate an agency for the treatment or care of children, aged, ill, or infirm denied, revoked or suspended;

(vi) Has a record of a criminal or civil conviction for:

(A) Operating an agency for care of aged, children, ill, or infirm without an applicable license; or

(B) Any crime involving physical harm to another individual; or

(C) Any crime or disciplinary board final decision specified in RCW 43.43.830;

(vii) Commits, permits, aids, or abets an illegal act on boarding home premises;

(viii) Demonstrates cruelty, abuse, negligence, assault, or indifference to the welfare and well-being of a resident;

(ix) Abandons a resident by:

(A) Leaving the resident without the means or ability to obtain food, clothing, shelter, or health care; or

(B) Neglecting to provide thirty days written notice to the department and resident or the resident's representative of intent to close or leave the boarding home;

(x) Fails to exercise fiscal accountability and responsibility involving:

(A) A resident;

(B) The department;

(C) Public agencies; or

(D) The business community;

(xi) Refuses to allow department representatives to examine any part of the licensed premises including records required under this chapter;

(xii) Fails to take immediate corrective action in any instance of cruelty, assault, abuse, neglect, or indifference to the welfare of a resident; or

(xiii) Retaliates against a staff person, resident or other individual for reporting suspected abuse or other alleged improprieties.

(5) The department may summarily suspend a license pending proceeding for revocation or other action if the department determines a deficiency is an imminent threat to a resident's health, safety or welfare.

AMENDATORY SECTION (Amending Order 381, filed 7/26/93, effective 8/26/93)

~~WAC 246-316-040 ((Requirement for and qualifications of boarding home)) Administrator. ((1) Boarding homes shall have continuous availability of an administrator or designated alternate who:~~

~~(a) Is available in person or by phone or page at all times;~~

~~(b) Is at least twenty one years of age;~~

~~(c) Is not a resident as defined in WAC 246-316-010(30);~~

~~(d) Possesses a high school diploma or equivalent unless administering a boarding home in Washington state prior to January 1, 1958;~~

~~(e) Has demonstrated competence and experience in management of a boarding home or completed high school or post high school courses including:~~

~~(i) Basic accounting, except when a designated alternate administrator is in charge for two weeks or less;~~

~~(ii) Management including personnel management; and~~

~~(iii) Care of persons characteristic of those admitted or accepted as residents in a specific boarding home, such as frail elderly, developmentally disabled, or mentally ill persons.~~

~~(f) Meets requirements as specified in WAC 246-316-045.~~

~~(2) Boarding homes shall notify the department when changes in the administrator occur including:~~

~~(a) Provide written notice to the department of new administrator's name upon appointment; and~~

~~(b) Provide a statement of administrator's compliance with this section and WAC 246-316-050.) (1) The licensee shall employ an administrator and designate an alternate administrator who are twenty-one or more years of age, and:~~

~~(a) Hold an associate degree in health, personal care, or business administration, such as:~~

~~(i) Social work;~~

~~(ii) Nursing;~~

~~(iii) Nutrition;~~

~~(iv) Physical therapy;~~

~~(v) Occupational therapy; or~~

~~(vi) Management; or~~

~~(b) Hold an advanced degree in a field specified in (a) of this subsection; or~~

~~(c) Are certified by a department-recognized national accreditation health or personal care organization, such as the American Association of Homes for the Aging; or~~

~~(d) Have a high school diploma or equivalent and two years experience as a resident-care staff person, including one year of caring for residents representative of the population in the boarding home; or~~

~~(e) Held the position of an administrator in a Washington state licensed boarding home or nursing home prior to August 1, 1994.~~

~~(2) The administrator, or alternate administrator when acting as the administrator, shall:~~

~~(a) Be responsible for the overall twenty-four-hour-per-day operation of the boarding home; and~~

~~(i) Provide for the care of residents; and~~

~~(ii) Comply with this chapter and policies of the licensee; and~~

~~(b) Be available in person or by telephone or electronic pager at all times.~~

~~(3) The administrator and alternate administrator shall meet the requirements for criminal history background checks in WAC 246-316-045.~~

~~(4) Upon the appointment of a new administrator or alternate administrator, the licensee shall provide in writing to the department:~~

~~(a) The full name of the new administrator or alternate administrator; and~~

~~(b) A statement that the new administrator or alternate administrator is in compliance with this chapter.~~

AMENDATORY SECTION (Amending Order 381, filed 7/26/93, effective 8/26/93)

**WAC 246-316-045 Criminal history, disclosure, and background inquiries.** (1) ~~((A))~~ The licensee or license applicant shall require a disclosure statement as ((specified under)) defined in RCW 43.43.834 for each prospective employee, volunteer, contractor, student, and any other ((person)) individual associated with the ((licensed)) boarding home having direct contact with((:

~~(a) Children under sixteen years of age;~~

~~(b)) vulnerable adults as defined under RCW 43.43.830((; and~~

~~(c) Developmentally disabled individuals)).~~

(2) ((A)) The license applicant having direct contact with vulnerable adults shall obtain a Washington state patrol criminal history background disclosure statement and submit it to the department either:

PERMANENT

- (a) With the initial application for licensure; or
- (b) For current licensees, with the first application for renewal of license submitted after September 1, 1993.

(3) ~~((A))~~ The licensee or license applicant shall:

(a) Require a Washington state patrol criminal history background inquiry, as specified in RCW 43.43.842(1), from the Washington state patrol or the department of social and health services for each:

(i) ~~((Employee, volunteer, contractor))~~ Staff person, student, and any other ((person)) individual currently associated with the ~~((licensed))~~ boarding home, having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective ~~((employee, volunteer, contractor))~~ staff person, student, and ((person)) individual applying for association with the ~~((licensed facility))~~ boarding home prior to allowing the ~~((person))~~ individual direct contact with vulnerable adults, except as allowed by subsection (4) of this section;

(b) Inform each ~~((person))~~ individual identified in (a) of this subsection of the requirement for a background inquiry;

(c) Require the ~~((person))~~ individual to sign an acknowledgement statement that a background inquiry will be made;

(d) Verbally inform the ~~((person))~~ individual of the background inquiry results within seventy-two hours of receipt; and

(e) Offer to provide a copy of the background inquiry results to the ~~((person))~~ individual within ten days of receipt.

(4) ~~((A))~~ The licensee may conditionally employ, contract with, accept as a volunteer or associate, ~~((a person))~~ an individual having direct contact with vulnerable adults pending a background inquiry, provided the licensee:

(a) Immediately obtains a disclosure statement from the ~~((person))~~ individual; and

(b) Requests a background inquiry within three business days of the conditional acceptance of the ~~((person))~~ individual.

(5) Except as provided in RCW 43.43.842 and in subsection (4) of this section, a licensee shall not hire or retain, directly or by contract, any ~~((person))~~ individual having direct contact with vulnerable adults, if that ~~((person))~~ individual has been:

(a) Convicted of a crime against ~~((persons))~~ individuals as defined in RCW 43.43.830;

(b) Convicted of a crime relating to financial exploitation ~~((of a vulnerable adult))~~ as defined in RCW 43.43.830;

(c) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or

(d) The subject in a protective proceeding under chapter 74.34 RCW.

(6) The licensee shall establish and implement procedures ensuring that all disclosure statements and background inquiry responses are:

(a) Maintained in a confidential and secure manner;

(b) Used for employment purposes only;

(c) Not disclosed to any ~~((person))~~ individual except:

(i) The ~~((person))~~ individual about whom the licensee made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor~~((s))~~; and

(d) Retained and available for department review ~~((during and at least two years following termination of employment))~~;

(i) During the individual's employment or association with a facility; and

(ii) At least two years following termination of employment or association with a facility.

(7) The department shall:

(a) Review records required under this section;

(b) Investigate allegations of noncompliance with RCW 43.43.830 through 43.43.842, when necessary, in consultation with law enforcement personnel; and

(c) Use information collected under this section solely for the purpose of determining eligibility for licensure or relicensure as required under RCW 43.43.842.

(8) The department may require licensees to complete additional disclosure statements or background inquiries for ~~((a person))~~ an individual associated with the licensed ~~((facility))~~ boarding home having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

AMENDATORY SECTION (Amending Order 381, filed 7/26/93, effective 8/26/93)

**WAC 246-316-050 Staff** ~~((and employees—Other persons living in boarding home))~~. ~~((1))~~ Boarding homes shall provide:

~~((a))~~ Sufficient, trained staff in each boarding home to provide:

~~((i))~~ Services and care needed by residents;

~~((ii))~~ Maintenance of the facility for resident health and safety;

~~((iii))~~ Implementation of fire and disaster plans.

~~((b))~~ One or more staff aged eighteen years of age or older:

~~((i))~~ On boarding home premises at all times when residents are present;

~~((ii))~~ Capable of assisting all residents present in boarding home; and

~~((c))~~ Staff present and responsible for "on-premises" supervision when any resident is working as staff or employed by the boarding home unless approved in advance by the department;

~~((d))~~ Orientation and appropriate training of employees and staff pertinent to expected duties including:

~~((i))~~ Organization of boarding home;

~~((ii))~~ Physical facility layout;

~~((iii))~~ Specific duties and responsibilities;

~~((iv))~~ Policies, procedures, equipment necessary to perform duties as expected, minimally including:

~~((A))~~ Actions during emergencies;

~~((B))~~ Actions related to suspected, or alleged abuse, neglect, or accidents involving residents; and

~~((C))~~ Methods of preventing transmission of infection.

~~((2))~~ Boarding homes shall require and have staff with resident care duties possessing:

~~((a))~~ Current first aid cards, unless licensed nurses, from instructors certified by:

~~((i))~~ American Red Cross; or

~~(ii) American Heart Association; or  
(iii) United States Bureau of Mines; or  
(iv) Washington state department of labor and industries.  
(b) Current cardiopulmonary resuscitation cards from  
instructors certified as in subsection (2)(a)(i)(ii), (iii), and  
(iv) of this section.~~

~~(3) Boarding homes shall reassess and/or restrict staff  
contact with residents when:~~

~~(a) Staff have a known communicable disease in the  
infectious stage; and~~

~~(b) The disease is likely to be spread in the boarding  
home setting or by casual contact.~~

~~(4) Boarding homes shall maintain documentation of  
staff orientation and training pertinent to duties including  
cardiopulmonary resuscitation and first aid if required in  
subsection (2)(a) of this section:)) (1) The licensee shall:~~

~~(a) Develop and maintain written job descriptions for  
the administrator and each staff position;~~

~~(b) Verify work references;~~

~~(c) Verify required credentialing is current and in good  
standing for licensed and certified staff;~~

~~(d) Document and retain weekly staffing schedules, as  
planned and worked, for the last twelve months;~~

~~(e) Provide sufficient, trained staff in each boarding  
home to:~~

~~(i) Furnish the services and care needed by residents;~~

~~(ii) Maintain the boarding home free of safety hazards;~~  
and

~~(iii) Implement fire and disaster plans;~~

~~(f) Assure one or more resident-care staff eighteen years  
of age or older, with current cardiopulmonary resuscitation  
and first-aid cards, is present to assist residents at all times:~~

~~(i) On the boarding home premises when one or more  
residents are present;~~

~~(ii) Off the boarding home premises during boarding  
home activities; and~~

~~(iii) When staff transport a resident;~~

~~(g) Assure staff provide "on-premises" supervision when  
any resident is working for, or employed by, the boarding  
home; and~~

~~(h) Provide staff orientation and appropriate training for  
expected duties, including:~~

~~(i) Organization of boarding home;~~

~~(ii) Physical boarding home layout;~~

~~(iii) Specific duties and responsibilities; and~~

~~(iv) Policies, procedures, and equipment necessary to  
perform duties.~~

~~(2) The licensee shall, in addition to following WISHA  
requirements, protect residents from tuberculosis by requiring  
each staff person to have, upon employment:~~

~~(a) A tuberculin skin test by the Mantoux method,  
unless the staff person:~~

~~(i) Documents a previous positive Mantoux skin test,  
which is ten or more millimeters of induration read at forty-  
eight to seventy-two hours;~~

~~(ii) Documents meeting the requirements of this subsec-  
tion within the six months preceding the date of employ-  
ment; or~~

~~(iii) Provides a written waiver from the department or  
authorized local health department stating the Mantoux skin  
test presents a hazard to the staff person's health;~~

(b) A second test one to three weeks after a negative  
Mantoux skin test for staff thirty-five years of age or older;

(c) A chest x-ray within seven days of any positive  
Mantoux skin test.

(3) The licensee shall report positive chest x-rays to the  
appropriate public health authority, and follow precautions  
ordered by a physician or public health authority.

(4) The licensee shall retain records of tuberculin test  
results, reports of x-ray findings, exceptions, physician or  
public health official orders, and waivers in the boarding  
home.

(5) The licensee shall assure that all resident-care staff  
including those transporting residents and supervising  
resident activities, except licensed staff whose professional  
training exceeds first-responder training, have within thirty  
days of employment:

(a) Current cardiopulmonary resuscitation cards from  
instructors certified by:

(i) American Red Cross;

(ii) American Heart Association;

(iii) United States Bureau of Mines; or

(iv) Washington state department of labor and indus-  
tries; and

(b) Current first-aid cards from instructors certified as  
in (a) of this subsection, except nurses do not need first-aid  
cards.

(6) The licensee shall restrict a staff person's contact  
with residents when the staff person has a known communi-  
cable disease in the infectious stage which is likely to be  
spread in the boarding home setting or by casual contact.

(7) The licensee shall assure any staff person suspected  
or accused of abuse does not have access to any resident  
until the licensee investigates and takes action to assure  
resident safety to the satisfaction of the department.

(8) The licensee shall not interfere with the investigation  
of a complaint, coerce a resident, or conceal evidence of  
alleged improprieties occurring within the boarding home.

(9) The licensee shall prohibit an employee from being  
directly employed by a resident or a resident's family during  
the hours the employee is working for the boarding home.

(10) The licensee shall maintain the following documen-  
tation on the boarding home premises, during employment,  
and at least two years following termination of employment:

(a) Staff orientation and training pertinent to duties,  
including cardiopulmonary resuscitation, first-aid, tuberculin  
skin testing and HIV/AIDS training;

(b) Criminal history disclosure and background checks  
as required in WAC 246-316-045; and

(c) Verification of contacting work references and  
professional licensing and certification boards as required by  
subsection (1) of this section.

#### NEW SECTION

**WAC 246-316-055 Policies and procedures.** (1) The licensee shall establish and observe the following written policies and procedures, consistent with this chapter and services provided:

(a) Accepting and retaining residents, including specific policies, if any, for accepting or retaining residents needing state income assistance;

(b) Anti-discrimination;

(c) Limited nursing services consistent with WAC 246-316-265;

(d) Health care services arranged by a resident under the provisions of WAC 246-316-268, specifying the types of services allowed in the boarding home, and who has the responsibility for each aspect of the resident's care;

(e) Infection control, including:

(i) Cleaning and disinfecting toilets, bathing fixtures, floors, furniture, and common areas;

(ii) Cleaning resident rooms and furnishings;

(iii) Handwashing;

(iv) Managing staff and residents with communicable disease;

(v) Reporting communicable diseases in accordance with the requirements in chapter 246-100 WAC;

(vi) Handling and storing supplies and equipment used for resident services;

(vii) Infectious waste disposal;

(viii) Bloodborne pathogens in accordance with chapter 296-62 WAC; and

(ix) Laundry and handling of soiled and clean linens;

(f) Supervising and monitoring residents;

(g) Managing aggressive, assaultive residents, including but not limited to:

(i) Controlling violent residents; and

(ii) When and how to seek outside intervention;

(h) Food services, including but not limited to:

(i) Food service sanitation;

(ii) Procuring and storing food;

(iii) Meal times;

(iv) Modified diets;

(v) Food preparation;

(vi) Nutrient supplements; and

(vii) Food and meal substitution;

(i) Maintaining resident records and register;

(j) Medication services for each service category offered in the boarding home;

(k) Boarding home safety;

(l) Adult day care;

(m) Care of residents with dementia, delineating special services required;

(n) Emergency medical care and first-aid, including:

(i) Major emergencies;

(ii) Minor emergencies; and

(iii) Staff actions upon finding a resident not responsive to appropriate stimuli;

(o) Death of a resident;

(p) Suspected abuse, neglect, or exploitation including but not limited to:

(i) Reporting requirements according to chapters 26.44 and 74.34 RCW;

(ii) Responsibility of staff to immediately contact the department directly regarding suspected or alleged abuse or other improprieties, without retaliation from the licensee or administrator;

(iii) Protocol to protect residents according to WAC 246-316-050(7); and

(iv) Additional steps to take in the event of suspected rape or sexual abuse, including:

(A) Immediate medical examination of the alleged victim, with prior notice to the examining physician that the patient may have been raped or sexually abused;

(B) Arranging for a counselor or other professional knowledgeable in the field of rape and sexual assault to question or interview the resident, and provide counseling or intervention, when appropriate; and

(C) Allowing only staff with special training in the field of rape and sexual assault to question the victim or the suspected perpetrator regarding the alleged incident, unless the department, police or prosecutor's office instructs otherwise;

(q) Protecting residents and maintaining living accommodations during internal and external disasters, such as fires, explosions, earthquakes, flooding, hazardous environmental contamination, and other events that jeopardize the safety of residents, describing:

(i) On-duty staff responsibilities;

(ii) Provisions for summoning emergency assistance;

(iii) Plans for evacuating residents from area or building;

(iv) Alternative resident accommodations;

(v) Provisions for essential resident needs, supplies and equipment; and

(vi) Emergency communication plan;

(r) Advance directives as described in chapter 70.122 RCW, Natural Death Act;

(s) Resident's temporary absence from the boarding home;

(t) Confidentiality of resident information;

(u) Criminal history background checks in accordance with WAC 246-316-045;

(v) Resident trust funds; and

(w) Smoking, including means to protect nonsmokers.

(2) The licensee shall make the policies and procedures specified in subsection (1) of this section available to staff at all times and residents and residents' representatives upon request.

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-316-060 HIV/AIDS education and training.** (~~Boarding homes shall:~~

~~(1) Verify or arrange for appropriate education and training of personnel on the prevention, transmission, and treatment of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) consistent with RCW 70.24.310; and~~

~~(2) Use infection control standards and educational material consistent with the approved curriculum manual *Know - HIV/AIDS Prevention Education for Health Care Facility Employees*, May 31, 1989, published by the office on HIV/AIDS.) The licensee shall:~~

(1) Verify or arrange appropriate education and training of staff within thirty days of employment on the prevention, transmission, and treatment of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) consistent with RCW 70.24.310; and

(2) Use infection control standards and educational material consistent with:

(a) The approved curriculum manual *KNOW - HIV/AIDS Prevention Education for Health Care Facility Employees*, January 1991, or subsequent editions published by the department; and

(b) WAC 296-62-08001, Bloodborne pathogens implementing WISHA.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-070 ((New)) Construction (— Modification of existing structure). ((1) Boarding homes shall forward plans for new construction, if applicable, to the department including:

(a) Preliminary documents with:

(i) Description of program, services, and operational methods affecting boarding home building, premises, or residents;

(ii) Sealed drawings for any physical or functional construction or modification;

(iii) Two sets of plans drawn to scale including:

(A) Plot plan showing streets and driveways;

(B) Water supply;

(C) Sewage disposal system;

(D) Grade and location of each building;

(E) Designated function of each room; and

(F) Fixed equipment.

(iv) General description of construction and materials.

(b) Final construction documents requiring department approval which are two sets of final plans and specifications including:

(i) Plot plans;

(ii) Plans for each floor of each affected building designating function for each room and fixed equipment;

(iii) Interior and exterior elevations, building sections, and construction details;

(iv) A schedule of floor, wall, and ceiling finishes and the type and size of doors and windows;

(v) Plumbing, heating, ventilating, and electrical systems;

(vi) Specifications which fully describe workmanship and finishes; and

(vii) A sample of each different carpet, if provided, including tests for flame spread and smoke density conducted by an independent testing laboratory approved by the department.

(2) Boarding homes involved in new construction projects shall:

(a) Obtain department approval of final construction documents prior to starting construction;

(b) Consult with the department prior to changing approved plans and specifications;

(c) Submit modified plans or addenda if required by the department;

(d) Construct only changes approved by the department;

(e) Provide a written notice of construction project completion to the department indicating date to be completed and compliance with requirements of chapter 18.20 RCW and this chapter; and

(f) Occupy and use buildings or rooms only after authorization by the department.

(3) When modifications or alterations to existing boarding home structure are planned, boarding homes shall forward plans to the department including:

(a) Preliminary documents with:

(i) Descriptive drawings of each floor of proposed modifications indicating area to be modified;

(ii) Description of impacts on physical plant, operations, and services;

(iii) A plan showing existing and proposed function of each room and fixed equipment; and

(iv) A sample of carpets, if provided, including tests for flame spread and smoke density conducted by an independent testing laboratory approved by the department.

(b) Final plans submitted after department review of preliminary documents.

(4) Boarding homes involved in alteration or modification projects shall:

(a) Begin modifications only after department approval of final plans; and

(b) Make adequate provisions for the health, safety, and comfort of residents during construction.

(5) Boarding homes shall obtain approval of the Washington state division of fire protection prior to new construction, modifications, alterations, and minor alterations under RCW 18.20.130.) (1) The licensee shall comply with chapter 31 of the Washington State Building Code for all construction.

(2) Prior to starting new construction, the licensee shall submit the following documentation to the department:

(a) A completed application form, a copy of which is provided in the *Submissions Guide for Health and Residential Facility Construction Projects*, which may be obtained from the department;

(b) The fee as specified in chapter 246-314 WAC;

(c) A functional program which describes the services and operational methods affecting the boarding home building, premises, and residents;

(d) One set of preliminary documents including, when applicable:

(i) Plot plans drawn to scale showing:

(A) Streets, driveways, parking, vehicle and pedestrian circulation;

(B) Site utilities, water service system, sewage disposal system, electrical service system, elevations; and

(C) Location of existing and new buildings and other fixed equipment;

(ii) Building plans drawn to scale showing:

(A) Floor plans designating function of each room and fixed equipment;

(B) Typical building sections and exterior elevations;

(iii) Outline specifications generally describing the construction and materials including mechanical and electrical systems; and

(e) Three sets of final construction drawings, stamped by a Washington state licensed architect or engineer, complying with the requirements of this chapter including, when applicable:

(i) Plot plans drawn to scale showing all items required in the preliminary plan in final form;

(ii) Building plans drawn to scale showing:

(A) Floor plans designating function of each room and fixed equipment;

(B) Interior and exterior elevations;

(C) Building sections and construction details;

(D) Schedules of room finishes, doors, finish hardware and windows;

(E) Mechanical, including plumbing, heating, venting and air conditioning; and

(F) Electrical, including lighting, power, and communication systems; and

(iii) Specifications fully describing the workmanship and finishes;

(f) Three copies of specifications, radiant panel and smoke density test reports for each carpet type used in corridors and exitways;

(g) Three copies of fire sprinkler system shop drawings, hydraulic calculations and equipment specifications, stamped by the fire sprinkler contractor; and

(h) Three copies of fire alarm system shop drawings and equipment specifications.

(3) The licensee shall:

(a) Obtain department approval of final construction documents prior to starting construction;

(b) Conform with the approved plans during construction;

(c) Consult with the department prior to deviating from approved documents;

(d) Provide a written construction project completion notice to the department indicating:

(i) The expected completion date; and

(ii) Compliance with the approved construction documents, requirements of chapter 18.20 RCW and this chapter;

(e) Make adequate provisions for the health, safety and comfort of residents during construction projects;

(f) Obtain authorization from the department prior to occupying or using new construction; and

(g) Obtain approval of the Washington state fire protection services division prior to new construction, modification, and alteration consistent with RCW 18.20.130.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-080 Communication system. ((Boarding homes shall provide:

(1) One or more nonpay telephones in each building located for ready access by staff;

(2) Interooms, phone extensions, or other means of communications as required for maintaining resident safety;

(3) Resident access to one or more pay or nonpay telephones on the premises.)) (1) The licensee shall provide one or more nonpay telephones:

(a) In each building located for ready access by staff; and

(b) On the premises for reasonable access and privacy by residents.

(2) By January 1, 1995, a licensee with a boarding home exceeding four thousand square feet total floor area, more than one building, or more than one floor shall have a means for staff and residents to communicate by voice or call system, which may be wired or wireless, from all common areas and corridors to on-duty staff in an emergency.

(3) The licensee shall have a mechanism in the room of, and easily accessible to, each resident whose medical or physical condition does not enable the resident to otherwise summon staff for assistance.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-090 Water supply. ((Boarding homes shall:

(1) Provide a water supply system and water meeting requirements described in chapter 246-290 WAC public water supplies;

(2) Maintain water supply systems free of cross connections;

(3) Provide hot and cold water under adequate pressure readily available throughout the facility;

(4) Provide hot water not to exceed 120° Fahrenheit at lavatories and bathing facilities used by residents;

(5) Label or color code unsafe or nonpotable water supplies used for irrigation, fire protection, and purposes other than domestic use;

(6) Meet laundry requirements of WAC 246-316-190; and

(7) Meet dishwashing machine requirements in WAC 246-316-170.)) The licensee shall:

(1) Provide water meeting the provisions of chapter 246-290 WAC;

(2) Maintain the boarding home water systems free of cross-connections;

(3) Provide hot and cold water under adequate pressure readily available throughout the boarding home;

(4) Provide all sinks and bathing fixtures used by residents with hot water between one hundred five and one hundred twenty degrees Fahrenheit at all times;

(5) Label or color code nonpotable water supplies "unsafe for domestic use"; and

(6) Meet laundry and dishwashing water temperature requirements of this chapter.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-100 Sewage and liquid waste disposal. ((Boarding homes shall:

(1) Have all sewage and waste water drain into a sewerage system approved by the governmental agency having jurisdiction;

(2) Prevent discharge of sewage or liquid wastes directly on the surface of the ground or directly into ground water; and

(3) For new construction, if on-site sewage disposal systems are used, discharge sewage and liquid wastes per chapter 246-272 WAC on-site sewage disposal or chapter 173-240 WAC.)) The licensee shall:

(1) Ensure all sewage and waste water drain into a municipal sewage disposal system if available; or

(2) Provide on-site sewage disposal systems designed, constructed, and maintained as required by chapter 246-272 WAC, chapter 173-240 WAC, and local ordinances.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-110 Garbage and refuse disposal. ((Boarding homes shall:

(1) Provide garbage containers which are:  
(a) In a suitable location or storage area;

PERMANENT

~~(b) Sufficient in number;  
(c) Constructed to be nonabsorbent and water tight;  
(d) Appropriately maintained; and  
(e) Cleaned frequently to prevent presence of vectors, odors, and other nuisances.~~

~~(2) Dispose of garbage and wastes at sufficient frequent intervals to prevent hazards and nuisances; and~~

~~(3) Assure final disposal of garbage and refuse by use of authorized garbage collection services or other department approved methods.)) The licensee shall:~~

~~(1) Provide an adequate number of garbage containers to store refuse generated by the boarding home:~~

~~(a) Located in a storage area convenient for resident and staff use;~~

~~(b) Constructed of nonabsorbent material;~~

~~(c) Cleaned and maintained to prevent:~~

~~(i) Entrance of insects, rodents, birds, or other pests;~~

~~(ii) Odors; and~~

~~(iii) Other nuisances;~~

~~(2) Provide only noncombustible waste containers in common use areas;~~

~~(3) Assure garbage and waste containers are emptied frequently to prevent hazards and nuisances;~~

~~(4) Use safe and sanitary garbage collection and disposal practices; and~~

~~(5) Use appropriate containers and collection/disposal services if infectious wastes are generated.~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-120 Lighting. ((Boarding homes shall maintain light fixtures and lighting to provide for comfort and safety of residents minimally to include an intensity of:

~~(1) Five foot candles of light measured thirty inches from the floor in all areas;~~

~~(2) Thirty foot candles of light measured at reading, work, and recreation surfaces in any room or area used by residents for reading, work, and recreation; and~~

~~(3) Ten foot candles of light measured thirty inches from the floor in toilet rooms and bathrooms.)) The licensee shall maintain electric light fixtures and lighting necessary for the comfort and safety of residents, with minimum intensities of:~~

~~(1) Five foot-candles of light measured thirty inches from the floor in all areas;~~

~~(2) Thirty foot-candles of light measured at reading, work, and recreation surfaces in any room or area used by residents for reading, work, or recreation; and~~

~~(3) Ten foot-candles of light measured thirty inches from the floor in toilet rooms and bathrooms.~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-130 Heating—Temperature. ((Boarding homes shall:

~~(1) Equip each resident occupied building with an approved heating system capable of maintaining a healthful temperature for residents;~~

~~(2) Prohibit use of portable space heaters unless approved, in writing, by the Washington state director of fire protection; and~~

~~(3) Maintain a temperature during sleeping hours no less than 60° Fahrenheit and no less than 68° Fahrenheit during waking hours except when:~~

~~(a) A room is designated for activities requiring physical exertion; or~~

~~(b) Individual residents can control temperature in their own unit, independent from other areas.)) The licensee shall:~~

~~(1) Equip each resident-occupied building with an approved heating system which maintains a minimum temperature of:~~

~~(a) Sixty degrees Fahrenheit during sleeping hours; and~~

~~(b) Sixty-eight degrees Fahrenheit during waking hours, except when:~~

~~(i) A room is designated for activities requiring physical exertion; or~~

~~(ii) Residents can control temperature in their own units, independent from other areas;~~

~~(2) Equip each resident-occupied building with a mechanical air cooling system or equivalent in communities where the design dry bulb temperature exceeds eighty-five degrees Fahrenheit for one hundred seventy-five hours per year or two percent of the time, as specified in the latest edition of "Recommended Outdoor Design Temperatures—Washington State," published by Puget Sound chapter of American Society of Heating, Refrigeration, and Air-Conditioning Engineers; and~~

~~(3) Prohibit the use of portable space heaters unless approved in writing by the Washington state director of fire protection.~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-140 Ventilation. ((Boarding homes shall:

~~(1) Ventilate rooms to prevent excessive odors or moisture;~~

~~(2) Designate and maintain appropriately ventilated smoking areas to prevent air contamination throughout the facility if smoking is permitted in a boarding home;~~

~~(3) Provide insect screens for operable windows or openings serving for ventilation; and~~

~~(4) Avoid using a type of screen which might restrict or hinder escape or rescue in emergencies if a screen is used in a fire or emergency exit opening.)) The licensee shall:~~

~~(1) Ventilate rooms to:~~

~~(a) Provide adequate air circulation without drafts;~~

~~(b) Prevent excessive odors or moisture; and~~

~~(c) Remove smoke;~~

~~(2) Designate and ventilate smoking areas, if smoking is permitted in the boarding home, to prevent air contamination throughout the boarding home;~~

~~(3) Provide sixteen mesh screens on operable windows and openings used for ventilation; and~~

~~(4) Prohibit screens that may restrict or hinder escape or rescue through emergency exit openings.~~

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-150 Resident room—Room furnishings—Storage. ((~~(1) Boarding homes shall have resident sleeping rooms with:~~

- (a) Eighty square feet usable floor space in a one-person room;
  - (b) At least seventy square feet of usable floor space per person in rooms occupied by two or more;
  - (c) Ceiling heights of at least seven feet six inches over all portions of rooms considered usable floor space;
  - (d) Accommodations for a maximum of four persons per room if initially and continuously licensed before July 1, 1989;
  - (e) Maximum occupancy of two persons per room for boarding homes applying for initial license or increasing number of resident sleeping rooms after June 30, 1989;
  - (f) Appropriate room identification and resident capacity consistent with department approved list;
  - (g) Unrestricted direct access to a hallway, living room, outside, or other acceptable common-use area;
  - (h) An exclusion for use as corridors or passageways;
  - (i) Window sill or sills of a window or windows used for required window area, under subsection (1)(j) of this section:
    - (i) No more than three feet eight inches from the floor;
    - (ii) At or above grade extending ten or more feet outside horizontally from the window sill.
  - (j) Windows, excluding openings into window wells, enclosed porches, light or ventilation shafts, or similarly enclosed areas, providing:
    - (i) Clear glass area at least one-tenth of required room area;
    - (ii) Minimum area of ten square feet.
  - (k) Windows designed to operate freely if necessary for fire exit or ventilation;
  - (l) Adjustable window curtains, shades, blinds, or equivalent for visual privacy;
  - (m) One or more duplex electrical outlets per bed if initially licensed after July 1, 1983;
  - (n) Switch at entry of bedroom to control one or more light fixtures in room;
  - (o) Artificial lighting at bedside if requested by a resident under WAC 246-316-120; and
  - (p) Noncombustible wastebaskets.
- (2) Boarding homes shall provide or ensure each resident has:
- (a) Sufficient storage facilities either in or immediately adjacent to his or her sleeping room to adequately store a reasonable quantity of clothing and personal possessions;
  - (b) Individual towel and washcloth rack or equivalent;
  - (c) A secure space for valuables at least one-half cubic foot and a minimum dimension of four inches if requested by the resident;
  - (d) A comfortable bed appropriate for size of resident and at least thirty-six inches wide with:
    - (i) A mattress which:
      - (A) Fits the bed frame;
      - (B) Is in good condition; and
      - (C) Is at least four inches thick unless otherwise requested or necessary for resident health and/or safety.
    - (ii) Spacing at least three feet from the other beds unless otherwise requested by all affected residents; and
    - (iii) Acceptable types including:
      - (A) Standard household bed;
      - (B) Studio couch;
      - (C) Hide-a-bed;

- (D) Day bed; and
  - (E) Water bed if it is structurally and electrically safe.
  - (e) One or more comfortable pillows;
  - (f) Clean, and in good repair, bedding at least one time per week, or as necessary to maintain cleanliness;
  - (g) Clean towels and washcloths at least once each week or more often if necessary to maintain cleanliness; and
  - (h) At least one suitable chair excluding those used to permanently furnish the day room, dining room, or other common-use rooms.
- (3) Boarding homes may permit a resident to use his or her own furniture and furnishings when consistent with health and safety of all residents including:
- (a) Cooking equipment, coffee makers, and other equipment and appliances in sleeping rooms when approved by the Washington state director of fire protection; and
  - (b) Food and beverage storage and preparation area in sleeping room if maintained in a sanitary condition.
- (4) Boarding homes shall regularly:
- (a) Ascertain functional ability of residents to use cooking facilities safely; and
  - (b) Take appropriate actions to prohibit resident access to cooking facilities when a resident is judged unable to cook safely, including:
    - (i) Rewire, disconnect, or remove stove or appliance;
    - (ii) Transfer of resident to another accommodation; or
    - (iii) Ensure constant attendance by a responsible person when resident has access to or use of cooking facilities.
- (5) Boarding homes may use and allow use of carpets or other floor coverings if:
- (a) Securely fastened to the floor or provided with nonskid backing;
  - (b) Free of hazards such as curling edges or tattered sections; and
  - (c) Clean.
- (6) If a boarding home plans to install carpeting, the boarding home shall submit samples to the department for approval prior to purchase and installation as required in WAC 246-316-070 (3)(a)(iv).)) (1) The licensee shall provide each resident sleeping room or area, except as permitted in subsection (3) of this section, with:
- (a) Eighty or more square feet of usable floor space in a one-person room or area;
  - (b) Seventy or more square feet of usable floor space per individual in a room occupied by two or more individuals;
  - (c) A minimum ceiling height of seven feet six inches over all square footage considered usable floor space;
  - (d) A maximum room occupancy of:
    - (i) Four individuals if the boarding home was licensed before July 1, 1989, and licensed continuously thereafter; and
    - (ii) Two individuals if the boarding home applied for initial licensure or to increase the number of resident sleeping rooms after June 30, 1989;
  - (e) Room identification and resident capacity consistent with the licensed room list;
  - (f) Unrestricted direct access to a hallway, living room, outside, or other common-use area;
  - (g) One or more outside windows with:
    - (i) A total clear glass area equal to at least one-tenth of the room area;

PERMANENT

- (ii) Minimum area of ten square feet;
- (iii) Window sills no more than three feet eight inches from the floor; and
- (iv) Window sills at or above grade, with grade extending horizontally ten or more feet from the building;
- (v) Easy operation if necessary for fire exit or ventilation; and
- (vi) Adjustable curtains, shades, blinds, or equivalent for visual privacy;
- (h) One or more duplex electrical outlets per bed if the boarding home was initially licensed after July 1, 1983;
- (i) A light control switch located by the entrance for a light fixture in the room;
- (j) Lighting at bedside when requested by a resident;
- (k) One or more noncombustible waste containers, and no combustible waste containers;
- (l) An individual towel and washcloth rack or equivalent;
- (m) When requested by the resident, a lockable drawer, cupboard or other secure space measuring at least one-half cubic foot with a minimum dimension of four inches;
- (n) Storage facilities in or immediately adjacent to the resident's sleeping room to adequately store a reasonable quantity of clothing and personal possessions;
- (o) A comfortable bed, thirty-six or more inches wide, appropriate for size, age and physical condition of the resident and room dimensions, including but not limited to:
  - (i) Standard household bed;
  - (ii) Studio couch;
  - (iii) Hide-a-bed;
  - (iv) Day bed; or
  - (v) Water bed, if structurally and electrically safe;
  - (p) A bed mattress which:
    - (i) Fits the bed frame;
    - (ii) Is in good condition; and
    - (iii) Is at least four inches thick unless otherwise requested or necessary for resident health or safety;
  - (q) Beds spaced at least three feet from other beds unless otherwise requested by all affected residents;
  - (r) One or more comfortable pillows;
  - (s) Bedding, in good repair, changed weekly or more often as necessary to maintain cleanliness;
  - (t) Clean towels and washcloths provided weekly or more often as necessary to maintain cleanliness; and
  - (u) A sturdy, comfortable chair, appropriate for the age and physical condition of the resident.
- (2) The licensee shall not allow the use of a resident room for a passageway or corridor.
- (3) The licensee may, upon a resident's request, permit the resident to use personal furniture and furnishings when such usage does not jeopardize the health and safety of any resident.
- (4) The licensee shall:
  - (a) Document the functional ability of each resident to use cooking facilities safely; and
  - (b) Limit access to cooking facilities by any resident deemed by the licensee unable to cook safely.
- (5) The licensee may use or allow use of carpets and other floor coverings when:
  - (a) Securely fastened to the floor or provided with nonskid backing; and

(b) Kept clean and free of hazards such as curling edges or tattered sections.

(6) The licensee shall, prior to the purchase and installation of carpeting, submit samples to the department for approval in accordance with WAC 246-316-070.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-316-160 Toilet rooms and ((bathing facilities)) bathrooms.** ~~((1) Unless a private toilet and bathing facility is provided for exclusive use in each resident living unit, boarding homes shall provide common use facilities for residents, staff, and others as follows including:~~

- ~~(a) At least one toilet and one lavatory available in a ratio of one toilet and lavatory for each eight or fewer persons;~~
- ~~(b) Toilet rooms containing more than one toilet reserved for use by one sex;~~
- ~~(c) No more than one toilet in a room containing a bathing facility to be counted as a required toilet;~~
- ~~(d) A lavatory located in:~~
  - ~~(i) Each toilet room; or~~
  - ~~(ii) A directly adjacent adjoining lounge, dressing room, locker room, or other suitable common use area; or~~
  - ~~(iii) A resident's room if the toilet room opens into resident's room.~~
- ~~(e) Lavatories equipped with:~~
  - ~~(i) Suitable mirrors;~~
  - ~~(ii) Soap; and~~
  - ~~(iii) Single use or disposable towels, blower, or equivalent hand-drying device.~~
- ~~(f) Bathing facilities and toilets for resident use located where:~~
  - ~~(i) Reasonable access is possible from a common hall or area for all residents living on the same level or floor;~~
  - ~~(ii) Residents served live on same floor or level as toilet;~~
  - ~~(iii) Residents served live on same floor or level as bathing facility or no more than one floor or level up or down;~~
  - ~~(iv) Resident access is possible without passage through facility kitchen, pantry, food preparation, food storage, or dishwashing area; and~~
  - ~~(v) Access occurs without passage from one bedroom through another bedroom.~~
- ~~(g) At least one bathing facility for every twelve or fewer persons; and~~
- ~~(h) Bathrooms containing more than one bathing facility reserved for use by one sex only.~~
- ~~(2) General requirements for all resident toilets, bathing facilities, and lavatories:~~
  - ~~(a) Bathing facilities designed to meet the needs of residents living in the facility;~~
  - ~~(b) Toilets and bathroom facilities equipped with:~~
    - ~~(i) Water resistant, smooth, low gloss, nonslip, and easily cleanable materials;~~
    - ~~(ii) Walls washable to height of splash or spray;~~
    - ~~(iii) Suitable numbers of grab bars installed and located to minimize accidental falls including:~~
      - ~~(A) At least one grab bar installed at each bathing facility; and~~

PERMANENT

(B) Grab bars at toilets if needed by residents.  
(iv) Sanitarily designed plumbing fixtures in good repair with clean, nonabsorbent toilet seats free of cracks;

(v) Adequate lighting;

(vi) A suitable mirror at each lavatory; and

(vii) Adequate ventilation to outside.)) (1) The licensee shall provide private or common-use toilet rooms and bathrooms meeting the needs of residents.

(2) The licensee shall provide each toilet room and bathroom with:

(a) Water resistant, smooth, low gloss, nonslip and easily cleanable materials;

(b) Washable walls to the height of splash or spray;

(c) Grab bars installed and located to minimize accidental falls including one or more grab bars at each:

(i) Bathing fixture; and

(ii) Toilet, if needed by residents;

(d) Plumbing fixtures designed for easy cleaning and kept in good repair; and

(e) Adequate ventilation to outside.

(3) Provide each toilet room with a:

(a) Toilet with a clean, nonabsorbent seat free of cracks;

(b) Handwashing sink in or adjacent to the toilet room;

(c) Suitable mirror with adequate lighting for general illumination.

(4) For boarding homes approved for construction or initially licensed after August 1, 1994, the licensee shall provide a toilet and handwashing sink in, or adjoining, each bathroom.

(5) The licensee providing common-use toilet rooms and bathrooms shall:

(a) Provide a minimum of one toilet and one handwashing sink for each eight individuals or fraction thereof, with two or more toilets contained in a single bathroom counted as one toilet;

(b) Provide a minimum of one bathing fixture for every twelve individuals or fraction thereof;

(c) Designate toilet rooms containing more than one toilet for use by one sex at a time;

(d) Designate bathrooms containing more than one bathing fixture for use by one sex at a time;

(e) Provide a handwashing sink with soap and single use or disposable towels, blower or equivalent hand-drying device in each toilet room;

(f) Provide reasonable access to bathrooms and toilet rooms for each resident by:

(i) Locating a toilet room on the same floor or level as the sleeping room of the resident served;

(ii) Locating a bathroom on the same floor or level, or adjacent floor or level, as the sleeping room of the resident served; and

(iii) Providing access without passage through any kitchen, pantry, food preparation, food storage, or dishwashing area, or from one bedroom through another bedroom.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-170 Food and nutrition services. ((4) Boarding homes shall maintain food service facilities and practices required in chapter 246-215 WAC food service

sanitation. Boarding homes may use home-canned high-acid foods with a pH of less than 4.6, such as fruit, jelly, and jam.

(2) Boarding homes using dishwashing machines shall ensure:

(a) Machine operation per manufacturer directions; and

(b) "Home-type" machines, without high temperature sanitizing cycles, maintain water temperature at 155° Fahrenheit or above.

(3) Boarding homes shall:

(a) Provide a minimum of three meals in each twenty-four hour period;

(b) Deviate from minimum of three meals in a twenty-four hour period only following written approval by the department;

(c) Allow no more than fourteen hours between the evening meal and breakfast unless a snack contributing to the daily nutrient total is served or made available to all residents between the evening meal and breakfast;

(d) Provide sufficient time for residents to consume meals;

(e) Have written menus which:

(i) Are available at least one week in advance;

(ii) Include date, day of week, month, and year;

(iii) Are retained at least six months; and

(iv) Provide a variety of foods with cycle duration of at least three weeks before repeating.

(f) Prepare palatable, attractively served foods, meals, and nourishments sufficient in quality, quantity, and variety to meet the recommended dietary allowances of the food and nutrition board, National Research Council, 1980;

(g) When substituting for food contributing to daily nutrient total requirement, use food of comparable nutrient value and record food actually served;

(h) Keep a record of all food and snacks served and contributing to nutritional requirements; and

(i) Maintain an adequate dining area approved by the department with seating capacity for fifty percent or more residents per meal setting.

(4) Boarding homes shall prepare and serve:

(a) Resident specific modified or therapeutic diets when and as prescribed by a health care practitioner using a dietitian approved menu or diet manual; and

(b) Only nutrient concentrates and supplements prescribed in writing by a health care practitioner.)) (1) The licensee shall maintain food service facilities on site in compliance with chapter 246-215 WAC, food service sanitation, except the licensee may:

(a) Serve home-canned jams, jellies and fruit with a pH of less than 4.6; and

(b) In boarding homes licensed for sixteen or fewer beds, use domestic or home-type kitchen appliances including mechanical dishwashers, provided the licensee:

(i) Operates appliances according to manufacturer directions; and

(ii) Uses water heated to one hundred fifty-five degrees Fahrenheit or more in dishwashers.

(2) The licensee shall:

(a) Provide a minimum of three meals a day at regular intervals, with fourteen or fewer hours between the evening meal and breakfast, unless the licensee provides a nutritious snack between the evening meal and breakfast;

(b) Provide sufficient time for residents to consume meals; and

(c) Ensure all menus:

(i) Are written at least one week in advance;

(ii) Indicate the date, day of week, month and year;

(iii) Include all food and snacks served that contribute to nutritional requirements;

(iv) Are retained at least six months;

(v) Provide a variety of foods; and

(vi) Are not repeated for at least three weeks;

(d) Prepare palatable, attractively served meals and nourishments that meet the current recommended dietary allowances of the National Research Council, 1989, adjusted for:

(i) Age, sex and activities, unless medically contraindicated; and

(ii) Individual and ethnic preferences to the extent reasonably possible;

(e) Substitute foods, when necessary, of comparable nutrient value and record changes on the menu; and

(f) Maintain a dining area approved by the department with a seating capacity for fifty percent or more of the residents per meal setting.

(3) The licensee shall prepare and serve:

(a) Resident specific, modified, or therapeutic diets when and as prescribed by a health care practitioner using a dietitian-approved menu or diet manual; and

(b) Nutrient concentrates and supplements only when prescribed in writing by a health care practitioner.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-180 Day rooms. ((Boarding homes shall provide day room area or areas for residents to participate in social, recreational, and diversional activities. Boarding homes shall provide in the day room area or areas:

(1) Comfortable furniture and furnishings to meet resident needs;

(2) Heat and light appropriate for the comfort of residents;

(3) Floor space of no less than one hundred fifty square feet or ten square feet per resident, whichever is larger. Such total area may include:

(a) Solariums;

(b) Enclosed sun porches;

(c) Recreation rooms;

(d) Dining rooms; and

(e) Living rooms.

(4) Floor space of no less than one hundred fifty square feet or twenty square feet per resident, whichever is larger, for boarding homes newly licensed after December 31, 1988.))

(1) The licensee shall provide one or more day room areas for residents to participate in social and recreational activities. Day room areas include, but are not limited to:

(a) Solariums;

(b) Enclosed sun porches;

(c) Recreation rooms;

(d) Dining rooms; and

(e) Living rooms.

(2) The licensee shall provide a total minimum floor space for day room areas of:

(a) One hundred fifty square feet, or ten square feet per resident, whichever is larger, in boarding homes licensed on or before December 31, 1988; or

(b) One hundred fifty square feet, or twenty square feet per resident, whichever is larger, in boarding homes licensed after December 31, 1988.

(3) The licensee shall provide day room areas with comfortable furniture and furnishings meeting resident needs.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-190 Laundry. (((1) Boarding homes shall provide or make provision for appropriate handling, cleaning, and storage of linen and washable goods.

(2) When facility and/or commingled personal resident laundry is washed on the premises, boarding homes shall provide, maintain, and appropriately equip a laundry room including:

(a) Washing machines with hot water intake temperature of 140° Fahrenheit for each load;

(b) Means of separating clean and soiled items; and

(c) Soiled laundry and linen storage and sorting areas in rooms other than those used for open food storage, food preparation, or food service.))

(1) The licensee shall provide laundry and linen services on the premises or by commercial laundry and appropriate handling, cleaning, and storage of linen and washable goods.

(2) A licensee washing boarding home laundry and residents' laundry in a single load or more than one resident's laundry in a single load, shall provide, maintain and equip a laundry room with:

(a) Washing machines with hot water intake temperature of one hundred forty degrees Fahrenheit for each load; and

(b) A means of separating clean and soiled items.

(3) A licensee or resident washing a resident's personal laundry, separate from other laundry, may wash at temperatures below one hundred forty degrees Fahrenheit.

(4) The licensee shall ventilate, to the outside, laundry rooms and areas.

(5) The licensee shall locate laundry equipment in rooms other than those used for open food storage, food preparation or food service.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-200 Storage space. (((1) Boarding homes shall provide adequate storage space for:

(a) Supplies;

(b) Equipment;

(c) Linens; and

(d) Personal possessions of residents including spaces described in WAC 246-316-150(2).

(2) Boarding homes shall maintain storage space to:

(a) Prevent fire or accident hazards; and

(b) Provide separate, lockable storage for disinfectants and poisonous compounds in drawers, rooms, or equivalent.)) The licensee shall:

(1) Provide adequate storage space for supplies, equipment and linens;

(2) Provide separate, locked storage for disinfectants and poisonous compounds to prevent access by residents; and

(3) Maintain storage space to prevent fire or safety hazards.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-210 Stairs—Ramps. ((Boarding homes providing stairways or ramps for resident use shall maintain:

- (a) Nonskid surfaces;
- (2) Step treads at least nine inches deep (run) and a maximum of eight inches high (rise); and
- (3) Ramps with a maximum slope of one to twelve (vertical to horizontal), as needed for resident safety.)) The licensee shall:

- (1) Maintain nonskid surfaces on all stairways and ramps used by residents; and
- (2) Construct and maintain stairs and ramps in compliance with current Washington state building code requirements.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-220 Guardrails((§))—Handrails. ((†) Boarding homes shall install and maintain sturdy handrails located:

- (a) In halls and corridors if conditions indicate a need;
- (b) On each side of interior and exterior stairways unless rail installation on one side:
  - (i) Maintains safety of residents; and
  - (ii) Is approved in writing by the department.
- (c) In stairways with more than one step riser; and
- (d) On each side of interior and exterior ramps.

(2) The department may require a boarding home to install guardrails if safety of residents is jeopardized.)) (1) The licensee shall install and maintain sturdy handrails according to Washington state building code requirements, located:

- (a) In halls and corridors if necessary for resident safety;
- (b) On each side of interior and exterior stairways with more than one step riser, unless the department approves in writing having a handrail on one side only; and
- (c) On each side of interior and exterior ramps with slopes greater than one to twenty.

(2) The licensee shall install guardrails if the department determines guardrails are necessary for resident safety.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-230 Maintenance and housekeeping. ((Boarding homes shall provide maintenance and housekeeping including:

- (1) Safe and sanitary exterior grounds, boarding home structure, and component parts;
- (2) Clean facilities, equipment, and furnishings in good repair;
- (3) Safe and sanitary conditions in resident bedrooms;
- (4) Provision for maintaining each resident bedroom if a resident does not keep his or her room clean and safe;
- (5) Absence of safety hazards;

(6) A utility sink or equivalent means of obtaining and disposing of mop water away from areas used in food preparation and food service; and

- (7) Storage for wet mops in areas:
  - (a) mechanically ventilated; or
  - (b) Ventilated to outside air.)) The licensee shall:

- (1) Provide a safe, sanitary and well maintained environment for residents;
- (2) Keep exterior grounds, boarding home structure, and component parts safe, sanitary and in good repair;
- (3) Keep facilities, equipment and furnishings clean and in good repair;
- (4) Assure each resident or staff person maintains the resident's quarters in a safe and sanitary condition;
- (5) Equip a housekeeping supply area with:
  - (a) A utility sink or equivalent means of obtaining and disposing of mop water away from food preparation and service areas;
  - (b) Storage for wet mops, ventilated to outside air; and
  - (c) Locked storage for cleaning supplies.

AMENDATORY SECTION (Amending Order 224 [WSR 94-01-058], filed 12/23/91 [12/8/93], effective 1/23/92 [1/8/94])

WAC 246-316-240 ((Admission, placement and retention of)) Criteria for accepting and retaining residents. ((†) Prior to admission or acceptance as a resident, boarding homes shall obtain sufficient information to evaluate whether or not a resident/applicant can be safely housed and provided domiciliary care in the particular facility, including information in reference to:

- (a) Resident/applicant's ability to function with respect to the physical premises, equipment, and staff of the boarding home;
- (b) Space, equipment, and furniture requirements;
- (c) Ambulatory status;
- (d) Currently demonstrated overt behavior dangerous to self or others;
- (e) Need for care in a hospital, nursing home, or other licensed facility under chapters 18.51, 70.41, and 71.12 RCW;
- (f) Requirements for assistance in obtaining or administering medications; and
- (g) Need or desire for nursing care exceeding periodic visits by staff of a home health care agency or a licensed nurse employed by an individual resident.

(2) Boarding homes shall accept, admit, and retain persons as residents only when:

- (a) Ambulatory unless the boarding home is approved by the Washington state director of fire protection to:
  - (i) Care for semi-ambulatory residents; or
  - (ii) Care for nonambulatory residents not needing medical or nursing care as specified in subsection (2)(f)(ii) and (iii) of this section.
- (b) Nonsmoking residents can be accommodated with smoke-free rooms and smoke-free common use areas to prevent contact with smoke;
- (c) Smoking residents can be accommodated by areas meeting the requirements in WAC 246-316-140(2);
- (d) The individual resident can be accommodated by:

PERMANENT

~~(i) Physical plant, facilities, and spaces;  
(ii) Furniture and equipment; and  
(iii) Staff who are available and sufficient to provide nature of domiciliary care required and desired by the resident.~~

~~(e) The amount and nature of needed assistance with medication or medication service is available in the boarding home under RCW 18.20.160 and WAC 246-316-300; and~~

~~(f) Individuals do not:~~

~~(i) Exhibit continuing overt behavior which is a danger to others or self;~~

~~(ii) Need inpatient care in a hospital, nursing home, or other facility licensed under chapters 18.51, 70.12, or 70.41 RCW; or~~

~~(iii) Need continuous nursing care exceeding periodic or short term services from:~~

~~(A) Staff of a home health care agency; or~~

~~(B) A licensed nurse retained by an individual resident.~~

~~(3) Upon admission or acceptance of an individual as a resident, boarding homes shall determine a resident's choice regarding:~~

~~(a) Definite arrangements with a health care practitioner; and~~

~~(b) Who to call in case of resident illness or death.) (1)~~

~~The licensee shall evaluate the ability of staff and facilities to meet a prospective resident's housing, domiciliary, dementia, and nursing care needs, based on:~~

~~(a) Space, equipment and furniture requirements;~~

~~(b) General behavior including the tendency to wander, fall, act verbally or physically abusive or socially inappropriate;~~

~~(c) Current medication status and need for assistance in obtaining or administering medications;~~

~~(d) Height, weight and age;~~

~~(e) Functional abilities, including but not limited to:~~

~~(i) Ambulatory status and need for mobility aides;~~

~~(ii) Mental status and behavioral problems;~~

~~(iii) Ability to perform activities of daily living independently or with assistance; and~~

~~(iv) Conditions requiring staff monitoring or care of the resident.~~

~~(2) If the licensee accepts residents requiring limited nursing services, in addition to the information specified in subsection (1) of this section, the licensee shall consider:~~

~~(a) Medical diagnosis;~~

~~(b) Blood pressure;~~

~~(c) Any chewing, swallowing, mouth and dental problems and treatments;~~

~~(d) Any infections, skin rashes, ulcers and open lesion problems and treatments;~~

~~(e) Appetite and hydration status;~~

~~(f) Need for chemotherapy, radiation and dialysis; and~~

~~(g) Any urethral catheter use and type.~~

~~(3) The licensee shall accept and retain an individual as a resident only when:~~

~~(a) The individual is ambulatory unless the boarding home is approved by the Washington state director of fire protection to care for semi-ambulatory or nonambulatory residents;~~

~~(b) The individual does not need medical or nursing care exceeding that allowed by WAC 246-316-265 and 246-316-268;~~

(c) A nonsmoking individual can be accommodated with a smoke-free room and smoke-free common-use areas;

(d) A smoking individual can be accommodated by areas meeting the requirements in WAC 246-316-140(2);

(e) The individual can be accommodated by:

(i) The physical plant, facilities and spaces;

(ii) Furniture and equipment;

(iii) Staff who are available and sufficient to provide the type of domiciliary care required and desired by the individual; and

(iv) Staff who are available and sufficient to provide limited nursing services, as required by the individual, if the boarding home provides such services;

(f) The appropriate medication service type pursuant to RCW 18.20.160 and WAC 246-316-300 is available in the boarding home; and

(g) The individual meets the acceptance criteria defined in the boarding home policies and procedures.

(4) The licensee shall not accept or retain individuals:

(a) Exhibiting continuing overt acts which present a risk of harming self or others, including but not limited to self-mutilation, suicide attempts, and hitting or striking out at others;

(b) Having major areas of skin breakdown and open wounds; or

(c) Whose needs can only be met by inpatient care in a hospital, nursing home, or other facility licensed under chapter 18.51, 71.12, or 70.41 RCW; and

(5) Upon admitting a resident, the licensee shall document in the resident's health record, the resident's choice regarding:

(a) Definite arrangements with a health care practitioner; and

(b) The identity of individuals to contact in case of an emergency, illness or death.

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

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-250 ((Boarding home)) Resident rights. ~~((Boarding homes shall assure each resident maintains the following rights in addition to any rights not specifically withheld by law insofar as a general or specific nuisance or a danger to the individual or others is not created:~~

~~(1) Rights to:~~

~~(a) Be informed or to have a resident designated agent informed of resident rights and the policies of the facility at the time of admission;~~

~~(b) Have a written copy of resident rights and policies with verification of date of receipt in the resident's file or available elsewhere in the facility;~~

~~(c) Be treated in a manner respecting individual identity, human dignity, and fostering constructive self-esteem;~~

~~(d) Be notified thirty days in advance if transfer is necessary for medical or nursing care, resident well-being, or welfare of other residents, unless:~~

~~(A) An emergency condition requires immediate transfer; or~~

~~(B) Resident does not abide by written boarding home policy affecting health and safety of self or others; or~~

~~(C) Orderly transfer or discharge is enhanced for the resident by earlier transfer.~~

~~(2) Rights to:~~

~~(a) Have any notice of transfer and discharge documented in resident's record;~~

~~(b) Associate, visit, and communicate privately with persons of his or her choice;~~

~~(c) Send and receive uncensored correspondence through the mail;~~

~~(d) Have reasonable access to a telephone for making and receiving personal calls;~~

~~(e) Manage personal financial affairs unless adjudicated incompetent in a court proceeding directed to that particular issue;~~

~~(f) Retain and use personal clothing and possessions unless to do so would infringe upon the rights of other residents;~~

~~(g) Refuse to perform services for the facility unless these services are included in a plan of care;~~

~~(h) Voice grievances and recommend changes in policies and services to the facility staff and to outside representatives of his or her choice free from restraint, interference, coercion, discrimination or reprisal;~~

~~(i) Be informed of telephone numbers and address of the licensing agent or appropriate advocacy group;~~

~~(j) Meet with and participate in activities of social, religious, and community groups at his or her discretion;~~

~~(k) Freedom from physical, chemical, and psychological restraints unless authorized by law;~~

~~(l) Freedom from exploitation, assault, abuse, and neglect;~~

~~(m) Access information in own record or provide written authorization for a designated agent to access record;~~

~~(n) Confidential treatment of information contained in resident health records with access only by authorized persons and those persons authorized by the department;~~

~~(o) Receive timely notice of changes in policy and procedures affecting residents; and~~

~~(p) Be informed of facility rules, including smoking rules and location of smoking and nonsmoking areas.)~~

~~The licensee shall comply with chapter 214, Laws of 1994, long-term care facilities—resident rights.~~

AMENDATORY SECTION (Amending WSR 94-01-058, filed 12/8/93, effective 1/8/94)

**WAC 246-316-260 ((Boarding home)) Resident services.** ~~((1) Boarding homes may provide nursing care for residents only to the extent and duration required for temporary acute illness.~~

~~(2) Boarding homes shall:~~

~~(a) Assure nursing care, if provided, is consistent with chapters 18.78 and 18.88 RCW;~~

~~(b) Observe and note changes in physical, mental, and emotional functioning; and~~

~~(c) Assist with arrangements for appropriate transfer as needed.~~

~~(3) Boarding homes shall provide basic domiciliary care[,] including, but not limited to:~~

~~(a) Assisting each resident to maintain his or her highest functional ability possible and compatible with individual safety and welfare;~~

~~(b) Providing general health supervision if required by resident including:~~

~~(i) Encouraging resident to self-administer medically prescribed drugs and treatment;~~

~~(ii) Encouraging resident to follow any medically prescribed modified diet, rest or activity regimen;~~

~~(iii) Encouraging and assisting a resident with arrangements to keep appointments for health care services, e.g., physicians, dentists, home health care services, or clinics;~~

~~(iv) Encouraging and assisting resident with arrangements to see his or her health care practitioner when the resident shows signs or describes symptoms of an illness or abnormality for which medical diagnosis and treatment may be indicated; and~~

~~(v) Encouraging, supervising, or assisting resident with:~~

~~(A) Personal hygienic care, dressing, grooming, and other activities;~~

~~(B) Functional aids or equipment, such as glasses, hearing aids, canes, crutches, walker, or wheelchair;~~

~~(C) Clothing and other personal effects;~~

~~(D) Personal living quarters in a manner conducive to safety and comfort.~~

~~(e) Encouraging, guiding, or assisting residents with arrangements to participate in social, recreational, diversional, vocational, church, or other activities within the boarding home and the community in accordance with his or her interests, tolerance, and abilities.~~

~~(4) Boarding homes shall post a calendar of daily social or recreational activities and events for residents-)) (1) The licensee shall:~~

~~(a) Prepare a brief individual's resident plan upon admission, and a comprehensive individual's resident plan within thirty days of admission;~~

~~(b) Monitor and document any significant changes in a resident's physical, mental, or emotional functioning, as necessary, and review and document the resident's physical, mental and emotional functioning at least semi-annually;~~

~~(c) Ensure staff, who observe a change in a resident's functioning, immediately describe and document the change; and~~

~~(d) Take appropriate action when changes are noted which would alter the individual's resident plan.~~

~~(2) The licensee shall provide basic domiciliary care, including:~~

~~(a) Assisting each resident to attain and maintain the highest functional ability possible; and~~

~~(b) Providing general health supervision and assistance with:~~

~~(i) Self-administering prescribed drugs and treatments;~~

~~(ii) Following any prescribed modified diet, rest or activity regimen;~~

~~(iii) Making and keeping appointments for health care services;~~

~~(iv) Arranging health care when necessary;~~

~~(v) Maintaining personal hygiene, including bathing, oral care, dressing, grooming, and changing to clean clothing;~~

~~(vi) Obtaining and maintaining functional aids and equipment, including but not limited to glasses, hearing aids, dentures, canes, crutches, walkers and wheelchairs;~~

(vii) Keeping clothing and other personal effects clean and in good repair;

(viii) Maintaining safe and comfortable personal living quarters;

(ix) Arranging for social, recreational, religious, or other activities in the boarding home and the community;

(x) Resident mobility; and

(xi) Incontinence care.

(3) The licensee shall provide planned social and recreational activities for residents at least three times per week and post a calendar of daily activities and events.

#### NEW SECTION

**WAC 246-316-265 Limited nursing services.** This section applies only to licensees who choose to provide limited nursing services. This section does not apply when residents care for themselves or arrange for independent nursing or health care services pursuant to WAC 246-316-268.

(1) The licensee shall employ or contract directly or indirectly with a RN or physician to:

(a) Provide or supervise limited nursing services;

(b) Assess, or supervise a LPN's assessment of each resident needing limited nursing services upon admittance, and develop the nursing component of the individual's resident plan;

(c) Reassess, or supervise a LPN's reassessment of the resident's nursing needs when staff notice a change in the resident's functional ability or health status, and amend the nursing component of the individual's resident plan accordingly; and

(d) Be available in person, by pager, or by telephone during hours of limited nursing services.

(2) A licensee shall ensure the following services are only provided by a RN, or a LPN under the supervision of a RN:

(a) Insertion of urethral catheters, including indwelling;

(b) Any other nursing service requested by the licensee and approved in writing by the department.

(3) The licensee may allow unlicensed staff to provide the following services under the delegation and supervision of a RN:

(a) Routine ostomy care that is well-established, with no breakdown or maintenance care;

(b) Enema;

(c) Uncomplicated routine colostomy and urethral care when the resident is unable to supervise these activities;

(d) Care of wounds that are superficial without drainage or infection; and

(e) Assistance with glucometer testing if the resident can perform the finger stick.

(4) The licensee shall not provide the following nursing services on the premises:

(a) Respiratory ventilation;

(b) Intravenous procedures;

(c) Suctioning;

(d) Feeding tube insertion or site maintenance; and

(e) Care of residents who are bed-bound for more than fourteen consecutive days as a result of a medical condition.

(5) A licensee providing limited nursing services shall assure that employed or contracted nursing services are consistent with chapters 18.78 and 18.88 RCW.

(6) A licensee providing limited nursing services shall provide for safe and sanitary:

(a) Storage and handling of clean and sterile nursing equipment and supplies;

(b) Storage and handling of soiled laundry and linens;

(c) Cleaning and disinfecting soiled equipment; and

(d) Refuse and infectious waste disposal.

(7) In new construction designed for limited nursing services, or upon starting a limited nursing services program within an existing boarding home, the licensee shall provide the following, accessible only by staff:

(a) A clean utility area for the purposes of storing and preparing clean and sterile nursing supplies, equipped with:

(i) A work counter or table; and

(ii) Adjacent handwashing sink, with soap and paper towels or other approved hand-drying device; and

(b) A soiled utility area for the purposes of storing soiled linen, cleaning and disinfecting soiled nursing care equipment, and disposing of refuse and infectious waste, equipped with:

(i) A work counter or table;

(ii) Sinks for handwashing and cleaning/sanitizing, with soap and paper towels or other approved hand-drying device.

#### NEW SECTION

**WAC 246-316-268 Health care services—Resident-arranged.** (1) The licensee shall allow a resident to arrange for on-site health care services, consistent with Title 18 RCW regulating health care professions, and the policies and procedures of the boarding home except as specified in subsection (2) of this section.

(2) Only when the resident resides in lockable quarters with a private toilet, handwashing sink, bathing fixture, refrigerator, and emergency power if necessary for life-support equipment, shall the licensee allow the following nursing services on-site:

(a) Respiratory ventilation;

(b) Intravenous procedures;

(c) Suctioning;

(d) Feeding tube insertion or site maintenance; and

(e) Care of residents who are bed-bound for more than fourteen consecutive days as a result of a medical condition.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-316-280 Notification (~~regarding serious or significant~~)—Change in resident's condition.** (~~Boarding homes shall:~~

(1) ~~Notify the resident's next of kin, guardian, or other individual or agency responsible for, or designated by, the resident as soon as possible regarding:~~

~~(a) A serious or significant change in the resident's condition;~~

~~(b) Transfer of the resident to a hospital; and~~

~~(c) Death of a resident.~~

~~(2) In case of death, notify the coroner if required under RCW 68.50.010.~~

(3) Document notification in the resident's record.)) The licensee shall:

(1) Notify a resident's next of kin, guardian, or other individual or agency responsible for, or designated by, the resident as soon as possible regarding:

(a) A serious or significant change in the resident's condition;

(b) The relocation of the resident to a hospital or other health care facility; or

(c) Death of the resident.

(2) In case of death, notify the coroner if required by RCW 68.50.010.

(3) Document in the resident's health record, the date and time individuals were notified, and the relationship of those individuals to the resident.

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-316-290 Safety measures and quality assurance.** ((Boarding homes shall:

(1) Eliminate hazards;

(2) Investigate and document accidents or incidents jeopardizing the health or life of a resident to:

(a) Ascertain the circumstances of the accident or incident; and

(b) Institute appropriate measures to prevent similar future occurrences when possible;

(3) Provide a type of hardware on doors of storage rooms and closets preventing accidental lock in of a resident;

(4) Provide emergency means of rapid staff access to resident-occupied bedrooms, toilets, showers, bathrooms, and other rooms;

(5) Keep resident care staff informed of emergency means of rapid access to resident-occupied rooms;

(6) Prevent transmission of infection by sanitizing and appropriate handling and storage of supplies and equipment used for resident services; and

(7) Ensure availability of flashlights or other emergency lighting in all areas.)) (1) The licensee shall:

(a) Maintain the premises free of hazards;

(b) Investigate and prepare an incident report for any neglect, abuse, exploitation, accident, or incident jeopardizing or affecting a resident's health or life to:

(i) Determine the circumstances of the event; and

(ii) Institute and document appropriate measures to prevent similar future situations;

(c) Provide appropriate hardware on doors of storage rooms, closets and other rooms to prevent residents from being accidentally locked in;

(d) Provide and advise staff of a means of emergency access to resident-occupied bedrooms, toilets, showers, bathrooms, and other rooms;

(e) Sanitize, handle and store resident-care supplies and equipment to prevent the transmission of infection;

(f) Provide emergency lighting or flashlights in all areas of the boarding home;

(g) Maintain a first-aid kit and manual which are:

(i) Equivalent to that required by the department of labor and industries in WAC 296-24-065;

(ii) Readily available to all staff and residents;

(h) Develop and maintain a current disaster plan describing measures to take in the event of internal or external disasters; and

(i) Ensure residents are safe and warm during inclement weather and catastrophic events.

(2) The licensee may develop and implement a coordinated quality improvement program approved by the department according to RCW 43.70.510 and chapter 246-50 WAC.

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-316-300 Medication services.** (((+)) Boarding homes shall:

(a) Provide at least one category of medication service as described in subsections (3), (5), and (6) of this section;

(b) Determine an appropriate category of medication service for each resident involving the resident or resident-designated agent when possible;

(c) Document the designated category or categories of each resident in the individual resident's health record;

(d) Take actions appropriate to safety of a resident when the boarding home suspects the resident is having trouble with his or her medication management or is inappropriately categorized, including:

(i) Assigning a resident to a new medication service category; or

(ii) Transferring or discharging resident from the boarding home when the appropriate medication service category is unavailable in the boarding home.

(2) Boarding homes shall follow established written policies and procedures for each medication service category provided in the boarding home including:

(a) Limitations of staff assistance;

(b) Requirements for staff providing assistance with medications;

(c) Storing of resident medications:

(i) In the original medication containers with pharmacist prepared or manufacturer's label;

(ii) Together for each resident and physically separated from other residents' medications;

(iii) Separate from food or toxic chemicals;

(iv) Accessible only to designated, responsible staff or appropriate resident; and

(v) In an environment recommended on label, if centrally stored.

(d) Arrangements or means for assuring the resident obtains medication as prescribed;

(e) Methods for disposition of medications following recommendations of a pharmacist or pharmacy consultant for:

(i) Outdated or discontinued medications;

(ii) Medications left behind when a resident leaves or dies;

(iii) Sending resident medication with a resident upon transfer or discharge or temporary leave.

(f) Procedures and system for documenting and recording of:

(i) Recommendations of a pharmacist about appropriate disposition action by the boarding home for outdated prescription medications in a centralized storage;

(ii) Medication disposition actions taken by boarding home staff;

(iii) Identity by signature of two persons observing any staff medication disposition, except when a resident is totally accountable and responsible for his or her own medication management;

(iv) Current prescriber's order for any medications managed and controlled by the boarding home; and

(v) When a resident takes or does not take medication, unless the resident is totally accountable and responsible for his or her own medication management.

(g) Maintenance and retention of completed medication records for five years from date of discharge.

(3) Boarding homes shall designate a resident as eligible for supervised medication service Category A when:

(a) A resident is capable of self-administration of medication without assistance or guidance from another person; and

(b) A resident is capable of storing his or her own medications in a manner prohibiting access and availability to other residents; or

(c) A resident has a physical condition or disability prohibiting or interfering with his or her ability to take prescribed medication properly, but:

(i) The resident understands the appropriate use of his or her medication; and

(ii) The resident is capable of communicating and directing others to give physical assistance with his or her medication as prescribed.

(4) Boarding homes shall only assist a resident in service category A to self-administer medication according to:

(a) A health care practitioner's written order or the pharmacist or manufacturer's prepared label;

(b) Limits specified in subsection (3) of this section;

(c) Procedures for designated staff responsible for physically assisting residents with medications limiting staff assistance to:

(i) Reading the label;

(ii) Opening the container; and

(iii) Application or instillation of oral, skin, nose, eye, and ear preparations.

(5) Boarding homes shall designate a resident as needing supervised medication service Category B when:

(a) A resident requires reminding, guiding, or coaching to take medication properly, but requires no physical assistance except opening of a container; and

(b) Access and availability of medications only to authorized persons cannot be assured unless controlled in locked storage by the boarding home.

(6) Boarding homes shall only assist a resident in service Category B to self-administer medication according to:

(a) A health care practitioner's written order or the pharmacist's or manufacturer's prepared label;

(b) Limits specified in subsection (5) of this section; and

(c) Procedures for designated staff responsible for reminding, guiding, or coaching residents with medication, limiting staff assistance to:

(i) Reading the label or more current prescriber order;

(ii) Opening the container; and

(iii) Communicating the prescriber's order to the resident in such a manner that the resident self-administers his or her medication properly.

(7) Boarding homes shall designate a resident as needing supervised medication service Category C when:

(a) A resident cannot take or handle his or her own medication appropriately; and

(b) The resident's physician provided a written order specifying the resident requires certain specified medications administered by a person licensed to administer medications.

(8) Boarding homes accepting or retaining any resident requiring supervised medication service Category C shall:

(a) Have a physician or registered nurse available for supervised medication service Category C who:

(i) Plans, directs, and supervises the service; and

(ii) Reviews each resident's condition and medication regimen as needed and at least quarterly, documenting reviews in the resident health record.

(b) Provide registered nurses, licensed practical nurses, or other licensed person under Washington state laws to administer medications; and

(c) Maintain and include in the resident health record a current, written prescriber's order specifying medications requiring nurse administration.) (1) The licensee shall:

(a) Determine the medication service category or categories, specified in this section, best suited to the needs of each resident by:

(i) Consulting with the physician, family, and caregivers; and

(ii) Considering the resident's abilities, preferences, health and safety;

(b) Document the medication service category assigned to each resident in the resident's health record; and

(c) Reevaluate the resident's medication service category upon any change in the resident's condition, and if necessary:

(i) Reassign the resident a new medication service category; or

(ii) When the appropriate medication service category is unavailable in the boarding home, transfer the resident to a setting where the appropriate medication service can be provided.

(2) The licensee shall assign a resident to medication service category A when the licensee determines the resident can safely and securely store medications, and:

(a) Can fully understand the appropriate use of the medication and can self-administer the medication according to the prescribed dosage, time and any special instructions; or

(b) Cannot physically self-administer the medication, but can accurately direct others to assist with:

(i) Opening the container; and

(ii) Applying or instilling oral, skin, nose, eye, and ear preparations.

(3) The licensee shall assign a resident to category B when the licensee determines that the resident needs reminding, guiding or coaching limited to:

(a) Opening a container;

(b) Reading the label or prescriber's order, and explaining it in a manner to assure proper self-administration; and

(c) Assistance with applying or instilling skin, nose, eye, and ear preparations consistent with Washington state law.

(4) The licensee providing medication service category B shall:

(a) Store medications in a manner prohibiting access by other residents; and

(b) Document the medication name, time and dosage taken by the resident; and

(c) Document a resident's refusal or inability to take medication according to the prescription.

(5) A licensee shall assign a resident to category C when:

(a) The licensee determines a resident cannot safely self-administer medication or accurately self-perform a glucometer test; and

(b) A physician orders medication to be administered by a nurse or other individual authorized to administer medications by Washington state law.

(6) A licensee providing medication service category C shall:

(a) Assure the service is planned, directed and supervised by a RN or physician who:

(i) Documents a review of each resident's condition and medication regimen quarterly, or more often as needed;

(ii) Provides training for all medication administration staff and documents training in staff records; and

(iii) Observes, evaluates and documents each staff person administering medication annually, or more often as necessary, to assure medications are administered according to the resident's needs;

(b) Document the medication name, time and dosage administered to the resident;

(c) Document a resident's refusal or inability to take medication according to the prescription;

(d) Assure medications and glucometer tests are administered by nurses or other individuals authorized to administer medications and glucometer tests by Washington state law; and

(e) Provide an area for storing, handling, and preparing medications consistent with board of pharmacy requirements, including a sink, table or counter space, and secure storage.

(7) The licensee shall assure staff follow the written policies and procedures for each medication service category provided in the boarding home including:

(a) Limitations of staff assistance;

(b) Requirements for staff providing assistance with medications;

(c) Storing resident medications:

(i) In original containers with pharmacist-prepared or manufacturer's label;

(ii) Together for each resident and physically separated from other residents' medications;

(iii) Separate from food or toxic chemicals;

(iv) Accessible only to designated responsible staff or appropriate resident; and

(v) In environments recommended on the medication label;

(d) Assuring the resident obtains medication as prescribed;

(e) Documenting and recording current prescriber's order for any medications managed and controlled by the licensee under categories B and C;

(f) Managing medications administered in medication service category B and C in accordance with the pharmacist's recommendations including:

(i) Disposing of outdated, contaminated, damaged, or discontinued medications, and medications left behind when a resident leaves or dies;

(ii) Documenting date, method, signature of person who disposed of medication and person who witnessed the disposal;

(iii) Maintaining prescribers' orders to discontinue medications; and

(iv) Sending the resident's medication with the resident when moving out or leaving temporarily; and

(g) Retaining completed medication records for five years after the resident moves from the boarding home.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-316-310 Resident register. (~~Boarding homes shall maintain a permanent, current book or a register of all individuals who become residents including:~~

~~(1) Date of admission;~~

~~(2) Full name; and~~

~~(3) Date of discharge.)) The licensee shall maintain a readily available permanent, current book, computer file, or register with entries in ink or typewritten, of all residents including:~~

~~(1) Date of moving in;~~

~~(2) Full name;~~

~~(3) Date of birth;~~

~~(4) Date of moving out;~~

~~(5) Reason for moving out; and~~

~~(6) New address if known.~~

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-320 Resident health record. (~~((1) Boarding homes shall maintain a health record in ink, typewritten or equivalent, for each resident including:~~

~~(a) Full name, date of birth, and former address of resident;~~

~~(b) Date admitted as resident and date discharged;~~

~~(c) Name, address, and telephone number of next of kin or other responsible person;~~

~~(d) Name, address, and telephone number of resident's personal physician or health care practitioner;~~

~~(e) Signed staff entries about:~~

~~(i) Dates and descriptions of resident illnesses, accidents, or incidents;~~

~~(ii) Changes in resident functional abilities or physical and mental coordination; and~~

~~(iii) Actions of staff related to subdivision (c)(i) and (ii) of this subsection.~~

~~(f) Orders signed by a resident's physician or health care practitioner for any modified diet, concentrate or supplement provided by the boarding home; and~~

~~(g) Medication orders and records as specified in WAC 246-316-300.~~

~~(2) Boarding homes shall:~~

~~(a) Maintain a systematic, secure method of identifying and filing resident health records for ease in locating; and~~

~~(b) Retain each resident health record at least five years following resident discharge;))~~ (1) The licensee shall maintain a health record with entries in ink, typewritten or equivalent, for each resident including:

(a) Full name, date of birth, and former address of resident;

(b) Date of moving in and moving out;

(c) The name, address, and telephone number of individuals to contact in case of an emergency, illness or death;

(d) Resident's representative, if any;

(e) Name, address, and telephone number of resident's personal physician or health care practitioner;

(f) Resident admitting information, including any medical diagnoses pertinent to care services needed by the resident and provided by the boarding home;

(g) Documented staff entries about:

(i) Dates and descriptions of the resident's illnesses, accidents, and incidents;

(ii) Changes in the resident's physical, mental, emotional and social abilities to cope with the affairs and activities of daily living, physical and mental coordination; and

(iii) Actions of staff related to (g)(i) and (ii) of this subsection;

(h) Orders documented by the resident's health care practitioner for any modified diet, concentrate or supplement provided by the boarding home;

(i) Medication orders and records as specified in WAC 246-316-300;

(j) Clinical information such as weight, temperature, blood pressure, blood sugar and other laboratory tests that are ordered or required by the individual's resident plan;

(k) Advance notice for relocation as specified in chapter 214, Laws of 1994, long-term care facilities—resident rights;

(l) Notice of relocation as specified in WAC 246-316-280; and

(m) Proof of resident's receipt of the list of resident rights and rules and regulations governing resident conduct and responsibilities as required by chapter 214, Laws of 1994, long-term care facilities—resident rights.

(2) The licensee shall:

(a) Maintain a systematic and secure method of identifying and filing resident health records for easy access;

(b) Allow authorized representatives of the department and other authorized regulatory agencies access to resident records;

(c) Provide any individual or organization access to resident records upon written consent of the resident or the resident's representative, unless state or federal law provide for broader access;

(d) Maintain resident records and health care information for residents receiving category B or C medication services or limited nursing services in accordance with chapter 70.02 RCW; and

(e) Retain each resident health record at least five years after the resident moves from the boarding home.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-316-330 Adult day care. ~~((1) Boarding homes choosing to provide adult day care services and to accept or admit adults for domiciliary care in a boarding home for less than a contiguous twenty four hours shall:~~

~~(a) Accept and retain for day care only those adults meeting resident criteria described in WAC 246-316-240;~~

~~(b) Provide day room and dining room facilities complying with WAC 246-316-170 and 246-316-180;~~

~~(c) Provide toilets and lavatories complying with WAC 246-316-160;~~

~~(d) Provide comfortable, suitable chairs and furniture;~~

~~(e) Provide sufficient furniture for comfort of residents and day care adults including, but not limited to:~~

~~(i) Napping furniture for day care adults such as lounge chairs, recliners, couches; and~~

~~(ii) Ability to space napping furniture at least three feet apart if needed or requested.~~

~~(f) Provide staff to supervise and assist day care adults in activities of daily living and medication management as described in WAC 246-316-260 and 246-316-300;~~

~~(g) Provide a meal meeting at least one third of the recommended dietary allowance during every five hour period of stay (the exception to the recommended dietary allowance is during normal sleeping hours when fasting periods greater than fourteen hours are prohibited);~~

~~(h) Ensure and provide rights, services, notification, and safety as described in WAC 246-316-250, 246-316-260, 246-316-280, and 246-316-290;~~

~~(i) Maintain a separate register of all day care adults using format described in WAC 246-316-310;~~

~~(j) Maintain a health record for each day care adult as described for residents in WAC 246-316-320.~~

~~(2) Boarding homes choosing to accept adults for day care shall:~~

~~(a) Notify the department of the plan to accept or admit adults to day care;~~

~~(b) Provide information as required for the department to establish compliance with this section; and~~

~~(c) Obtain written department approval for maximum day care adult capacity prior to accepting or admitting adults for day care.~~

~~(3) When notified of boarding home licensee's plan to accept day care adults, the department shall:~~

~~(a) Determine whether or not a boarding home complies with this section;~~

~~(b) Issue written approval for occupancy based on compliance with this section; and~~

~~(c) Indicate approved capacity for day care adults on the boarding home license.)) A licensee approved by the department to provide adult day care services for less than a contiguous twenty-four-hour period shall:~~

~~(1) Accept only those adults meeting the resident criteria in WAC 246-316-240;~~

~~(2) Provide dining room and day room facilities according to WAC 246-316-170 and 246-316-180;~~

~~(3) Provide toilets and handwashing sinks according to WAC 246-316-160;~~

(4) Provide sufficient furniture for the comfort of day care adults, in addition to furniture provided for residents, including:

(a) Sturdy comfortable chairs, appropriate for the age and physical condition of the day care adults; and

(b) Napping furniture such as lounge chairs, recliners, or couches which are placed three or more feet apart if needed or requested;

(5) Provide staff to supervise and assist day care adults in activities of daily living, limited nursing services and medication services as described in WAC 246-316-260, 246-316-265 and 246-316-300;

(6) Provide a meal, which meets at least one-third of the recommended dietary allowance described in WAC 246-316-170(2), during every five-hour period of stay or no more than fourteen hours between the evening meal and breakfast;

(7) Ensure rights according to WAC 246-316-250;

(8) Provide services, notification, and safety as described in WAC 246-316-260, 246-316-265, 246-316-280, and 246-316-290;

(9) Maintain a separate register of all day care adults using the format described in WAC 246-316-310; and

(10) Maintain a health record for each day care adult as described for residents in WAC 246-316-320.

#### NEW SECTION

**WAC 246-316-335 Residents—Dementia care.** (1) If a licensee accepts residents with dementia care needs, the licensee shall:

(a) Provide qualified staff, present at all times, to care for and supervise residents with dementia care needs including:

(i) Dressing, grooming and personal hygiene;

(ii) Eating;

(iii) Orientation and activities;

(iv) Ensuring the safety of all residents; and

(v) Assisting residents during an emergency; and

(b) Take one or more of the following measures to prevent wandering from the boarding home:

(i) Staff sufficient to monitor and care for residents with dementia care needs;

(ii) An alarm and monitoring system to alert staff when a resident exits the building or enclosed outdoor area; or

(iii) A dementia care unit meeting the standards described in subsection (2) of this section.

(2) A licensee providing a dementia care unit shall, except as provided in subsection (4) of this section:

(a) Assure the dementia care unit meets the fire and life safety requirements for boarding homes according to the Washington State Building Code;

(b) Provide a room which may be used for dining, socializing and recreation;

(c) Design floor and wall surfaces in such a way to augment resident orientation;

(d) Provide slip-resistant floors free of abrupt changes;

(e) Provide access to a secured outdoor space with:

(i) Walls or fences at least seventy-two inches high;

(ii) Walking surfaces that are firm, stable, slip-resistant and free from abrupt changes;

(iii) Outdoor furniture; and

(iv) Nontoxic plants;

(f) Provide an approved supervised automatic fire detection system and supervised automatic sprinkler system electrically interconnected with the fire alarm system;

(g) If exiting doors restrict egress, provide automatic locking and unlocking exiting doors from the dementia care unit, which:

(i) Release automatically when:

(A) The fire alarm is activated;

(B) Primary power to the building is lost; and

(C) An override switch is used in case of emergency;

(ii) Are equipped with alarms;

(iii) Have directions for lock releasing devices posted by doors and accessible to residents; and

(iv) Are approved for use by the local official enforcing the Uniform Building Code and the Uniform Fire Code prior to approval by the Washington state director of fire protection.

(3) A licensee shall obtain written consent from a resident, or if the resident is unable to give informed consent as defined in RCW 11.88.010 (1)(e), from an individual as set forth in RCW 7.70.065, prior to placing the resident in a dementia care unit.

(4) A licensee using a dementia care unit as of August 1, 1994, shall:

(a) Assure the unit is designed and maintained for safe and adequate care of residents; and

(b) Meet the requirements in subsection (2) of this section upon construction of a new dementia care unit or January 1, 2000, whichever occurs first.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-316-340 Exemptions.** ~~((1) The secretary of the department or the designated licensing program administrator may approve an exemption to a specific rule under certain terms or conditions for a specified boarding home premise:~~

~~(a) Following an investigation regarding safety; and~~

~~(b) Provided an evaluation of the results reveals safety and health of residents will remain unjeopardized in that facility.~~

~~(2) Boarding homes shall maintain a copy of each department approved exemption.) (1) The department may exempt the licensee from meeting a specific requirement in this chapter if the department determines the exemption will not jeopardize the health or safety of residents.~~

(2) A licensee wishing to request an exemption shall submit a written request to the department, including:

(a) A description of the requested exemption;

(b) Reason for the exemption; and

(c) Impact of the exemption on resident health and safety.

(3) The licensee shall retain a copy of each approved exemption in the boarding home.

AMENDATORY SECTION (Amending Order 276, filed 6/2/92, effective 7/1/92)

**WAC 246-316-990 Fees.** ~~((Boarding homes licensed under chapter 18.20 RCW shall:~~

~~Submit an annual fee of thirty four dollars per bed of the licensed resident bed capacity of the boarding home.~~

~~The "licensed resident bed capacity" is the resident occupancy level determined by the boarding home and approved by the department, consistent with physical plant and movable equipment requirements for resident sleeping rooms.~~

~~The occupancy level shall be maintained at or below the licensed resident bed capacity of the boarding home.)) The licensee or applicant shall:~~

~~(1) Submit an annual fee of thirty-four dollars per bed of the licensed resident bed capacity;~~

~~(2) Submit an additional one hundred fifty dollars when billed by the department for:~~

~~(a) A third on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies; and~~

~~(b) A complete on-site survey resulting from a substantiated complaint; and~~

~~(3) Submit an additional late fee in the amount of ten dollars per day from the license renewal date until the date of mailing the fee, as evidenced by the postmark.~~

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-316-270 First aid services.

**WSR 94-13-181  
PERMANENT RULES  
DEPARTMENT OF HEALTH**

(Board of Massage)

[Filed June 21, 1994, 1:41 p.m.]

Date of Adoption: April 18, 1994.

Purpose: New rules on licensing without examination, continuing education, dismissal from exam, translation of foreign documents, board meeting dates, time limits on initial licensing; amendments of apprenticeship and trainer rules, repeal reciprocity section to be replaced with licensing without exam section.

Citation of Existing Rules Affected by this Order: New sections WAC 246-830-010, 246-830-035, 246-830-255, 246-830-280, 246-830-290, 246-830-460, 246-830-465, 246-830-470, 246-830-475 and 246-830-480; repealing WAC 246-830-030; and amending WAC 246-830-410 and 246-830-430.

Statutory Authority for Adoption: RCW 18.108.025(1).

Pursuant to notice filed as WSR 94-05-080 on February 15, 1994; and WSR 94-06-045 on March 1, 1994.

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

June 20, 1994

Bruce Miyahara  
Secretary

**NEW SECTION**

**WAC 246-830-010 Meetings of the board.** The board shall meet as needed throughout the year to accomplish the business of the board. The meeting dates are listed in the Washington State Register. Information regarding meetings of the board may be obtained by contacting: Department of

Health, Board of Massage, P.O. Box 47869, 1300 Quince St. SE, Olympia, WA 98504-7869.

**NEW SECTION**

**WAC 246-830-035 Licensing without examination.**

(1) A license to practice massage shall be issued without examination provided an individual holds a current license to practice massage in another jurisdiction that has examination and education requirements substantially equivalent to those in Washington.

(2) An individual applying for a license without examination shall submit to the department:

(a) A completed application on a form provided by the department;

(b) The required nonrefundable application fee;

(c) Documentation that the examination and education requirements of the other jurisdiction are substantially equivalent to those in Washington;

(d) Successful completion of an open book test provided by the department which demonstrates a working knowledge of Washington law as contained in chapters 18.108 and 18.130 RCW, and chapter 246-830 WAC;

(e) Proof of compliance with WAC 246-830-050 AIDS, prevention and information education requirements.

(f) Written certification from all jurisdictions in which the applicant has practiced massage verifying that the applicant has a record of good standing and has not been the subject of any disciplinary action.

(3) Restrictions:

(a) All applicants shall be subject to the grounds for denial or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160;

(b) An individual who has failed the Washington state licensing examination shall not be eligible for licensing without examination.

(4) If application for licensing without examination is denied, the applicant may apply for licensing as set forth in RCW 18.108.070.

(5) A license issued without examination is subject to an original license fee and all other renewal requirements set forth in this chapter.

**NEW SECTION**

**WAC 246-830-255 Time limitation on initial application for licensure.**

If an applicant does not apply for a license within three years of the successful completion of the license examination, reexamination shall be required. An individual who has been notified of his/her passing scores has three years from the date of notification to obtain a license. If a license is not obtained, the passing scores shall be declared null and void and the applicant shall reapply and pay the fee for full examination, meeting all current requirements and submitting original documents as needed.

**NEW SECTION**

**WAC 246-830-280 Dismissal from examination.** Any applicant whose conduct interferes with the testing process may be dismissed from the examination and that applicant's examination will be rejected. Disciplinary action may be

PERMANENT

taken by the secretary in response to a report of an applicant's dismissal from the examination. Such conduct will include but not be limited to the following:

- (1) Giving or receiving examination data, either directly or indirectly, during the examination process;
- (2) Failure to follow written or oral instructions relative to conducting the examination, including termination times and procedures;
- (3) Endangering the life or health of a model, other applicants or examination staff;
- (4) The introduction of unauthorized materials during any portion of the examination;
- (5) Any attempt to remove examination materials or notations from the testing site.

**NEW SECTION**

**WAC 246-830-290 Documents in a foreign language.**

All application documents submitted in a foreign language shall be accompanied by an accurate translation of those documents into English. Translated documents shall bear a notarized affidavit certifying that the translator is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Costs of translation of all documents shall be at the expense of the applicant.

**AMENDATORY SECTION** (Amending Order 291B, filed 7/22/92, effective 8/22/92)

**WAC 246-830-410 Definitions.** For the purpose of administering chapter 18.108 RCW, the following terms shall be considered in the following manner:

- (1) A massage school is an institution which has the sole purpose of offering training in massage therapy.
- (2) A massage program is training in massage therapy offered by an academic institution which also offers training in other areas of study. A program is an established area of study offered on a continuing basis.

(3) ~~(An apprentice is defined, for purposes of this chapter, as one who has successfully completed:~~

~~(a) One hundred thirty hours of instruction in anatomy, physiology, and kinesiology including palpation, range of motion and physics of joint function. There must be a minimum of forty hours of kinesiology.~~

~~(b) Fifty hours of instruction in pathology, including indications and contraindications to massage therapy and palpations.~~

~~(c) Certification in American Red Cross first aid and American Heart Association CPR or the equivalent.~~

~~The above courses must be successfully completed within five years immediately preceding entry into an apprenticeship agreement. The apprentice then shall receive complete training in:~~

- ~~(i) Hydrotherapy (fifteen hours);~~
- ~~(ii) Theory and practice of massage therapy (two hundred fifty hours) at a minimum to include Swedish and deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatments. A maximum of fifty of these hours may include time spent in a student clinic; and~~

~~(iii) Clinical practices (fifty five hours), at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws. Training in hydrotherapy, theory and practice of massage therapy, and clinical practices shall be completed in no less than six months or longer than two years from the date of entry into an apprenticeship program.~~

~~(4) A massage apprenticeship is training in massage therapy which is offered by a qualified massage practitioner to an apprentice on the basis of an apprenticeship agreement between the massage practitioner and the apprentice. Such agreement shall comply with the educational standards as set forth in this chapter. A qualified massage practitioner is defined as a person that shall have not less than three years full-time experience in the practice of massage immediately preceding the function as an apprenticeship trainer of massage therapy in an apprenticeship agreement and shall be licensed under this chapter and currently engaged in the practice of massage.~~

~~Hereinafter, qualified massage practitioner is referred to as apprenticeship trainer.~~

~~(5)) An apprenticeship program is defined for the purposes of this chapter as training in massage administered by an apprenticeship trainer that satisfies the educational requirements for massage set forth in WAC 246-830-430, 246-830-440 and 246-830-450. This training shall be offered by an apprenticeship trainer to no more than three apprentices at one time and shall be completed within two years.~~

~~(4) An apprenticeship trainer is defined as a massage practitioner licensed in the state of Washington with not less than five current years of experience in full-time practice.~~

~~(5) An apprentice is defined as an individual enrolled in an apprenticeship program.~~

~~(6) A national educational institution is an institution which has the purpose of directly supervising training programs in bodywork/somatic education. A national educational institution may also be a program which is established for the purpose of offering training in bodywork/somatic education offered in an academic institution which also offers training in other areas of study.~~

~~((6)) (7) A program is an established area of study offered on a continuous or periodic basis. The national educational institution's certification program must have a permanent administrative location and must have training location requirements. The institution's certification program may have its own registered trademark <sup>TM</sup>/servicemark <sup>SM</sup>. The certification program must have a code of ethics.~~

~~((7)) (8) Bodywork/somatic education shall be defined as any established method other than swedish massage in which the practitioner uses touch to improve the function, organization, structure, and well-being of a person.~~

**AMENDATORY SECTION** (Amending Order 291B, filed 7/22/92, effective 8/22/92)

**WAC 246-830-430 Training.** (1) The training in massage therapy shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition

to the five hundred hours of training in massage therapy. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of pathology including indications and contraindications to massage therapy and palpations.

(c) Two hundred fifty hours of theory and practice of massage therapy, at a minimum to include Swedish and deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatments. A maximum of fifty of these hours may include time spent in a student clinic.

(d) Fifteen hours of hydrotherapy.

(e) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

(2) To receive credit in an apprenticeship program for previous education, this education must have been completed within the five-year period prior to enrollment in the apprenticeship program.

(3) The training in a national educational institution program shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training required of the national educational institution. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of pathology including indications and contraindications.

(c) Two hundred sixty-five hours of theory and practice of bodywork/somatic education, a minimum to include analysis and evaluation of the physical and/or energetic structure, tissue handling techniques, body mechanics of the practitioner, and medical implications. A maximum of fifty of these hours may include time spent in a student clinic.

(d) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

(e) A bodywork/somatic education program shall have a curriculum and system of training consistent with its particular area of practice.

#### NEW SECTION

**WAC 246-830-460 Continuing education requirement—Amount.** The licensee shall demonstrate continued professional competency by completing sixteen hours of acceptable continuing education every two years.

(1) Hours for continuing education shall be measured in full academic hours (a fifty-minute period equals one hour).

(2) Continuing education credit shall be granted for class hours only and not preparation time.

#### NEW SECTION

**WAC 246-830-465 Effective date of requirement.** The effective date of the continuing education requirement shall be July 1, 1994. Acceptable courses taken after that date may be included in the first computation of continuing education hours necessary for renewal which is reportable on or after July 1, 1996. The first reporting date for newly licensed practitioners shall be two years from their initial licensing date.

#### NEW SECTION

**WAC 246-830-470 Exemptions.** Upon a showing of good cause by a licensee, the secretary with advice from the board, may exempt such licensee from any, all, or part of the continuing education requirement. Exemptions are effective for one year.

#### NEW SECTION

**WAC 246-830-475 Qualification of program for continuing education credit.** Completion of a formal program of learning which serves to enhance the professional knowledge and development of the licensee shall qualify as continuing education credit. For the purposes of this chapter, a formal program of learning shall be defined as any of the following:

(1) Attendance at a local, state, national or international continuing education program having a featured speaker;

(2) First aid, CPR or emergency related classes;

(3) Viewing of educational video tapes not to exceed four credits;

(4) Teaching a seminar for the first time, not to exceed eight hours;

(5) Business and management courses not to exceed six hours;

(6) Specialized training in an aspect of massage therapy provided by an individual who has expertise in that area, has been licensed in this state for no less than three years, and who charges a fee;

(7) Courses from a state, county, or city school or program or approved massage school, program, national education institution, or apprenticeship trainer in massage therapy or related topics; or

(8) Training provided by a health care professional certified or licensed in their area of expertise.

#### NEW SECTION

**WAC 246-830-480 Certification of compliance.** (1) Each licensee shall submit an affidavit of compliance every two years on a form provided by the secretary indicating the sixteen hours of continuing education has been completed. The secretary, with recommendations from the board, reserves the right to require any licensee to submit evidence of training in order to demonstrate compliance with the continuing education requirement. It is therefore the responsibility of each licensee to maintain records, or certificates or other evidence of compliance with the continuing education requirements for up to three years.

(2) Failure on the part of a licensee to demonstrate that the continuing education requirement has been met shall be grounds for disciplinary action.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-830-030 Reciprocity.

**WSR 94-13-195  
PERMANENT RULES  
DEPARTMENT OF AGRICULTURE**

[Filed June 21, 1994, 3:47 p.m.]

Date of Adoption: May 31, 1994.

Purpose: Repeal rules regarding the product Endrin. Endrin no longer has a federal registration for use in orchards.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-228-235, 16-228-245, 16-228-250, 16-228-255, 16-228-260, 16-228-265, and 16-228-275.

Statutory Authority for Adoption: Chapter 17.21 RCW.

Pursuant to notice filed as WSR 94-09-017 on April 13, 1994.

Effective Date of Rule: Thirty-one days after filing.  
June 17, 1994

Jim Jesernig  
Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 16-228-235 Purpose of rules—Endrin use.
- WAC 16-228-245 Endrin application—Criteria for determining crisis use on orchards.
- WAC 16-228-250 Endrin—Written recommendation—Licensed consultant—Game representative.
- WAC 16-228-255 Endrin—Distribution—Dealer records.
- WAC 16-228-260 Endrin—Application restrictions.
- WAC 16-228-265 Endrin—Posting requirements.
- WAC 16-228-275 Endrin—Applicator records.

**WSR 94-13-201  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Order 3745—Filed June 22, 1994, 9:46 a.m.]

Date of Adoption: June 22, 1994.

Purpose: Amending these licensing standards will eliminate the necessity for the Department of Social and Health Services to have contracts with over 800 licensed child day care centers.

Citation of Existing Rules Affected by this Order: Amending WAC 388-150-005 Authority, 388-150-020 Scope of licensing, 388-150-090 License denial, suspension, or revocation, 388-150-460 Program records, 388-155-005 Authority, 388-155-020 Scope of licensing, 388-155-090 Licensing denial, suspension, or revocation, and 388-155-460 Home records.

Statutory Authority for Adoption: RCW 74.12.340.

Pursuant to notice filed as WSR 94-11-111 on May 18, 1994.

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

June 22, 1994

Dewey Brock, Chief  
Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 3151, filed 3/12/91, effective 4/12/91)

**WAC 388-150-005 Authority.** The following rules are adopted under chapters 74.12 and 74.15 Revised Code of Washington (RCW).

**AMENDATORY SECTION** (Amending Order 3623, filed 8/18/93, effective 9/18/93)

**WAC 388-150-020 Scope of licensing.** (1) The person or organization operating a child day care center shall be subject to licensing by authority under chapter 74.15 RCW, unless specifically exempted by RCW 74.15.020(4).

(2) The person or organization operating a child day care center and qualifying for exemption from requirements of this chapter under RCW 74.15.020(4) shall not be subject to licensure. The person or organization claiming an exemption shall provide the department proof of entitlement to the exemption on the department's request.

(3) RCW 74.15.020 (4)(c) exempts from licensing facilities where parents on a mutually cooperative basis exchange care of one another's children. To qualify for this cooperative exemption:

(a) At least one parent or guardian of each child attending the facility regularly shall be involved in the direct care of children at the facility((-));

(b) Parents or guardians shall be involved in the direct care of children on a relatively equal basis((-); and

(c) ((No)) A person other than a parent or guardian of a child at the facility ((may)) shall not be involved in the care of children or in the operation of the facility.

(4) The department shall not license the center legally exempt from licensing. However, at the applicant's request, the department shall investigate and may certify the center as meeting licensing and other pertinent requirements. In such cases, the department's requirements and procedures for licensure shall apply equally to certification.

(5) The department may certify a day care center for payment without further investigation if the center is:

(a) Licensed by an Indian tribe;

(b) Certified by the Federal Department of Defense; or

(c) Approved by the superintendent of public instruction's office. The center must be licensed, certified, or approved in accordance with national or state standards or standards approved by the department and be operated on the

PERMANENT

premises over which the entity operating the center has jurisdiction.

(6) The department shall not license the department employee or the member of the department employee's household when such person is involved directly, or in an administrative or supervisory capacity, in the:

- (a) Licensing or certification process;
- (b) Placement of a child in a licensed or certified center;

or

- (c) Authorization of payment for the child in care.

(7)(a) The department may license the center located in a private family residence when the portion of the residence accessible to the child is:

- (i) Used exclusively for the child during the center's operating hours or while the child is in care; or
- (ii) Separate from the family living quarters.

(b) A child care facility in a separate building on the same premises as a private family residence is a child day care center.

(8) The person or organization desiring to serve state-paid children shall:

- (a) Be licensed or certified;

(b) Follow billing policies and procedures in Child Day Care Subsidies, A Booklet for Providers, DSHS 22-877(X); and

(c) Bill the department at the person's or organization's customary rate or the DSHS rate, whichever is less.

AMENDATORY SECTION (Amending Order 3103, filed 11/20/90, effective 12/21/90)

**WAC 388-150-090 License denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider ~~((their))~~ the persons' qualifications separately and jointly~~((s))~~; and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, state auditor's office, or department of health to inspect the premises; or

(g) Refuses to permit an authorized representative of the department ~~((or))~~, the department of health, or state auditor's

office access to records related to operation of the center or to interview staff or a child in care~~((s))~~;

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to~~((s))~~;

(i) Permitting more children on the premises than the number for which the center is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the center is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the center;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the center in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing~~((s))~~ is governed under RCW 43.20A.205.

AMENDATORY SECTION (Amending Order 3623, filed 8/18/93, effective 9/18/93)

**WAC 388-150-460 Program records.** The licensee shall maintain the following documentation on the premises:

(1) The daily attendance record:

(a) The parent, or other person authorized by the parent to take the child to or from the center, shall sign in the child on arrival and shall sign out the child at departure, using a full, legal signature; and

(b) When the child leaves the center to attend school or participate in off-site activities as authorized by the parent, the staff person shall sign out the child, and sign in the child on return to the center.

(2) A copy of the report sent to the licensor about the illness or injury to the child in care requiring medical treatment or hospitalization;

(3) Copies of meal and snack menus for a minimum of six months;

(4) The twelve-month record indicating the date and time the licensee conducted the required monthly fire evacuation drills;

(5) A written plan for staff development((;)) specifying the content, frequency, and manner of planned training;

(6) Activity program plan records;

(7) Nursing consultation records, if applicable, including:

(a) A copy of the written agreement with the nurse; and

(b) A summary of the nurse's on-site consultation activities.

(8) A record of:

(a) Accidents;

(b) Injuries; and

(c) Incidents requiring restraint.

(9) Attendance records and invoices for state-paid children for at least five years.

AMENDATORY SECTION (Amending Order 3136, filed 2/1/91, effective 3/4/91)

**WAC 388-155-005 Authority.** The following rules are adopted under chapters 74.12 and 74.15 Revised Code of Washington (RCW).

AMENDATORY SECTION (Amending Order 3205, filed 7/23/91, effective 8/23/91)

**WAC 388-155-020 Scope of licensing.** (1) The person operating a family child care home shall be subject to licensing by authority under chapter 74.15 RCW, unless exempted by RCW 74.15.020(4).

(2) The person operating a family child care home and qualifying for exemption from requirements of this chapter under RCW 74.15.020(4) shall not be subject to licensure. The person claiming an exemption shall provide the department proof of entitlement to the exemption on the department's request.

(3) The department shall not license the home legally exempt from licensing. However, at the applicant's request, the department shall investigate and may certify the home as meeting licensing and other pertinent requirements. In such cases, the department's requirements and procedures for licensure shall apply equally to certification.

(4) The department may certify a family day care home for payment without further investigation if the home is:

(a) Licensed by an Indian tribe; or

(b) Certified by the Federal Department of Defense. The home must be licensed or certified in accordance with national or state standards or standards approved by the department and be operated on the premises over which the entity licensing or certifying the home has jurisdiction.

(5) The person or organization desiring to serve state-paid children shall:

(a) Be licensed or certified;

(b) Follow billing policies and procedures in Child Day Care Subsidies, A Booklet for Providers, DSHS 22-877(X); and

(c) Bill the department at the person's or organization's customary rate or the DSHS rate, whichever is less.

AMENDATORY SECTION (Amending Order 3136, filed 2/1/91, effective 3/4/91)

**WAC 388-155-090 License denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider the persons' qualifications separately and jointly((;)); and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, ((;)) department of health, or state auditor's office to inspect the premises; or

(g) Refuses to permit an authorized representative of the department ((;)), the department of health, or the state auditor's office access to records related to operation of the home or to interview an assistant or a child in care((;)).

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the home is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the home is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the home;

- (g) Misappropriates property of a child in care;
- (h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;
- (i) Refuses or fails to supply necessary, additional department-requested information; or
- (j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the home in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing(7) shall be governed under RCW 43.20A.205.

**AMENDATORY SECTION** (Amending Order 3136, filed 2/1/91, effective 3/4/91)

**WAC 388-155-460 Home records.** The licensee shall maintain the following documentation on the premises:

- (1) The attendance records, completed daily, including arrival and departure times;
- (2) A copy of the report sent to the licensor about the illness or injury to the child in care requiring medical treatment or hospitalization;
- (3) The twelve-month record indicating the date and time the licensee conducted the required monthly fire evacuation drills; ~~(and)~~
- (4) The twelve-month record indicating the date the licensee tested the battery-powered smoke detector monthly; and
- (5) Attendance records and invoices for state-paid children for at least five years.

**WSR 94-13-202**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3743—Filed June 22, 1994, 9:48 a.m.]

Date of Adoption: June 22, 1994.

Purpose: New section WAC 388-235-7400 Protective payments, defines when protective payments are required, allows waiver of the protective payment requirement for clients the department determines can manage their own assistance funds despite active alcohol/drug addiction, and identifies vendor payments as an alternative to protective payments when a suitable protective payee cannot be found.

Citation of Existing Rules Affected by this Order: Amending WAC 388-235-7300 ADATSA referral requirements.

Statutory Authority for Adoption: RCW 74.04.057.

Pursuant to notice filed as WSR 94-11-024 on May 6, 1994.

Effective Date of Rule: Thirty-one days after filing.  
 June 22, 1994  
 Dewey Brock, Chief  
 Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 3559, filed 7/29/93, effective 8/29/93)

**WAC 388-235-7300 ADATSA referral requirements.**

(1) The department shall refer a person claiming incapacity based primarily on alcoholism or drug dependency for evaluation under the alcoholism and drug addiction treatment and support act (ADATSA).

(2) The department shall evaluate a person for general assistance who appears to have significant mental or physical impairments resulting from, or in addition to, alcoholism or drug addiction when the person:

(a) Indicates upon application that other physical or mental impairments may be incapacitating in themselves; or

(b) The person is rejected for the alcoholism and drug addiction treatment and support program, and/or medical evidence obtained by assessment for that program indicates other significant medical impairments may exist.

(3) Any general assistance applicant or recipient shall be required to undergo an alcohol/drug assessment when the:

(a) Person claims an alcohol or drug problem; or

(b) Department obtains medical or clinical evidence indicating that within the last eighteen months, such a problem appears to exist; or

(c) Department receives information that the person has been arrested for an ~~(alcohol or)~~ alcohol- or drug-related offense within the last ninety days; or

(d) Person meets one or more of the criteria in subsections (3)(a) through (c) of this section and the need for a protective payee must be established.

(4) Applicants whose mental, emotional, and/or physical condition is caused or exacerbated by alcoholism or drug addiction must have eligibility for general assistance based solely on the mental, emotional, and/or physical condition.

(a) The effects of the alcoholism or drug addiction must be differentiated from the other condition in order to determine incapacity.

(b) Unless it can be reasonably established that the other condition would remain incapacitating for at least sixty days of abstinence from alcohol or drugs, the person is not eligible for general assistance.

(5) When the effects of alcoholism or drug addiction in the applicant's mental, emotional, and/or physical condition cannot be clearly differentiated, the department shall refer the person to ADATSA for evaluation and/or treatment.

(6) The provisions under subsections (4) and (5) of this section apply to recipients as well, except that a person whose alcohol/drug addiction cannot be clearly differentiated from any physical/mental impairments and eligibility established under the ADATSA or GAU program will remain on GAU subject to WAC 388-235-8130 provisions.

(7) The department may require a person to undergo a period of alcohol or drug treatment before re-evaluating the person's eligibility for general assistance.

(8) The department shall determine program eligibility for a person impaired by chemical dependency, who also has mental or physical impairments, as follows:

(a) A person qualifying for both general assistance and ADATSA shelter program may choose either program;

(b) A ~~((persons))~~ person qualifying for both general assistance and ADATSA treatment shall participate in ADATSA treatment when it can reasonably be expected to enable the person to work or reduce the need for assistance, unless the person has good cause to refuse; or

(c) ~~((An alcohol and drug addict))~~ A person qualifying for general assistance who has good cause to refuse or who does not qualify for ADATSA treatment, shall be required to cooperate with an alternative alcohol or drug treatment plan which can reasonably be expected to enable the person to work or to reduce the need for assistance, unless there is good cause to refuse.

~~((9) A person qualifying for general assistance and also determined by the assessment center to be actively addicted shall have a general assistance grant issued by protective payment.))~~

**NEW SECTION**

**WAC 388-235-7400 Protective payments.** (1) The department shall issue a general assistance grant to a client in the form of protective payment when:

(a) The department determines the client is unable to manage the client's funds; or

(b) A department-designated chemical dependency assessment center diagnoses the client as chemically dependent and determines the client used drugs or alcohol within the ninety-day period immediately preceding assessment.

(2) The department shall have the discretion to waive the protective payment requirement for an actively addicted client when the department determines that the client has the ongoing ability to manage the client's funds.

(3) The department may issue a general assistance grant to the client in the form of vendor payment when no suitable protective payee is available.

**WSR 94-13-203  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Order 3744—Filed June 22, 1994, 9:50 a.m.]

Date of Adoption: June 22, 1994.

Purpose: Clarifies the department can release information to child support programs under Title IV-D of the Social Security Act for administration purposes. Removes references to the systematic alien verification for entitlements (SAVE). The department is no longer required to validate alien documents effective January 1, 1994.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-015 General provisions.

Statutory Authority for Adoption: RCW 74.04.510.

Pursuant to notice filed as WSR 94-11-064 on May 12, 1994.

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

June 22, 1994

Dewey Brock, Chief  
Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 3574, filed 6/23/93, effective 7/24/93.)

**WAC 388-49-015 General provisions.** (1) The rules in this chapter are for the purpose of administrating the food stamp program. Rules and definitions in other chapters of Title 388 of the Washington Administrative Code do not apply to provisions of this chapter unless specifically identified.

(2) The department of social and health services shall administer the food stamp program in accordance with an approved plan with the food and nutrition service (FNS) of the United States Department of Agriculture.

(3) The department shall comply with all FNS directives to reduce, suspend, or terminate all or any portion of the food stamp program.

(4) During a presidential or FNS-declared disaster, the department shall certify affected households in accordance with FNS instructions.

(5) The department shall retain:

(a) Food stamp case records for three years from the month of closure of each record; and

(b) Fiscal and accountable documents for three years from the date of fiscal or administrative closure.

(6) The department shall not discriminate against any applicant or participant in any aspect of program administration for reason of:

- (a) Age;
- (b) Race;
- (c) Color;
- (d) Sex;
- (e) Handicap;
- (f) Religious creed;
- (g) Political beliefs; or
- (h) National origin.

(7) The department shall display nondiscrimination posters provided by FNS in all offices administrating the food stamp program.

(8) The department shall fully translate into the primary language of the limited English proficient applicants and recipients:

(a) Written notices of denial, termination, or reduction of benefits; and

(b) Written requests for additional information.

(9) A person believing the person has been subject to discrimination may file a written complaint with the:

- (a) Food and nutrition service; or
- (b) State office for equal opportunity.

(10) The department shall restrict use or disclosure of information obtained from applying or participating households to:

(a) A person directly connected with the administration or enforcement of the provisions of:

- (i) The Food Stamp Act or regulations;
- (ii) Other federal assistance programs; or
- (iii) Federally assisted state programs providing assistance on a means-tested basis to a low-income person((-

~~(b) A person directly connected with the verification of immigration status of aliens applying for food stamp benefits, through the systematic alien verification for entitlements (SAVE) program, to the extent the information is necessary to identify the person for verification purposes;)); and~~

PERMANENT

(iv) Child Support Program under Title IV-D of the Social Security Act.

~~((e))~~ (b) An employee of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

~~((d))~~ (c) A local, state, or federal law enforcement official, upon written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the:

- (i) Identity of the person requesting the information;
- (ii) Authority of the person to make the request;
- (iii) Violation being investigated; and

(iv) Identity of the person about whom the information is requested.

~~(11) ((The department shall use information obtained through the systematic alien verification for entitlements (SAVE) program only for the purposes of:~~

~~(a) Verifying the validity of documentation of alien status presented by an applicant;~~

~~(b) Verifying a person's eligibility for benefits;~~

~~(c) Investigating whether a participating household received benefits to which the household was not entitled, if a person was previously certified to receive benefits on the basis of eligible alien status; and~~

~~(d) Assisting in or conducting administrative disqualification hearings, or criminal or civil prosecutions based on receipt of food stamp benefits to which a participating household was not entitled.~~

~~(12))~~ The department shall make the household's case file available to the household or household's representative for inspection during regular office hours as provided in chapter 388-320 WAC.

~~((13))~~ (12) The department shall make the following program information available to the public upon request during regular office hours:

(a) Federal regulations, federal procedures in FNS notices and policy memos, and the state plan of operation at the state office; and

(b) Washington Administrative Code and the *Food Stamp Procedures Manual* at the local office.

~~((14))~~ (13) The coupon allotment provided any eligible household shall not be considered income or resources for any purpose under any federal, state, or local laws.

~~((15))~~ (14) The department shall not permit a volunteer or other person not an employee of the department to conduct a certification interview or certify a food stamp applicant except:

(a) During a presidential or FNS-declared disaster; or

(b) A Social Security Administration (SSA) employee for a Supplemental Security Income (SSI) household as provided in WAC 388-49-040.

~~((16))~~ (15) The office of special investigation of the department, designated as the state law enforcement bureau, shall enter into an agreement with FNS to issue food stamps to state and local law enforcement agencies for the purpose of law enforcement and investigative activities.

~~((17))~~ (16) Redemption of food stamps shall be in accordance with 7 United States Code (USC) 2024 and 7 Code of Federal Regulations (CFR) 278.

~~((18))~~ (17) Misuse of food stamps issued under WAC 388-49-015(16) shall be a violation of RCW 9.91.140.

~~((19))~~ (18) The provisions of Title 18 of the United States Code, "Crimes and Criminal Procedures," relative to counterfeiting, misuse, and alteration of obligations of the United States are applicable to food coupons.

#### WSR 94-13-216

#### PERMANENT RULES

#### INSURANCE COMMISSIONER'S OFFICE

[Order R 94-13—Filed June 22, 1994, 11:49 a.m.]

Date of Adoption: June 22, 1994.

Purpose: To regulate preexisting conditions provisions concerning denial, exclusion or limitations on benefits in health benefits policies and contracts.

Citation of Existing Rules Affected by this Order: Amending WAC 284-10-050.

Statutory Authority for Adoption: RCW 48.01.200, 48.02.060, 48.20.540, 48.21.340, 48.46.550.

Pursuant to notice filed as WSR 94-11-082 on May 16, 1994.

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

June 22, 1994

Bethany Weidner

Deputy Insurance Commissioner

for Deborah Senn

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 94-6, filed 4/5/94, effective 5/6/94)

**WAC 284-10-050 Restrictions on the denial, exclusion, or limitation of health benefits for preexisting conditions.** (1) Whenever there is a conflict between this section and other sections of this chapter, the provisions of this section governing the denial, exclusion, and limitation of coverage for preexisting conditions supersede other provisions of this chapter governing the same or similar subject matter. For purposes of this section "preexisting condition" means any health condition, illness, or injury which existed at any time prior to the effective date of health plan coverage.

(2) Notwithstanding other provisions of this chapter or Title 284 of the Washington Administrative Code, for the period beginning July 1, 1994 and continuing until October 1, 1994, no carrier offering health plans may reject any individual based on the person's preexisting condition or exclude or otherwise limit coverage for a covered person's preexisting conditions as defined in this section.

For example, if the covered person needs a heart transplant and the plan provides coverage for heart transplants, the carrier may not do any of the following: Deny or exclude coverage for heart transplants as to this particular covered person because the covered person has a preexisting condition; impose any preexisting condition waiting period before providing coverage for the heart condition; or deny coverage altogether for that individual. In addition, a carrier may not condition issuance of a group plan upon the exclusion of an individual within the group nor may a carrier issue a separate plan to an individual within the group to avoid inclusion of the individual under the group plan. However, nothing contained in this section shall be deemed

to require a carrier to provide benefits not ordinarily available under the plan. For example, if the covered person needs a heart transplant and the plan does not cover heart transplants, the carrier has not improperly denied coverage for a preexisting condition. This rule does not prohibit a carrier from imposing waiting periods or other limitations with respect to particular medical procedures or treatments for all persons covered by the plan; rather, the rule prohibits an insurer from imposing waiting periods, riders, or other restrictions on the basis of the health status of a specific individual.

(3) After October 1, 1994, no carrier may reject an individual for health plan coverage based upon preexisting conditions of the individual and no carrier may deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that a carrier may impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment within three months before the effective date of coverage or for which a prudent person would have sought advice from a health care provider. For example, if an individual were treated for a heart condition in the three-month period before the effective date of coverage under a policy, the carrier could impose a three-month waiting period before providing any type of coverage for the heart condition. To the extent that preexisting condition waiting periods continue after October 1, 1994, carriers must comply with provisions of WAC 284-10-030(1) that require a carrier to credit preexisting condition waiting periods for persons who had similar coverage under a different plan.

On and after July 1, 1994, no carrier may enforce a plan provision that conflicts with the provisions of this section. For example, if a covered person purchased coverage on ~~((April had similar coverage under a different plan.~~

~~On and after July 1, 1994, no carrier may enforce a plan provision that conflicts with the provisions of this section. For example, if a covered person purchased coverage on))~~  
 April 1, 1994 and the plan contained a twelve month waiting period, that waiting period could not be enforced after July 1, 1994 because enforcement of the waiting period would conflict with the provisions of this section. By way of additional example, if a covered person purchased coverage on March 1, 1994 and the plan contained an exclusion for that individual for problems related to asthma, the exclusion could not be enforced by the carrier after July 1, 1994 and coverage would have to be extended for asthma.

(4) No carrier may avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. A new or changed rate classification will be deemed an attempt to avoid the provisions of this section if the new or changed classification would substantially discourage applications for coverage from individuals or groups who are higher than average health risks. For example, a carrier could not create a new rate classification for "uninsurable risks."



**WSR 94-13-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-45—Filed June 2, 1994, 8:26 a.m.]

Date of Adoption: June 1, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-57-220 and 220-57-260.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules conform to the 1994 sport pamphlet and reduce angler confusion with no significant impact on the resource.

Effective Date of Rule: Immediately.

June 1, 1994  
 Judith Freeman  
 Deputy  
 for Robert Turner  
 Director

**NEW SECTION**

**WAC 220-57-22000C Duwamish River.** Notwithstanding the provisions of WAC 220-57-220, effective June 1, 1994, until further notice, Bag Limit A in those waters downstream from the Highway 405 Bridge.

**NEW SECTION**

**WAC 220-57-26000A Green River.** Notwithstanding the provisions of WAC 220-57-260, effective June 1, 1994, until further notice, Bag Limit A in those waters downstream from the Auburn Eighth Street N.E. Bridge to the Highway 405 Bridge.

**WSR 94-13-009**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3740—Filed June 2, 1994, 11:04 a.m., effective June 3, 1994, 12:01 a.m.]

Date of Adoption: June 2, 1994.

Purpose: The department recently rewrote most of the rules related to financial assistance. It was not our intent to make any substantive changes to the prior rules. It has been recently noted that some of these rewritten rules could be interpreted to affect a change from the prior rule. This issuance assures the rewritten rules reflect the intent of prior rules only.

Citation of Existing Rules Affected by this Order: New sections WAC 388-24-2070 Aid to families with dependent children-foster care—Summary of eligibility conditions, 388-

24-2100 Aid to families with dependent children-foster care—Assistance unit, 388-24-2150 Aid to families with dependent children-foster care—Requirements, 388-24-2200 Aid to families with dependent children-foster care—Standards and requirements, 388-24-2250 Aid to families with dependent children-foster care—Income and nonexempt resources, 388-24-2350 Aid to families with dependent children-foster care—Medical care, and 388-24-2430 Aid to families with dependent children-foster care—Nonprofit agency placement; and amending WAC 388-218-1010 Financial need—Rules and procedures, 388-218-1050 Definitions, 388-218-1130 Community income, 388-218-1200 Exempt income types, 388-218-1210 Exempt and disregarded income—Educational assistance, 388-218-1220 Disregarded income—Native american benefits, 388-218-1230 Disregarded income types, 388-230-0090 Eligibility conditions—Financial criteria, 388-233-0060 Eligibility conditions—Support enforcement cooperation, 388-233-0070 Eligibility conditions—Financial criteria, 388-235-0070 Residence—Temporary absences, 388-235-2000 Resources, 388-235-3000 Income, and 388-275-0060 Payments.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: It was our intent to not make substantive changes to these rules, only to reorganize and clarify existing policies. It was recently noted that some rules could be subject to interpretations which would alter the prior rule. This issuance modifies the language to assure that interpretations do not reflect a change in policy.

Effective Date of Rule: June 3, 1994, 12:01 a.m.

June 2, 1994  
 Dewey Brock, Chief  
 Office of Vendor Services

**Chapter 388-24 WAC**  
**AID TO FAMILIES WITH DEPENDENT**  
**CHILDREN—FOSTER CARE ELIGIBILITY**

**NEW SECTION**

**WAC 388-24-2070 Aid to families with dependent children-foster care—Summary of eligibility conditions.** To be eligible for aid to families with dependent children-foster care a child shall:

(1) Meet all the eligibility requirements in WAC 388-215-1000, except for his removal from his or a relative's home as specified in subsection (2); and

(2) Have been removed from a relative's home as a result of a judicial determination to the effect that remaining in the relative's home would be contrary to his welfare, for any reason, and who has been placed in foster care as a result of such determination; and

(3) Be under the direct care or supervision of the department in a licensed family foster home, nonprofit group home, or nonprofit child care institution; and

(4) Meet one of the following conditions:

- (a) Be receiving AFDC for the month in which court proceedings leading to such determination were initiated, or
- (b) Have been eligible to receive AFDC, had application been made, for the month in which court action for his removal was initiated, or
- (c) Lived with a specified relative within six months prior to the month in which court proceedings were initiated, and would have been eligible for AFDC in and for the month in which court proceedings were initiated if in that month he had been living with such relative and application for AFDC had been made.

NEW SECTION

**WAC 388-24-2100 Aid to families with dependent children-foster care—Assistance unit.** The AFDC foster care assistance unit shall consist of only the eligible child.

NEW SECTION

**WAC 388-24-2150 Aid to families with dependent children-foster care—Requirements.** (1) The basic requirements of the eligible child shall be foster family home care, clothing, and personal incidentals.

(2) Additional requirements for the eligible child shall be school supplies when not provided by the school, needed transportation costs, and psychological services.

NEW SECTION

**WAC 388-24-2200 Aid to families with dependent children-foster care—Standards and requirements.** The basic requirements of the eligible child shall be care according to:

- (1) The monthly cost standards for family foster home care in WAC 388-70-042, or
- (2) The monthly cost standard for foster care and related services paid by the department to licensed nonprofit child caring agencies and institutions.

NEW SECTION

**WAC 388-24-2250 Aid to families with dependent children-foster care—Income and nonexempt resources.** The income and resources of the child shall be taken into consideration in determining need according to the rules in chapters 388-216 and 388-218 WAC. Support from parents shall be determined and secured according to the rules in WAC 388-70-075. When the child's parents receive public assistance, the parents' nonexempt income and resources are used first to meet the parents' need including the need of the parents' other minor children.

NEW SECTION

**WAC 388-24-2350 Aid to families with dependent children-foster care—Medical care.** Medical care shall be provided children receiving AFDC-FC in accordance with the rules and procedures which govern the granting of medical care to other children receiving care from foster care funds.

NEW SECTION

**WAC 388-24-2430 Aid to families with dependent children-foster care—Nonprofit agency placement.** (1) When a child is eligible for AFDC-FC and placed with a licensed nonprofit child-caring agency, the custody, planning and casework service shall be developed and maintained by the nonprofit agency. Direct contact with the child and foster home, and casework service to the parents where appropriate, shall be maintained by the agency or institutional staff caring for the child. A quarterly progress report shall be made to the department authorizing payment for the child's care.

(2) The department has final responsibility for determining initial and ongoing eligibility for financial support and for approval of the placement and the plan for child care. No payment for care shall be made without the approval of such placement and plan by the department. This control shall be maintained through written agreements, documentary reports and supervisory conferences with the nonprofit agency.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1010 Financial need—Rules and procedures.** (1) To be eligible for public assistance a client must be in financial need.

(2) Financial need exists when:

(a) The client's payment level (~~as adjusted for the maximum grant limitations~~) plus authorized additional requirements exceeds the amount of the client's nonexempt recurrent and nonrecurrent income. The difference thus computed represents the extent of need which exists; and

(b) The client's total nonexempt resources are within applicable program ceiling values.

(3) The rules in chapter 388-218 WAC governing determination of an applicant's financial need for assistance also govern the determination of the continuing need of a recipient unless specifically stated otherwise.

(4) Need is subject to change whenever the client's financial circumstances change in such a way that the appropriate payment level or the client's income is increased or decreased in relation to the standards for assistance.

(5) The department shall take into account the net recurrent or nonrecurrent nonexempt income in cash or in-kind known at the time of application in computing eligibility for payment for an applicant and when determining the continuing grant amount of the recipient.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1050 Definitions.** (1) "Allocation" means the process of determining the amount of income possessed by someone outside the AFDC assistance unit considered available to meet the needs of legal dependents in the assistance unit, or the process of determining the amount of income possessed by the assistance unit considered available to meet the needs of legal dependents outside the assistance unit.

EMERGENCY

(2) "Available income" means any income which the client possesses and can currently use to supply all or part of his/her requirements.

(3) "Budget month" means the second calendar month preceding the payment month.

(4) "Deeming" means the process of determining the amount of an alien sponsor's income available to the alien.

(5) "Earned income" means income in cash or in-kind earned as wages, salary, commissions, or profit from activities in which the client is engaged as a self-employed person or as an employee. Earned income may be derived from self-employment (such as business enterprise or farming), or derived from wages or salary received as an employee. Earned income also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock, or poultry. Income from rentals is earned income, provided the client has managerial responsibility for the rental property.

(6) The definition of "earned income" includes:

((\*) (a) Earnings under Title I of the Elementary and Secondary Education Act;

((\*) (b) All earnings received under the Economic Opportunity Act;

((\*) (c) Wages from on-the-job training and work experience; and

((\*) (d) Wages paid under the Job Training Partnership Act (JTPA).

(7) The definition of "earned income" excludes:

((\*) (a) Returns from capital investment with respect to which the client is not actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income."

((\*) (b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, Social Security, etc.

((\*) (c) Income from incentive payments and training-related expenses derived from institutional or work experience training.

((\*) (d) Income received under the Job Training Partnership Act for training allowances, payments for support services, etc.

(8) "Earned income in-kind" means the in-kind item is earned by work performed for another person by the client such as earning rent from a landlord, etc.

(9) "Entitlement" means any claim or interest, payable in cash or in-kind, a client may have in the following:

((\*) (a) Benefit;

((\*) (b) Compensation;

((\*) (c) Insurance;

((\*) (d) Pension (retirement, military, etc.);

((\*) (e) Bonus;

((\*) (f) Allotment; and

((\*) (g) Allowance, etc.

(10) "Gross income" means all income not specifically exempted by rule or regulation before applicable program disregards are applied.

(11) "Income" shall include, but is not limited to, all types of:

((\*) (a) Income from the lease or rental of real or personal property;

((\*) (b) Support from parent, stepparent, or other nonrelated adult;

((\*) (c) Interest or dividends from stocks and bonds as specified in WAC 388-218-1920 (3)(a);

((\*) (d) Wages, including garnished wages;

((\*) ~~Interest in an estate;~~)

((\*) (e) Income from farming;

((\*) (f) Benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, and U.C.;

((\*) (g) Gifts and prizes in the form of cash or marketable securities; and

((\*) (h) Lump sum payments.

(12) "Initial investments" means real or personal property purchased directly with funds from an annuity fund or per capita payment up to the amount of the funds from the annuity fund or per capita payment.

(13) "Lump sum payment" means a nonrecurring unearned income. Lump sum payments may include, but are not limited to:

((\*) (a) Lottery, bingo, or gambling winnings;

((\*) (b) An inheritance;

((\*) (c) Personal injury award;

((\*) (d) Workers compensation awards; or

((\*) (e) Social Security back payments.

(14) "Minor parent" means a person who:

((\*) (a) Is seventeen years of age or younger; and

((\*) (b) Resides in the same household with an adult responsible for the minor parent's support.

(15) "Net income" means gross income less applicable disregards and deductions for which the client is eligible.

(16) "Newly acquired income" means any previously unreported or undiscovered income a client possesses or controls in whole or in part.

(17) "Payment month" means the calendar month for which payment is made.

(18) "Process month" means the calendar month between the budget month and the payment month.

(19) "Self-produced" means an item (~~made~~) produced by a client (~~for personal use~~), as opposed to an item purchased by a client, given to a client, or earned by a client in lieu of wages.

(20) "Student" means a client attending a school, college or university, or a course of vocational or technical training designed to fit the client for gainful employment. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student enrolled during the school term just completed and planning to return to school when school reopens shall retain status as a student during the summer vacation.

(21) "Supplied" means the in-kind item is furnished to the client without work or cost.

(22) "Unearned income" means income not directly resulting from a client's employment or self-employment.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1130 Community income.** (1) The department shall ~~((consider))~~ presume the following to be community income:

(a) All income held in the name of either the husband or wife or both;

(b) Any income received by either the husband or wife; or

(c) The earnings of the husband, or wife, or both, if not legally separated.

(2) The department shall ~~((consider))~~ presume income subject to the disposition of either the client or the client's spouse, to be community income for the purpose of determining eligibility. This ~~((consideration))~~ presumption stands until overcome by positive evidence to the contrary.

(3) Community income is considered to constitute a benefit available to the family unit and hence to both or either spouse.

(4) Each member of the marital community shall have eligibility determined on the basis of a family unit and on the basis of the total community income, regardless of whether one or both are clients.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1200 Exempt income types.** The department shall exempt the following from consideration as income when determining need:

(1) The income of a supplemental security income recipient. The department shall not count nonrecurring lump sum SSI retroactive payments made to an AFDC client as income in the month paid nor in the next following month;

(2) AFDC benefits resulting from a court order modifying a department policy;

(3) Title IV-E, state and/or local foster care maintenance payments;

(4) Adoption support payments if the adopted child is excluded from the assistance unit;

(5) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, section 218;

(6) The food coupon allotment under Food Stamp Act of 1977;

(7) Compensation to volunteers under the Domestic Volunteer Act of 1973, P.L. 93-113, Titles I, II, and III;

(8) Benefits under women, infants and children program (WIC);

(9) Food service program for children under the National School Lunch Act of 1966, P.L. 92-433 and 93-150;

(10) Energy assistance payments;

(11) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(12) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(13) A previous underpayment of assistance under WAC 388-33-195. The department shall not consider such

retroactive corrective AFDC payments as income in the month paid nor in the next following month;

(14) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims, P.L. 101-201. The effective date of the disregard is retroactive to January 1, 1989;

(15) Payments made under the Disaster Relief Act of 1974, P.L. 93-288, as amended by Disaster and Relief and Emergency Assistance Amendments of 1988, P.L. 100-707. This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(16) Payments from the Radiation Exposure Compensation Act, P.L. 101-426, made to an injured person, surviving spouse, children, grandchildren, or grandparents; ~~((and))~~

(17) Earned income tax credit; and

(18) Income specifically excluded by any other federal statute from consideration as income.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1210 Exempt and disregarded income—Educational assistance.** (1) The department shall exempt from consideration as income when determining need educational assistance, in the form of grants, loans, or work study, issued to a student from the following sources:

(a) Title IV of the Higher Education Amendments; or

(b) Bureau of Indian Affairs student assistance programs.

(2) The department shall ~~((take))~~ disregard the following ~~((into consideration as))~~ types of income ~~((and disregard as specified))~~ when determining need:

(a) Grants or loans made or insured under any programs administered by the department of education to an undergraduate student for educational purposes.

(b) Educational assistance in the form of grants, loans, or work study, issued under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-391, for attendance costs as identified by the institution. For a student attending school:

(i) At least half-time, attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses; or

(ii) Less than half-time, attendance costs include tuition, fees, and costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study.

(c) Educational assistance in the form of grants, work study, scholarships, or fellowships, from sources other than those identified in subsections (1), (2)(a) and (b) of this section for attendance costs as identified by the institution. Attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses.

(d) Any remaining educational assistance, in the form of grants, work study, scholarships, or fellowships, not disregarded in subsections (1), (2)(a), (b), and (c) of this section,

as allowed under WAC 388-218-1540 Assistance from other agencies and organizations.

(e) Apply any applicable earned income disregards to any work study earnings received and not disregarded in subsections (1), (2)(a), (b), (c), and (d) of this section.

(f) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance. Attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1220 Disregarded income—Native American benefits.** The department shall ~~((take))~~ disregard the following ~~((into consideration as))~~ types of income ~~((and disregard as specified))~~ when determining need:

(1) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act, P.L. 92-203 and 100-241;

(2) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian tribe or individual tribal member;

(3) Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134 as amended by P.L. 97-458 and 98-64. In addition:

(a) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income.

(b) When the initial investments are nonexempt resources see WAC 388-216-2000.

(c) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited.

(4) Income received by Native Americans which is derived from leases or other uses of individually owned trust or restricted lands up to two thousand dollars per person per year (P.L. 103-66).

(5) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age.

(a) The department shall treat the income derived either from the annuity fund payment or the initial investments as newly acquired income.

(b) When the initial investments are nonexempt resources see WAC 388-216-2000.

(6) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-218-1230 Disregarded income types.** The department shall ~~((take))~~ disregard the following ~~((into consideration as))~~ types of income ~~((and disregard as specified))~~ when determining need:

(1) Child's earned income. Earned income of a child when student eligibility conditions in WAC 388-218-1410 Earned income of a child, have been met.

~~((2))~~ ~~((Earned income tax credit (EITC)).~~

~~((3))~~ Foster care payments. Disregard as income a foster care payment made for the care of a child. See WAC 388-218-1400 Earned income types, for the treatment of foster care retainer fees.

~~((4))~~ (3) Gifts:

(a) Cash gifts. Nonrecurring cash gifts up to thirty cumulative dollars received by each member of the AFDC assistance unit per calendar quarter. The department, unless otherwise specified by the donor, shall determine an individual's share in a gift to more than one person by dividing the amount of the gift by the number of persons receiving the gift.

(b) Noncash gifts. Gifts other than cash as defined under chapter 388-22 WAC provided such gifts are within the allowable program resource limits.

~~((5))~~ (4) Household cost funds. Funds representing another person's or family's share of household costs.

~~((6))~~ (5) Loans.

(a) Bona fide loans. The department shall consider a loan bona fide when the loan is a debt the borrower has an obligation to repay.

(b) Loan repayments. The department shall not consider as income to a client money received from loan repayment; however, the department shall consider any interest paid in the loan as newly acquired income.

~~((7))~~ (6) Office of support enforcement pass-through payments. The monthly child support incentive payment from the office of support enforcement (OSE);

~~((8))~~ (7) Overpayments recovered by source agency. Any overpayment amount withheld from a client's benefit in order to recover an overpayment by the source agency.

~~((9))~~ (8) Per diem and transportation. Per diem and transportation funds paid to AFDC advisory committee members.

~~((10))~~ (9) Settlements. Settlements for destroyed, stolen exempt property, or back medical bills when conditions in, WAC 388-218-1530 Determining net income—Other income, have been met.

~~((11))~~ (10) Self-produced or supplied items. The value of self-produced or supplied items except as specified in, WAC 388-218-1340 Self-produced or supplied items, when:

(a) Self-produced items are sold for cash; or

(b) The household's requirement for shelter is supplied.

**AMENDATORY SECTION** (Amending Order 3556, filed 7/29/93, effective 8/29/93)

**WAC 388-230-0090 Eligibility conditions—Financial criteria.** In determining financial eligibility and grant amounts, the department shall follow aid to families with dependent children income, resource, transfer of property, and payment rules.

**AMENDATORY SECTION** (Amending Order 3610, filed 8/11/93, effective 9/11/93)

**WAC 388-233-0060 Eligibility conditions—Support enforcement cooperation.** (1) The department shall require the court-appointed legal guardian to cooperate with the

office of support enforcement in the collection of child support.

(2) The department shall waive the requirement for cooperation if the guardian claims and the department establishes good cause as specified under ~~((WAC 388-24-144))~~ chapter 388-215 WAC.

AMENDATORY SECTION (Amending Order 3610, filed 8/11/93, effective 9/11/93)

**WAC 388-233-0070 Eligibility conditions—Financial criteria.** In determining financial eligibility, the department shall follow aid to families with dependent children income ~~((and)),~~ resource, and transfer of property rules. The department shall consider only the income and resources of the eligible child.

AMENDATORY SECTION (Amending Order 3559, filed 7/29/93, effective 8/29/93)

**WAC 388-235-0070 Residence—Temporary absences.** (1) The department shall find that a recipient is maintaining residence in Washington state when the ~~((~~

~~+~~)) person's absences of more than one month were for:

(a) A visit as specified ~~((under chapter 388-26 WAC))~~ for the AFDC program; or

(b) Reasons other than a visit, and the person provides adequate information to establish a continuing residence in the state.

(2) The department shall determine the adequacy of the information on a person's absence of more than one month. In such cases, the department shall assume the person is no longer a resident unless the person provides evidence to the contrary.

AMENDATORY SECTION (Amending Order 3559, filed 7/29/93, effective 8/29/93)

**WAC 388-235-2000 Resources.** The department shall treat resources and transfer of property for GAU the same as for AFDC ~~((under chapter 388-28 WAC))~~ under chapters 388-216 and 388-217 WAC.

AMENDATORY SECTION (Amending Order 3559, filed 7/29/93, effective 8/29/93)

**WAC 388-235-3000 Income.** In determining a person's financial eligibility and assistance amount, the department shall:

(1) Follow income ~~((;))~~ rules in chapter 388-219 WAC; and resource, transfer of property, and payment rules applicable to GAU as required under chapters ~~((388-28 and 388-33 WAC))~~ 388-216, 388-217, and 388-265 WAC; and

(2) Exempt the first eighty-five dollars plus one-half the remainder of the applicant's/recipient's total gross monthly earned income.

AMENDATORY SECTION (Amending Order 3695, filed 1/26/94, effective 2/26/94)

**WAC 388-275-0060 Payments.** (1) The amounts of state supplementary payment standards are as specified under

~~((WAC 388-29-295))~~ chapter 388-250 WAC and the state supplementary agreement between the department and SSA.

(2) A state supplementary payment is made on a monthly basis and is included in the same check as a federal benefit is payable.

(3) The state supplementary payment is for the same month as the federal benefit.

**WSR 94-13-015  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-44—Filed June 3, 1994, 8:25 a.m.]

Date of Adoption: June 1, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-44-09000C; and amending WAC 220-44-090.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable quota of sablefish for nontrawl limited entry vessels will be taken by June 3rd. This rule is adopted at the recommendation of the Pacific Fisheries Management Council and is intended for the preservation of west coast bottomfish stocks.

Effective Date of Rule: Immediately.

June 1, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-44-09000D Coastal bottomfish—Limited entry fixed gear vessels—Hold inspections—Sablefish minimum size.** Notwithstanding the provisions of WAC 220-44-050 and 220-44-090:

(1) Effective immediately until 11:59 p.m., June 3, 1994, it is unlawful for vessels holding a groundfish limited entry permit other than trawl vessels to have sablefish on board or to land sablefish into any Washington State port unless the provisions of this section have been complied with:

(a) Any fisher intending to harvest sablefish taken with gear other than trawl gear must have a Washington sablefish vessel hold inspection certificate. The inspection certificate will be issued to properly licensed vessels made available for inspection in the ports of Bellingham, Neah Bay, La Push, Westport and Ilwaco,

(b) No fisher may land more than 1,500 pounds round weight or three percent of the sablefish aboard, whichever is greater, of sablefish less than 22 inches in total length or

15.5 inches dressed length (measured from the anterior insertion of the dorsal fin to the tip of the tail).

(2) Effective 12:01 a.m. June 4 through 11:59 p.m. June 6, 1994, the sablefish fishery for vessels holding a groundfish limited entry permit other than trawl vessels is closed. During this period it is unlawful for such vessels to retain, possess or land sablefish.

(3) Effective 12:01 a.m. June 7, 1994, the sablefish fishery for vessels holding a groundfish limited entry permit other than trawl vessels reopens. See WAC 220-44-050, and emergency regulations adopted pursuant thereto, for sablefish trip limits beginning June 7, 1994.

(5) The provisions of this section do not apply to trawl vessels holding a groundfish limited entry permit nor to open access vessels. See WAC 220-44-050, and emergency regulations adopted pursuant thereto, for vessel trip limits for such vessels.

**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.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-44-09000C Coastal bottomfish—Limited entry fixed gear vessels—Hold inspections—Sablefish minimum size. (94-33)

**WSR 94-13-016  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-43—Filed June 3, 1994, 8:27 a.m.]

Date of Adoption: June 1, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-32-05500F; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are available for a subsistence fishery. This conforms state rules with Yakama Nation regulations.

Effective Date of Rule: Immediately.

June 1, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-32-05500H Columbia River tributaries—Subsistence.** Notwithstanding the provisions of WAC 220-32-055, effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, the Klickitat River, Icicle Creek, the Wind River, the Little White Salmon River (Drano Lake) or the Columbia River in the vicinity of Ringold Hatchery, except under the following provisions:

(1) the Yakima River from Horn Rapids Dam to Wapato Dam is open noon Tuesday to 6 p.m. Saturday of each week from April 12 through June 25.

(2) the Columbia River from a marker approximately 1/2 mile upstream of Ringold Hatchery rearing pond outlet downstream to a marker approximately 1/4 mile downstream of Ringold wasteway outlet is open 6 a.m. Monday to 6 p.m. Saturday of each week from April 4 through July 30.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-32-05500F Columbia River tributaries—Subsistence. (94-21)

**WSR 94-13-029  
EMERGENCY RULES  
DEPARTMENT OF REVENUE**

[Filed June 6, 1994, 1:41 p.m.]

Date of Adoption: June 6, 1994.

Purpose: To provide tax reporting information to taxpayers engaged in business as tour operators in the interim until the rule can be adopted on permanent basis.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-258.

Statutory Authority for Adoption: RCW 82.32.300.

Other Authority: Chapter 25, Laws of 1993 sp. sess.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: 2ESSB 5967, chapter 25, Laws of 1993 sp. sess., made tax law changes which took effect on July 1, 1993.

Effective Date of Rule: Immediately.

June 6, 1994  
Claire Hesselholt  
Acting Assistant Director  
Legislation and Policy

**AMENDATORY SECTION** (Amending WSR 90-17-003, filed 8/2/90)

**WAC 458-20-258 Travel agents ((and)), tour operators, guided tours and guided charters.** (1) **Introduction.** This section describes the business and occupation (B&O)

EMERGENCY

taxation of travel agents and tour operators. ~~((Travel agents are taxed at the special travel agent rate under RCW 82.04.260(10). Tour operators are generally taxed under the service or other business classification under RCW 82.04.290. However, the business activities of tour operators may sometimes include activities like those of a travel agent. This section recognizes the overlap of activities and taxes them consistently.))~~ The definition of "retail sale" in RCW 82.04.050 was amended in 1993 to include charges for guided tours and guided charters. This change became effective July 1, 1993. This section also discusses the B&O and retail sales tax liability for guided tours and charters.

**(2) Definitions:**

(a) "Commission" means the fee or percentage of the charge or ~~((their))~~ its equivalent, received in the ordinary course of business as compensation for arranging the service. The customer or receiver of the service, not the person receiving the commission, is always responsible for payment of the charge.

(b) "Pass-through expense" means a charge to a tour operator business where the tour operator is acting as an agent of the customer and the customer, not the tour operator, is liable for the charge. The tour operator cannot be primarily or secondarily liable for the charge other than as agent for the customer. See: WAC 458-20-111 Advances and reimbursements.

(c) "Tour operator business" means a business activity of providing directly or through third party providers, transportation, lodging, meals, guided tours, and other associated services where the tour operator purchases or itself provides any or all of the services offered, and is itself liable for the services purchased.

(d) "Travel agent business" means the business activity of arranging transportation, lodging, meals, or other similar services which are purchased by the customer and where the travel agent or agency merely receives a commission for arranging the service.

(e) "Guide" means a person who conducts tours of specific locations or attractions by providing a narrative of the area and/or by directing the participants through the area toured. A guide does not include a person who only serves as a host or hostess to provide services such as accounting for everyone on the tour, providing maps or brochures of the area or areas toured, and/or helping with luggage or any similar problems that may arise during the tour.

(f) "Guided tour" is a sightseeing, adventure, recreational or similar experience in which a guide is present for at least twenty five percent of the time measured from the beginning to the end of the tour. Guided tours include, but are not limited to, walking tours of historic areas, hikes, mountain climbs, bicycle, kayak, rafting and canoe trips which are accompanied by a guide. Guided tours also include bus tours, boat tours and aerial tours of scenic areas during which the driver, pilot, or another person gives a narrative of the area toured.

(g) "Charter" is the hiring of the exclusive use of a bus, plane, boat or other transportation vehicle where the owner or the owner's agent retains possession, command, and control of the transportation.

(h) "Charter Operator" means a person engaged in the business of providing charters, directly or through third party providers.

(i) "Guided charter" means a charter in which a guide is present for at least twenty-five percent of the time of the charter. Guided charters include, but are not limited to, fishing charters.

**(3) Travel agents.**

(a) Travel agents are taxed at the special travel agent rate under RCW 82.04.260(10). The gross income of a travel agent or a travel agent business is the gross commissions received without any deduction for the cost of materials used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense. ((It is taxed at the special travel agent rate.))

(b) Gross receipts, other than commissions, from other business activities of a travel agent, including activities as a tour operator, are taxed in the appropriate B&O classification, service, retailing, etc., as the case may be.

**(4) Tour operators.**

(a) ~~((The gross income of a tour operator or a tour operator business is the gross commissions received when the activity is that of a travel agent business.~~

~~((i) When a tour operator receives commissions from a third party service provider for all or a part of the tour or tour package, the gross income of the business for that travel agent activity is the commissions received.~~

~~((b) However, if the activity is that of a tour operator business.))~~ Tour operators are generally taxed under the service or other business classification under RCW 82.04.290. Tour operators who directly provide guided tours in this state are taxed under the retailing business classification and must collect and remit retail sales tax on the charge for the guided tour. Guided tours are discussed in section five below. ((&))Receipts are B&O taxable in the service classification without any deduction for the cost of materials used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense; **except**, receipts attributable to pass-through expenses are not included as part of the gross income of the business.

(i) If pass-through expenses include lodging, meals, guided tours or other services which are retail sales, the tour operator should pay the applicable retail sales tax at source.

(b) Gross receipts from other business activities are taxed in the appropriate B&O classification. If a tour operator receives commissions from a third party service provider such as a hotel or restaurant, the commissions are taxed at the special travel agent rate.

**(5) Guided tours and guided charters.** Charges for guided tours and guided charters which take place in Washington State are retail sales and subject to Washington's retail sales tax and retailing B&O tax.

(a) If the guided tour or charter only takes place in this state, the total price of the guided tour or charter is subject to Washington's retail sales tax. For purposes of this rule, "in this state" includes waters contiguous to this state which are not in any other state.

(b) If a guided tour or guided charter takes place both inside and outside of Washington, that percentage of the tour that takes place in this state is subject to Washington's retail sales tax if the percentage is more than twenty-five percent. Percentage of tour relates to the time spent on the tour. For example, if one day of a three day guided tour is spent in this state and two days are spent outside this state, one third of the tour is a retail sale in this state. The tour operator

must collect and remit Washington's retail sales tax on one-third of the charge for the tour.

(c) The sale takes place at the time the customer purchases the tour or charter and has the obligation to make payment. A "customer" can include the person who will take the tour as well as travel agents or other tour operators who may purchase guided tours to include in a tour package.

(d) If the tour is advertised as a tour to one location, the place of sale is the place of destination. If the tour is to several areas, the place of sale is the first place in this state which is included in the tour.

(e) If a guided tour is included in a tour package which includes lodging, meals and/or other services, the guided tour portion of the package is a retail sale. If the guided tour is provided by a third party, the tour operator who packages the tour should pay retail sales tax on the charges for the guided tour as well as the charges for the lodging and meals. If the tour operator who packages the tour is personally providing the guided tour portion of the package, the tour operator would owe retailing B&O and retail sales tax on the fair market value of the guided tour portion of the package. The tour operator may advertise the tour as including retail sales tax and back the appropriate amount of retail sales tax out of the charge for the guided tour. Fair market value for the guided tour portion can be computed by one of the following methods:

(i) If the guided tour portion is also sold separately from the tour package, that amount constitutes the fair market value of the guided tour.

(ii) If the guided tour portion is not sold separately, the amounts for any lodging, meals, or guided tours provided by third parties may be deducted from the charge for the total package. The balance would constitute the fair market value of the guided tour portion of the package which is subject to retail sales tax.

(f) If more than seventy-five percent of the time spent on a guided tour is outside this state, no retail sales tax is due on the charge for the tour.

~~((5))~~ (6) Examples: The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) A travel agent issues an airplane ticket to a customer. The cost of the ticket is \$250 which is paid by the customer. The travel agent receives \$25 from the airline for providing the service. ~~((+))~~ The gross income of the business for the travel agent is the \$25 commission received. ~~((- (ii) The gross income of the business))~~ which is taxed at the special travel agent rate.

(b) A tour operator offers a tour costing \$1,500 per person. The tour cost consists of \$800 airfare, \$500 lodging and meals, and \$200 bus transportation. The tour operator has an arrangement with each of the service providers to receive a 10% commission for each service of the tour, which in this case is \$150 (\$80 + \$50 + \$20). The tour operator issues tickets, etc, only when paid by the customer and is not liable for any services reserved but not provided. ~~((+))~~ The tour operator is engaged in a travel agent activity and the gross income of the business is commissions received, \$150, which ~~((- (ii) The gross income of the business, \$150,))~~ is taxed at the special travel agent rate.

(c) The same facts as in example (b) except that the tour operator has a policy of requiring 10% or \$150 as a down payment with the remaining \$1,350 payable 20 days prior to departure with 95% refundable up to 10 days prior to departure and nothing refunded after 10 days prior to departure. The customer cancels 15 days prior to departure and is refunded \$1,425 with the tour operator retaining \$75. ~~((+))~~ The gross income of the tour operator business is the \$75 retained which is taxed at the service B&O rate. No amount is attributable to pass-through expense since the tour operator was not obligated to the service provider in the event of cancellation and the tour operator was not acting as the agent of the customer.

~~((ii) The gross income of the business, \$75, is taxed in the service B&O tax classification.))~~

(d) A tour operator offers a package tour for the Superbowl costing \$800 per person. The tour operator purchases noncancellable rooms in a hotel for \$300 per room for 2 nights, and game tickets which cost \$100 each. The package includes airfare which costs \$200 per person for which the tour operator receives the normal commission of \$20. As an extra feature, the tour operator offers to provide, for an extra cost, special event tickets, if available, at his cost of \$50 each. The tour operator is B&O taxable as follows:

(i) The gross income of the tour operator business is \$600 (\$800 less \$200 airfare). Because the tour operator purchased the rooms and the game tickets in its own name and is liable for the rooms or tickets if not resold, the tour operator is not operating as a travel agent business and is B&O taxable in the service classification. If the tour operator receives a commission on the rooms sold to itself, the activity remains taxable as a tour operator business under the service classification and the commission received is treated as a cost discount, not included in the gross income of the business.

(ii) The \$50 received for the special event ticket is attributable to a pass-through expense and is not included in the gross income of the tour operator business. The special event ticket receipt is attributable to a pass-through expense because the tour operator is acting as an agent for the customer.

(iii) The \$20 received as commission from the sale of the airfare is a travel agent business activity and is included as gross income of a travel agent and taxed at the special travel agent rate.

(e) A tour operator sells a package tour to Mount Rainier National Park. The tour includes transportation by bus to Paradise Lodge on Mount Rainier from Seattle, lunch at a restaurant on the way to the mountain, an optional hike, and return to Seattle. A guide accompanies the tour and provides a narrative of the areas toured. The tour is a "guided tour" because more than 25% of the time is spent with a guide. The charge for the tour, therefore, is subject to Washington's retail sales tax and Retailing B&O tax. The tour operator may advertise the tour as including applicable retail sales tax and back out the appropriate amount of tax for the guided tour portion of the package.

(i) The tour operator should pay retail sales tax at source for the lunches and deduct the total charge for the lunches from the cost of the total tour. If the tour operator receives a commission from the restaurant, that amount is

subject to tax at the travel agent rate as provided in (4)(b) above. The remaining amount is considered the charge for the guided bus tour and is subject to retailing B&O tax and retail sales tax.

(ii) The place of sale is the tour destination, Mount Rainier National Park.

(f) A tour operator provides a package tour from Seattle to San Juan Island, Washington. The tour includes a bus trip to the ferry dock, a ferry ride to San Juan Island, a guided bus tour of the island provided by a third-party tour operator, dinner, and a return ferry and bus trip. A hostess accompanies the tour to help direct and account for passengers. The total time for the tour is twelve hours; the guided bus tour is for two hours. The but trip to and from the ferry dock is not a "guided tour" because a person who only directs and accounts for passengers is not a "guide."

(i) The company should pay retail sales tax at source on the charges for the guided bus tour of the island and for the dinner. These costs as well as the cost for the ferry tickets are pass-through costs which are not included as part of the tour operator's gross income.

(ii) The tour operator will owe B&O tax on any commission income received from the restaurant or third party tour operator at the special travel agent rate. The remaining income is taxable as a tour operator business at the service rate.

(g) A Canadian company provides guided tours from this state to British Columbia ("C" tours) and guided tours from British Columbia to this state ("W" tours). Most of the tickets are sold through the company's office in Vancouver, B.C. Passengers on the "C" tours spend more than 75% of their time in Canada. The "C" tours, therefore, are not subject to Washington's retail sales tax. Passengers on the "W" tours spend 75% of the time for the tour in this state. The tour operator must collect and remit Washington's retail sales tax on 75% of the charge for the tour. The place of sale would be the first place in this state which is included in the tour.

(h) A tour operator sells a weekend package which includes a four-hour guided bus tour of Seattle, lodging, and three meals. The tour operator purchases the lodging and meals from third party providers while itself providing the guided bus tour. Customers have the option of purchasing the tour as part of the weekend package or of purchasing only the guided bus tour. The tour operator may break out the cost of the guided bus tour from the weekend package and remit retailing and retail sales tax on that portion of the charge. The amount remaining, the "commission" for arranging the lodging and meals is subject to B&O tax at either the travel agent or service rate as provided above.

(i) A tour operator provides bus tours for senior citizens to several different localities for shopping excursions. A person hired by the tour operator accompanies the group to direct the group as to where to meet and to help with any problems that may arise during the excursion. The company is not providing a "guided tour." The company should report its income under the service classification as a tour operator.

(j) A tour operator provides bus transportation to and from the opera, theater, and various sporting events. Sometimes a person hired by the tour operator accompanies the group and gives a lecture on the event that will be seen. Such tours are not "guided tours" as the person who accom-

panies the tour is not a "guide" as defined in (2)(e) above. The tour operator is taxable under the service B&O tax classification.

(k) A tour operator provides an eight-hour bus tour of several different areas in Washington State. At one of the locations, the tour operator hires a local independent sight-seeing guide, sometimes referred to as a "step-on" guide, to give a one-hour tour of the local area. Because a guide is not present for at least 25% of the tour, the tour is not a "guided tour." The tour operator owes service B&O on the charge for the tour with no deduction for the charge by the guide. The "step-on" guide owes service B&O on amounts received for providing the guide service to the tour operator.

(l) A tour operator provides an eight-hour bus tour of Whidbey Island. A "step-on" guide is present for four hours of the tour. This tour is a "guided tour" because more than 25% of the time is spent with a guide. The tour operator should report retailing B&O and collect and report retail sales tax on the total charge for the tour. The "step-on" guide owes service B&O on amounts received for providing the guide service to the tour operator.

(m) A tour operator provides a four hour boat trip to see whales and other marine life off the coast of Washington. A person accompanies the tour to give a short lecture on the area and to help the passengers spot the whales. The charter is a "guided charter" because a guide is present for the duration of the charter. The total charge for the tour is subject to Washington's retail sales tax.

**WSR 94-13-030**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**

[Filed June 6, 1994, 1:43 p.m.]

Date of Adoption: June 6, 1994.

Purpose: To provide tax reporting information to taxpayers for the use of resale certificates and to explain penalty provisions which apply to misuse.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-102.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The changes contained in this rule are specifically required by chapter 25, Laws of 1993 sp. sess., and have an effective date of July 1, 1993. This emergency rule is required to give tax reporting information to taxpayers during the interim until a permanent rule is filed.

Effective Date of Rule: Immediately.

June 6, 1994  
Claire Hesselholt  
Acting Assistant Director  
Legislation and Policy

**AMENDATORY SECTION** (Amending Order ET 86-7, filed 4/17/86)

**WAC 458-20-102 Resale certificates.** ((Except as hereinafter noted, all sales are deemed to be retail sales unless the seller takes from the buyer a resale certificate signed by and bearing the registration number and address of the buyer, to the effect that the property purchased is:

- (1) For resale in the regular course of business without intervening use, or
- (2) To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or
- (3) A chemical to be used in processing an article to be produced for sale. (See WAC 458-20-113.)

When a vendor receives and accepts in good faith from a purchaser a resale certificate as described in this rule, the vendor is relieved of liability for retail sales tax with respect to the transaction. When a vendor has not secured such a resale certificate he is personally liable for the tax due unless he can sustain the burden of proving (1) that the property was sold for one of the three purposes set forth above and (2) that the purchaser was eligible to give a bona fide resale certificate under the provisions of this rule.

Any purchaser who fraudulently signs a resale certificate with intent to avoid payment of tax is guilty of a gross misdemeanor. When any resale certificate is found to have been fraudulently tendered to any seller or given under false or knowingly misleading circumstances, any retail sales tax which should have been paid but for the tendering of the certificate, which is assessed against the buyer, will automatically incur an evasion penalty of fifty percent of the tax found to be due.

No prescribed form of resale certificate is required. Any written statement to the effect that the tangible personal property is purchased for one of the three purposes set forth above signed by and bearing the name, address, and registration number of the buyer is sufficient. Such statement may be written or stamped upon the purchase order or may be upon a separate paper. It should be in substantially the following form:

"I hereby certify that this purchase is for resale without intervening use by me in the regular course of business, or is to be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or is a chemical to be used in processing an article to be produced for sale. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. .... Name as Registered .....

Firm Name ..... Address .....

Type of Business .....

Authorized Signature .....

Title ..... Date .....

Blanket resale certificates may be given in advance by known wholesalers, jobbers or retailers. These certificates should be substantially in the following form:

"I hereby certify that all the tangible personal property which I will purchase from ..... will be purchased for resale in the regular course of

business without intervening use by me, or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property of which the property purchased will be an ingredient, or a chemical used in processing the same. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. .... Name as Registered .....

Firm Name ..... Address .....

Type of Business .....

Authorized Signature .....

Title ..... Date .....

Blanket resale certificates remain valid only so long as the registration number shown thereon has not been cancelled or revoked. Therefore, blanket resale certificates must be renewed whenever a change occurs in the ownership of a purchaser's business and a new certificate of registration is required. All blanket resale certificates must be renewed at intervals not to exceed four years. Sellers who have valid blanket resale certificates on file without the additional language required by the March, 1983 amendment to this rule are not required to obtain revised blanket resale certificates except where a purchaser's registration with the department of revenue has been cancelled or revoked, a change occurs in the ownership of a purchaser's business and a new registration is required, or the blanket resale certificate was completed more than four years prior to the effective date of the amendment.

**Exception as to nonresident buyers.** In case the purchaser is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in his regular course of business outside this state, the seller should take from such a purchaser a resale certificate substantially in the above form, omitting a registration number, but including a statement to the effect that the articles purchased are for resale by him in his regular course of his business.

**Exception as to farmers.** The word "farmers" as used in this rule means any persons engaged in the business of growing or producing for sale at wholesale upon their own lands, or upon lands in which they have a present right of possession, any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects. "Farmers" does not mean persons selling such products at retail, persons using such products as ingredients in a manufacturing process, or persons growing or producing such products for their own consumption. It does not mean any person dealing in livestock as an operator of a stockyard, slaughterhouse, or packing house; nor does it mean any person who is an "extractor" within the meaning of WAC 458-20-135.

Farmers as defined in this rule are not required to register. Sales of feed, seed, fertilizer, and spray materials to farmers are sales at wholesale not subject to the retail sales tax. Farmers who purchase livestock for the purpose of fattening and later reselling the same are making purchases at wholesale not subject to the retail sales tax. Upon

EMERGENCY

sales of any such articles to farmers (including farmers operating in other states), the seller should take from the farmer a resale certificate showing the farmer's name and address and a statement to the effect that his purchase of feed, seed, fertilizer, spray materials is made for the purpose of producing for sale at wholesale an agricultural product, or that his purchase of livestock is made for the purpose of resale. (For sales to farmers of feed, seed, fertilizer and spray materials, see WAC 458-20-122.)

**Purchases for dual purpose.** It may happen that a buyer normally is engaged in both consuming and reselling certain types of articles of tangible personal property and is not able to determine at the time of purchase whether the particular property acquired will be consumed or resold. In such cases, the buyer should purchase according to the general nature of his business; that is, if principally he consumes the articles in question, he should not give a resale certificate for any portion thereof, but if, on the other hand, he principally resells such articles, he may sign a resale certificate for the whole amount of his purchases.

If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, he must set up in his books of account the value thereof and remit to the department of revenue the deferred sales tax payable thereon. Such tax should be reported on Form 2406 under use tax.

On the other hand, if the buyer has not given a resale certificate but has paid tax on all purchases of such articles and subsequently resells at retail a portion thereof, he must, nevertheless, collect the tax from the purchaser and report such sales in making his tax returns. However, in such case, the buyer may take a deduction on his return representing his cost of the property thus resold on which sales tax was paid.

Such deduction shall be designated as "resale purchases on which tax was paid" and listed under sales tax deductions on the back of the tax return form. Claim for deduction will be allowed only if the taxpayer keeps and preserves records in support thereof which show the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the tax which was paid. (See WAC 458-20-174, 458-20-175 and 458-20-176 for exemption certificates concerning certain sales made to persons engaged in interstate or foreign commerce or in deep sea fishing operations.) (1) **Introduction.** This section explains the conditions under which a buyer may furnish a resale certificate to a seller, and explains the information and language required on the resale certificate. This section also provides tax reporting information to persons who purchase articles or services for dual purposes (i.e., for both resale and consumption). Sellers and buyers should note that amendments to RCW 82.04.470 required changes to the information and language contained on the resale certificate. These changes became effective on July 1, 1993. (See chapter 25, Laws of Washington 1993 s.p.s.)

(2) **Resale certificate use.** The resale certificate is a document or combination of documents which substantiates the wholesale nature of a sale. The resale certificate cannot be used for purchases which are not purchases at wholesale, or where more specific certificates, affidavits, or other documentary evidence is required by statute or other section of chapter 458-20 WAC. While the resale certificate may

come in different forms, all resale certificates must satisfy the language and information requirements of RCW 82.04.470.

(a) Depending on the statements made on the resale certificate, the resale certificate may authorize the buyer to purchase at wholesale all products or services being purchased from a particular seller, or may authorize only selected products or services to be purchased at wholesale. The provisions of the resale certificate may be limited to a single sales transaction, or may apply to all sales transactions for a period not to exceed four years from the effective date. Whatever its form and/or purpose, the resale certificate must be completed in its entirety, and signed by a person who is authorized to make such a representation on behalf of the buyer.

(b) The buyer may authorize any person in its employ to issue and sign resale certificates on the buyer's behalf. The buyer is, however, responsible for the information contained on the resale certificate. A resale certificate is not required to be completed by every person ordering or making the actual purchase of articles or services on behalf of the buyer. For example, a construction company which authorizes only its bookkeeper to issue resale certificates on its behalf may authorize both the bookkeeper and a job foreman to purchase items under the provisions of the resale certificate. The construction company is not required to provide, nor is the seller required to obtain, a resale certificate signed by each person making purchases on behalf of the construction company.

(c) The buyer is responsible for educating all persons authorized to issue and/or use the resale certificate on the proper use of the buyer's resale certificate privileges.

(3) **Resale certificate renewal.** Resale certificates must be renewed at least every four years. The buyer must renew its resale certificate whenever a change in the ownership of the buyer's business requires a new "registrations and licenses document." (See WAC 458-20-101 on tax registration.) The buyer may not make purchases under the authority of a resale certificate bearing a registration number which has been cancelled or revoked.

Sellers who have resale certificates on file without the additional language and information required by the July 1, 1993, amendment to RCW 82.04.470 are required to obtain revised resale certificates for sales made after June 30, 1993. However, the old resale certificates must be retained to substantiate the wholesale nature of sales made prior to July 1, 1993. These "old" certificates must be retained for at least five years from their last effective date. For example, a seller making its last wholesale sale to a particular buyer on April 1, 1991, must retain the "old" resale certificate until March 31, 1996, five years from the last sale subject to the provisions of that resale certificate. (See also WAC 458-20-254 on recordkeeping requirements.)

(4) **Sales at wholesale.** All sales are treated as retail sales unless the seller takes from the buyer a properly executed resale certificate. Resale certificates may only be used for sales at wholesale and may not be used as proof of entitlement to other retail sales tax exemptions provided by law, such as certain sales to Indians (see WAC 458-20-192), interstate motor carriers (see WAC 458-20-174), artistic and cultural organizations (see WAC 458-20-249), etc. The

buyer may only issue a resale certificate when the property or services purchased are:

(a) For resale in the regular course of the buyer's business without intervening use by the buyer; or

(b) To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale; or

(c) A chemical to be used in processing an article to be produced for sale (see WAC 458-20-113 on chemicals used in processing); or

(d) To be used in processing ferrosilicon which is subsequently used in producing magnesium for sale; or

(e) Provided to consumers as a part of competitive telephone service, as defined in RCW 82.04.065; or

(f) Feed, seed, seedlings, fertilizer, spray materials, or agents for enhanced pollination including insects such as bees for use in the federal conservation reserve program or its successor administered by the United States Department of Agriculture; or

(g) Feed, seed, seedlings, fertilizer, spray materials, or agents for enhanced pollination including insects such as bees for use by a farmer for producing for sale any agricultural product. (See also WAC 458-20-122 on sales to farmers.)

(5) Seller's responsibilities. When a seller receives and accepts from the buyer a resale certificate at the time of the sale, or has a resale certificate on file at the time of the sale, or obtains a resale certificate from the buyer within a reasonable time after the sale, the seller is relieved of liability for retail sales tax with respect to the sale covered by the resale certificate. The seller may accept a legible FAX or duplicate copy of an original resale certificate. In all cases, the resale certificate must be accepted in good faith by the seller. The resale certificate will be considered to be obtained within a reasonable time of the sale if it is received within one hundred twenty days of the sale or sales in question. However, refer to (d) of this subsection in event of an audit situation.

(a) If a single order or contract will result in multiple billings to the buyer, and the appropriate resale certificate was not obtained or on file at the time the order was placed or the contract entered, the resale certificate must be received by the seller within one hundred twenty days after the first billing to be considered obtained within a reasonable time of the sale. For example, a subcontractor entering into a construction contract for which it has not received a resale certificate must obtain the certificate within one hundred twenty days of the initial construction draw request to consider the resale certificate obtained in a reasonable time after the sale, even though the construction project may not be completed at that time and additional draw requests will follow.

(b) If the resale certificate is obtained more than one hundred twenty days after the sale or sales in question, the resale certificate must be specific to the sale or sales. The certificate must specifically identify the sales in question on its face, or be accompanied by other documentation signed by the buyer specifically identifying the sales in question and stating that the provisions of the accompanying resale certificate apply. A nonspecific resale certificate which is not obtained within a reasonable period of time is generally not, in and of itself, acceptable proof of the wholesale nature

of the sales in question. The resale certificate and/or required documentation must be obtained within the statutory time limitations provided by RCW 82.32.050.

The following examples explain the seller's documentary requirements in typical situations when obtaining a resale certificate more than one hundred twenty days after the sale. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) Beginning in January of 1994, MN Company regularly makes sales to ABC Inc. In June of 1994 MN discovers ABC has not provided a resale certificate. MN requests a resale certificate from ABC and, as the resale certificate will not be received within one hundred twenty days of many of the past sales transactions, requests that the resale certificate specifically identify those past sales subject to the provisions of the certificate. MN receives a legible FAX copy of an original resale certificate from ABC on July 1, 1994. Accompanying the resale certificate is a memo providing a list of the invoice numbers for all past sales transactions through May 15, 1994. This memo also states that the provisions of the resale certificate apply to all past and future sales, including those listed. MN Company has satisfied the requirement that it obtain a resale certificate specific to the sales in question. As the provisions of this resale certificate apply to both past and future sales transactions, the certificate must be renewed no later than December 31, 1997, four years from the date the resale certificate became effective.

(ii) XYZ Company makes three sales to MP Inc. in October of 1993 and does not charge retail sales tax. In the review of its resale certificate file in April of 1994, XYZ discovers it has not received a resale certificate from MP Inc. and immediately requests a certificate. As the resale certificate will not be received within one hundred twenty days of the sales in question, XYZ requests that MP provide a resale certificate identifying the sales in question. MP provides XYZ with a resale certificate which does not identify the sales in question, but simply states "applies to all past purchases." XYZ Company has not satisfied its responsibility to obtain an appropriate resale certificate. As XYZ failed to secure a resale certificate within a reasonable period of time, XYZ must obtain a certificate specifically identifying the sales in question or prove through other facts and circumstances that these sales are wholesale sales. (Refer to (c) of this subsection.) It remains the seller's burden to prove the wholesale nature of the sales made to a buyer if the seller has not obtained a valid resale certificate within one hundred twenty days of the sale.

(c) If the seller has not obtained an appropriate resale certificate or other acceptable documentary evidence (see subsection (8) of this section), the seller is personally liable for the tax due unless it can sustain the burden of proving through facts and circumstances that the property was sold for one of the purposes set forth in subsection (4)(a) through (g) of this section. The department of revenue will consider all evidence presented by the seller, including the circumstances of the sales transaction itself, when determining whether the seller has met its burden of proof. This evidence must be presented within the statutory time limitations provided by RCW 82.32.060. It is the seller's responsibility to provide the information necessary to evaluate the facts

and circumstances of all sales transactions for which resale certificates are not obtained. Facts and circumstances which should be considered include, but are not necessarily limited to, the following:

(i) The nature of the buyer's business. The items being purchased at wholesale must be consistent with the buyer's business. For example, a buyer having a business name of "Ace Used Cars" would generally not be expected to be in the business of selling furniture.

(ii) The nature of the items sold. The items sold must be of a type which would normally be purchased at wholesale by the buyer.

(iii) The quantity and frequency of items sold. The number of items sold and the frequency of sales must indicate that the buyer is purchasing such items at wholesale.

(iv) Additional documentation. Other available documents, such as purchase orders and shipping instructions, should be considered in determining whether they support a finding that the sales are sales at wholesale.

(d) If in event of an audit it is discovered that the seller has not secured the necessary resale certificates and/or documentation, the seller will generally be allowed thirty days in which to obtain and present appropriate resale certificates and/or documentation, or prove by facts and circumstances the sales in question are wholesale sales. The time allotted to the seller shall commence from the date the auditor initially provides the seller with the results of the auditor's wholesale sales review. The processing of the audit report will not be delayed as a result of the seller's failure within the allotted time to secure and present appropriate documentation, or its inability to prove by facts and circumstances that the sales in question were wholesale sales. The audit report will also not be delayed because the time allotted to the seller expires prior to one hundred twenty days from the date of the sale or sales in question.

(e) If the seller is unable to provide proper documentation, or unable to prove by facts and circumstances that the sales in question are wholesale sales, the seller becomes personally liable for the taxes in question. If the seller is required to make payment to the department, and later is able to present the department with proper documentation or prove by facts and circumstances that the sales in question are wholesale sales, the seller may in writing request a refund of the taxes paid along with the applicable interest. Both the request and the documentation or proof that the sales in question are wholesale sales must be submitted to the department within the statutory time limitations provided by RCW 82.32.060. (See also WAC 458-20-229.)

(6) **Penalty for improper use.** Any buyer who uses a resale certificate to purchase items or services without payment of sales tax and who is not entitled to use the certificate for the purchase shall be assessed a penalty of fifty percent of the tax due on the improperly purchased item or service, in addition to all other taxes, penalties, and interest due. The penalty shall be assessed by the department of revenue and will apply only to the buyer. The penalty applies to purchases made after June 30, 1993, and can apply even if there was no intent to evade the payment of the tax. However, see subsection (12) of this section for situations in which the department may waive the penalty.

Persons who purchase articles or services for dual purposes (i.e., some for their own consumption and some for

resale) should refer to subsection (11) of this section to determine whether they may give a resale certificate to the seller.

(7) **Resale certificate - required information.** While there may be different forms of the resale certificate, all resale certificates must satisfy the language and information requirements provided by RCW 82.04.470. The resale certificate may be in the suggested form shown below, or may be in any other form which substantially contains the following information and language:

The undersigned buyer hereby certifies that the tangible personal property or services specified below will be purchased (a) for resale in the regular course of business without intervening use by the buyer, or (b) for use as an ingredient or component part of a new article of tangible personal property to be produced for sale, or (c) is a chemical to be used in processing a new article of tangible personal property to be produced for sale, or (d) for use as feed, seed, fertilizer, or spray materials in its capacity as a farmer as defined in chapter 82.04 RCW. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing. This certificate is given with full knowledge that the buyer is solely responsible for purchasing within the categories specified on the certificate, and that misuse of the resale privilege claimed on the certificate is subject to the legally prescribed penalty of fifty percent of the tax due, in addition to the tax, interest, and any other penalties imposed by law.

Name of Seller . . . . . Effective Date . . . . .  
Name of Buyer . . . . .  
Address . . . . .  
UBI/Revenue Registration # . . . . .  
Type of Business . . . . .  
Items or item categories purchased at wholesale . . . . .  
Authorized agent for buyer (printed) . . . . .  
Authorized Signature . . . . .  
Title . . . . .

(a) The 1993 legislative changes to RCW 82.04.470 require the buyer making purchases at wholesale to specify the kinds of products or services subject to the provisions of the resale certificate. A buyer who will purchase some of the items at wholesale, and consume and pay tax on some other items being purchased from the same seller, must use terms specific enough to clearly indicate to the seller what kinds of products or services the buyer is authorized to purchase at wholesale.

(i) The buyer may list the particular products or services to be purchased at wholesale, or provide general category descriptions of these products or services. The terms used to describe these categories must be descriptive enough to restrict the application of the resale certificate provisions to those products or services which the buyer is authorized to purchase at wholesale. The following are examples of terms used to describe categories of products purchased at whole-

EMERGENCY

sale, and businesses which may be eligible to use such terms on their resale certificates:

(A) "Hardware" for use by a general merchandise or building material supply store, "computer hardware" for use by a computer retailer.

(B) "Paint" or "painting supplies" for use by a general merchandise or paint retailer, "automotive paint" for use by an automotive repair shop.

(C) "Building materials" or "subcontract work" for use by prime contractors performing residential home construction, "wiring" or "lighting fixtures" for use by an electrical contractor.

(ii) The buyer must remit retail sales tax on any taxable product or service not listed on the resale certificate provided to the seller. If the buyer gave a resale certificate to the seller and later used an item listed on the certificate, or if the seller failed to collect the sales tax on items not listed on the certificate, the buyer must remit the deferred sales or use tax due to the department.

(iii) RCW 82.08.050 provides that each seller shall collect from the buyer the full amount of retail sales tax due on each retail sale. If the department finds that the seller has engaged in a consistent pattern of failing to properly charge sales tax on items not purchased at wholesale (i.e., not listed on the resale certificate), it may hold the seller liable for such uncollected sales tax. However, a seller accepting a resale certificate in good faith is not required to verify that the buyer has properly listed only those items the buyer is authorized to purchase at wholesale.

(iv) Persons having specific questions regarding the use of terms to describe products or services purchased at wholesale may submit such questions to the department of revenue for ruling.

(b) A buyer who will purchase at wholesale all of the products or services being purchased from a particular seller will not be required to specifically describe the items or item categories on the resale certificate. If the certificate form provides for a description of the products or services being purchased at wholesale (as does the suggested form provided above), the buyer may specify "all products and/or services" (or make a similar designation). A resale certificate completed in this manner is often described as a blanket resale certificate.

The resale certificate used by the buyer must, in all cases, be completed in its entirety. A resale certificate in which the section for the description of the items being purchased at wholesale is left blank by the buyer will not be considered a properly executed resale certificate.

(c) If the resale certificate is used for a single transaction, the language and information required of a resale certificate may be written or stamped upon a purchase order or invoice. The language contained in a "single use" resale certificate should be modified to delete any reference to subsequent orders or purchases.

(d) **Examples.** The following examples explain the proper use of types of resale certificates in typical situations. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(i) ABC is an automobile repair shop purchasing automobile parts for resale and tools for its own use from DE Supply. ABC must provide DE Supply with a resale

certificate limiting the certificate's application to automobile part purchases. However, should ABC withdraw parts from inventory to install in its own tow truck, deferred retail sales tax or use tax must be remitted directly to the department of revenue. The buyer has the responsibility to report deferred retail sales tax or use tax upon any item put to its own use, including items for which it gave a resale certificate and later used for its own use.

(ii) X Company is a retailer selling lumber, hardware, tools, automotive parts, and household appliances. X Company regularly purchases lumber, hardware, and tools from Z Distributing. While these products are generally purchased for resale, X Company may occasionally withdraw some of these products from inventory for its own use. X Company may provide Z Distributing with a resale certificate specifying "all products purchased" are purchased at wholesale. However, whenever X Company removes any product from inventory to put to its own use, deferred retail sales or use tax must be remitted to the department of revenue.

(iii) TM Company is a manufacturer of electric motors. When making purchases from its suppliers, TM issues a purchase order. This purchase order contains substantially all the language and information required of a resale certificate and a signature of the person ordering the items on behalf of TM. This purchase order includes a box which, if marked, indicates to the supplier that all or certain designated items purchased are being purchased at wholesale.

When the box indicating the purchases are being made at wholesale is marked, the purchase order can be accepted as a resale certificate. A resale certificate is not required to be in any particular form, it must simply contain substantially all the required information and language contained in the suggested resale certificate form described above. As TM Company's purchase orders are being accepted as resale certificates, they must be retained by the seller for at least five years. (See also WAC 458-20-254 on recordkeeping requirements.)

(8) **Other documentary evidence.** Other documentary evidence may be used by the seller and buyer in lieu of the resale certificate form described above. However, this documentary evidence must collectively contain the information and language generally required of a resale certificate. The conditions and restrictions applicable to the use of resale certificates apply equally to other documentary evidence used in lieu of the above-mentioned resale certificate form. The following are examples of documentary evidence which will be accepted to show that sales were at wholesale:

(a) A combination of documentation kept on file, such as a membership card or application, and a sales invoice or "certificate" taken at the point of sale with the purchases listed, provided:

(i) The documentation kept on file contains all information generally required on a resale certificate, including the names and signatures of all persons authorized to make purchases at wholesale; and

(ii) The sales invoice or "certificate" taken at the point of sale must contain the following:

(A) Language certifying the purchase is made at wholesale, with acknowledgement of the penalties for the misuse of resale privileges, as generally required of a resale certificate; and

(B) The name and registration number of the buyer/business, and an authorized signature.

(b) A contract of sale which within the body of the contract provides the language and information generally required of a resale certificate. The contract of sale must specify the products or services subject to the resale certificate privileges.

(c) Any other documentary evidence which has been approved in advance and in writing by the department of revenue.

(9) Sales to nonresident buyers. If the buyer is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in the regular course of business outside this state, the seller must take from such a buyer a resale certificate as described above. The seller may accept a resale certificate from a nonresident buyer with the registration number information omitted, provided the balance of the resale certificate is completed in its entirety. The resale certificate should contain a statement that the items are being purchased for resale outside Washington.

(10) Sales to farmers. Farmers selling agricultural products only at wholesale are not required to register with the department of revenue. (See also WAC 458-20-101 on tax registration.) When making wholesale sales to farmers (including farmers operating in other states), the seller must take from the farmer a resale certificate as described above. Farmers not required to be registered with the department of revenue may provide, and the seller may accept, resale certificates with the registration number information omitted, provided the balance of the certificates are completed in full. Persons making sales to farmers should also refer to WAC 458-20-122.

(11) Purchases for dual purposes. A buyer normally engaged in both consuming and reselling certain types of tangible personal property, and not able to determine at the time of purchase whether the particular property purchased will be consumed or resold, must purchase according to the general nature of his or her business. RCW 82.08.130. If the buyer principally consumes the articles in question, the buyer should not give a resale certificate for any part of the purchase. If the buyer principally resells the articles, the buyer may issue a resale certificate for the entire purchase. For the purposes of this subsection, the term "principally" means greater than fifty percent.

(a) Deferred sales tax liability. If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, the buyer must set up in his or her books of account the value of the article used and remit to the department of revenue the applicable deferred sales tax. The deferred sales tax liability should be reported under the use tax classification on the buyer's excise tax return.

(i) Buyers making purchases for dual purposes under the provisions of a resale certificate must remit deferred sales tax on all products or services they consume. If the buyer fails to make a good faith effort to remit this tax liability, the penalty for the misuse of resale certificate privileges may be assessed. This penalty will apply to the unremitted portion of the deferred sales tax liability.

A buyer will generally be considered to be making a good faith effort to report its deferred sales tax liability if the

buyer discovers a minimum of eighty percent of the tax liability within one hundred twenty days of purchase, and remits the full amount of the discovered tax liability upon the next excise tax return. However, if the buyer does not satisfy this eighty percent threshold and can show by other facts and circumstances that it made a good faith effort to report the tax liability, the penalty will not be assessed. Likewise, if the department can show by other facts and circumstances that the buyer did not make a good faith effort in remitting its tax liability the penalty will be assessed, even if the eighty percent threshold is satisfied.

(ii) Example. BC Contracting operates both as a prime contractor and speculative builder of residential homes. BC Contracting purchases building materials from Seller D which are principally incorporated into projects upon which BC acts as a prime contractor. BC provides Seller D with a resale certificate and purchases all building materials at wholesale. BC must remit deferred sales tax upon all building materials incorporated into the speculative projects to be considered to be properly using its resale certificate privileges. The failure to make a good faith effort to identify and remit this tax liability may result in the assessment of the fifty percent penalty for the misuse of resale certificate privileges.

(b) Tax paid at source deduction. If the buyer has not given a resale certificate, but has paid tax on all purchases of such articles and subsequently resells a portion thereof, the buyer must collect the retail sales tax from its retail customers as provided by law. When reporting these sales on the excise tax return, the buyer may then claim a deduction in the amount the buyer paid for the property thus resold.

(i) This deduction may be claimed under the retail sales tax classification only. It must be identified as a "taxable amount for tax paid at source" deduction on the deduction detail worksheet, which must be filed with the excise tax return. Failure to properly identify the deduction may result in the disallowance of the deduction. When completing the local sales tax portion of the tax return, the deduction must be computed at the local sales tax rate paid to the seller, and credited to the seller's tax location code.

(ii) Example. Seller A is located in Spokane, Washington and purchases equipment parts for dual purposes from a supplier located in Seattle, Washington. Seller A does not issue a resale certificate for the purchase, and remits retail sales tax to the supplier at the Seattle tax rate. A portion of these parts are sold to Customer B, with retail sales tax collected at the Spokane tax rate. Seller A must report the amount of the sale to Customer B on its excise tax return, compute the local sales tax liability at the Spokane rate, and code this liability to the location code for Spokane (3210). Seller A would claim the tax paid at source deduction for the cost of the parts resold to Customer B, compute the local sales tax credit at the Seattle rate, and code this deduction amount to the location code for Seattle (1726).

(iii) Claim for deduction will be allowed only if the taxpayer keeps and preserves records in support thereof which show the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the amount of tax which was paid.

(iv) Should the buyer resell the articles at wholesale, or under other situations where retail sales tax is not to be collected, the claim for the tax paid at source deduction on a particular excise tax return may result in a credit. In such cases, the department will issue a credit notice which may be used against future tax liabilities. However, a refund will be issued upon written request.

**(12) Waiver of penalty for resale certificate misuse.**

The department may waive the penalty imposed for resale certificate misuse upon finding that the use of the certificate to purchase items or services by a person not entitled to use the certificate for that purpose was due to circumstances beyond the control of the buyer. However, the use of a resale certificate to purchase items or services for personal use outside of the business shall not qualify for the waiver or cancellation of the penalty. The penalty will not be waived merely because the buyer was not aware of either the proper use of the resale certificate or the penalty. In all cases the burden of proving the facts is upon the buyer.

(a) Situations under which a waiver of the penalty will be considered by the department include, but are not necessarily limited to, the following:

(i) The resale certificate was properly used to purchase products or services for dual purposes; or the buyer was eligible to issue the resale certificate; and the buyer made a good faith effort to discover all of its deferred sales tax liability within one hundred twenty days of purchase; and the buyer remitted the discovered tax liability upon the next excise tax return. (Refer to subsection (11)(a)(i) of this section for an explanation of what constitutes "good faith effort.")

(ii) The certificate was issued and/or purchases were made without the knowledge of the buyer, and had no connection with the buyer's business activities. However, the penalty for the misuse of resale certificate privileges may be applied to the person actually issuing and/or using the resale certificate without knowledge of the buyer.

(b) The penalty prescribed for the misuse of the resale certificate may be waived or cancelled on a one time only basis if such misuse was inadvertent or unintentional, and the item was purchased for use within the business. If the department of revenue does grant a one time waiver of the penalty, the buyer shall be provided written notification at that time.

(c) **Examples.** The following are examples of typical situations where the fifty percent penalty for the misuse of resale privileges will or will not be assessed. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(i) ABC Manufacturing purchases electrical wiring and tools from X Supply. The electrical wiring is purchased for dual purposes, i.e., for resale and for consumption, with more than fifty percent of the wiring purchases becoming a component of items which ABC manufactures for sale. ABC Manufacturing issues a resale certificate to X Supply specifying "electrical wiring" as the category of items purchased for resale. ABC regularly reviews its purchases and remits deferred sales tax upon the consumed wiring.

ABC is subsequently audited by the department of revenue and it is discovered that ABC Manufacturing failed to remit deferred sales tax upon three purchases of wiring for

consumption. The unreported tax liability attributable to these three purchases is less than five percent of the total deferred sales tax liability for wiring purchases made from X Supply. It is also determined that the failure to remit deferred sales tax upon these purchases was merely an oversight. The fifty percent penalty for the misuse of resale certificate privileges does not apply, even though ABC failed to remit deferred sales tax on these purchases. The resale certificate was properly issued, and ABC remitted to the department more than eighty percent of the deferred sales tax liability for wiring purchases from X Supply.

(ii) During a routine audit examination of a jewelry store, the department of revenue discovers that a dentist has provided a resale certificate for the purchase of a necklace. This resale certificate indicates that in addition to operating a dentistry practice, the dentist also sells jewelry. There is no indication that the jewelry store did not accept the resale certificate in good faith.

Upon further investigation, the department of revenue finds that the dentist is not engaged in selling jewelry. As the jewelry store accepted the resale certificate in good faith, the department will look to the dentist for payment of the applicable retail sales tax. In addition, the dentist will be assessed the fifty percent penalty for the misuse of resale certificate privileges. The penalty will not be waived or cancelled as the dentist misused the resale certificate privileges to purchase a necklace for personal use.

(iii) During a routine audit examination of a computer dealer, it is discovered that a resale certificate was obtained from a bookkeeping service. The resale certificate was completed in its entirety and accepted in good faith by the dealer. Upon further investigation it is discovered that the bookkeeping service had no knowledge of the resale certificate, and had made no payment to the computer dealer. The employee who signed the resale certificate had purchased the computer for personal use, and had personally made payment to the computer dealer.

The fifty percent penalty for the misuse of the resale certificate privileges will be waived for the bookkeeping service. The bookkeeping service had no knowledge of the purchase or unauthorized use of the resale certificate. However, the department of revenue will look to the employee for payment of the taxes and the fifty percent penalty for the misuse of resale certificate privileges.

(iv) During an audit examination it is discovered that XYZ Corporation, a duplicating company, purchased copying equipment for its own use. XYZ Corporation issued a resale certificate to the seller despite the fact that XYZ does not sell copying equipment. XYZ also failed to remit either the deferred sales or use tax to the department of revenue. As a result of a previous investigation by the department of revenue, XYZ had been informed in writing that retail sales and/or use tax applied to all such purchases. The fifty percent penalty for the misuse of resale certificate privileges will be assessed. XYZ was not eligible to provide a resale certificate for the purchase of copying equipment, and had previously been so informed. The penalty will apply to the unremitted deferred sales tax liability.

(v) AZ Construction issued a resale certificate to a building material supplier for the purchase of "pins" and "loads." The "pins" are fasteners which become a component part of the finished structure. The "load" is a powder

charge which is used to drive the "pin" into the materials being fastened together. AZ Construction is informed during the course of an audit examination that AZ Construction is considered the consumer of the "loads" and may not issue a resale certificate for the purchase thereof. AZ Construction indicates that it was unaware that a resale certificate could not be issued for the purchase of "loads," and there is no indication that AZ Construction had previously been so informed.

The failure to be aware of the proper use of the resale certificate is not generally grounds for waiving the fifty percent penalty for the misuse of resale certificate privileges. However, AZ Construction does qualify for the "one time only" waiver of the penalty as the misuse of the resale certificate privilege was unintentional and the "loads" were purchased for use within the business.

**WSR 94-13-032**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**  
[Filed June 6, 1994, 1:48 p.m.]

Date of Adoption: June 6, 1994.

Purpose: To provide taxpayers with interim tax reporting information while permanent rules are being drafted and to advise taxpayers of potential errors in existing rules caused by legislative changes.

Citation of Existing Rules Affected by this Order: New section WAC 458-20-901.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: 2ESSB 5967, chapter 25, Laws of 1993 sp. sess., made tax law changes which took effect on July 1, 1993.

Effective Date of Rule: Immediately.

June 6, 1994  
Claire Hesselholt  
Acting Assistant Director  
Legislation and Policy

**NEW SECTION**

**WAC 458-20-901 Notification of rules with temporary defects. (1) Introduction.** The 1993 legislature made many changes to the taxes administered by the department of revenue. Unless otherwise indicated, these changes were enacted as part of 2nd ESSB 5967, chapter 25, Laws of 1993, sp.s. Unless otherwise indicated, these changes were effective July 1, 1993. The department previously issued on an emergency basis WAC 458-20-900 to provide interim tax reporting information and to identify rules which are in the process of revision. WAC 458-20-900 has expired and is superseded by WAC 458-20-901. The department is proceeding to revise its permanent administrative rules as rapidly as it can to reflect these changes. Changes in the

law take precedence over the administrative rules in the case of conflicts. In order to assist taxpayers, the following summarizes the major legislative changes and the rules which have been identified for revision. Taxpayers who report their taxes in the manner discussed below will not be penalized as the result of subsequent changes of interpretation through the issuance of permanent rules.

**(2) Summary of major legislative changes.** The following is a summary of the major changes to the business and occupation (B&O) tax, retail sales tax, and use tax:

**(a) Retail sales tax.** Retail sales tax was extended to a number of new services effective July 1, 1993. These services are now subject to the retailing B&O tax and retail sales tax. For the most part, these services were previously taxable under the service and other business activities classification of the B&O tax. Refer to subsection (4) for a list and discussion of the services which have been added as retail sales.

**(b) New selected business services B&O tax.** There is a new B&O tax classification which applies to certain business services. These services were previously subject to the service and other business activities tax classification. The tax rate for this new classification is 2.5 percent. Refer to subsection (5) for a list and discussion of the business services which are subject to this tax.

**(c) New financial services B&O tax.** There is a new B&O tax classification which applies to persons engaged in banking, loan, security, investment management, investment advisory, or other financial businesses. These services had previously been taxable under the service and other business activities tax classification. The tax rate which applies to this new classification is 1.7 percent. This tax rate applies to all income derived from the listed activities, including investment and interest income.

**(d) Nonprofit and public hospitals.** Certain nonprofit hospitals were previously exempt of B&O tax. This exemption, contained in RCW 82.04.4288, has been repealed by 2ESSB 5304, Chapter 492, Laws of 1993. These hospitals, as well as those operated by the state or any of its political subdivisions, are taxable under the nonprofit public hospital B&O tax classification effective July 1, 1993. The B&O tax rate for these taxpayers is .75 percent. Those hospitals which were previously taxable under the service and other business activities classification will continue to be taxable under that classification. Taxpayers engaged in this business should also refer to WAC 458-20-168 which has been amended.

**(e) Birth control prescriptions.** The law previously contained an exemption from retail sales tax for prescription drugs or other substances which are prescribed and dispensed for the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailments in humans. This exemption did not include birth control prescriptions since pregnancy was not considered to be an ailment. The exemption now includes drugs and other substances which are prescribed by a physician for family planning purposes, including prevention of conception. The exemption is also available to family planning clinics that are under contract with the department of health to provide family planning services. This exemption became effective on July 1, 1993.

**(f) Resale certificate abuse.** An additional penalty may be imposed after July 1, 1993 for the misuse of a resale

certificate. The penalty is fifty percent of the retail sales tax which would have applied to the purchase. The penalty will apply even in the absence of fraud or evasion. There are also additional restrictions in the use of the resale certificate and additional requirements for information which must be shown on the resale certificate. The department has issued WAC 458-20-102 on an emergency basis which explains in detail the changes in the use of resale certificates.

**(g) Contributions in aid of construction.** The exemption previously contained in RCW 82.04.417 was repealed effective July 1, 1993. Refer to WAC 458-20-179 which has been amended.

**(h) Health maintenance organizations, health care service contractors, certified health plans.** Health maintenance organizations and health care service contractors were previously taxable under the service B&O tax classification. Effective January 1, 1994, these taxpayers will be subject to a tax on premiums and prepayments which will be administered by the insurance commissioner's office. To the extent that income is taxable for this "insurance premiums" tax, the B&O tax will not apply. Co-payments or deductibles paid by the patient will continue to be taxable for the B&O tax. Amounts received from the United States or any instrumentalities thereof as prepayments for health care services provided under Title XVIII (medicare) of the federal social security act will not become subject to the premiums tax until July 1, 1997 and will continue to be subject to the B&O tax until that date.

**(i) Sales of vessels to foreign residents.** For sales of vessels, retail sales tax will not be due for sales to foreign residents after July 25, 1993, even though delivery is taken in Washington if all the requirements for exemption are met. This exemption is the result of passage of SSB 5368, Chapter 119, Laws of 1993. The documentation requirements now in WAC 458-20-238 will apply to foreign residents as well as residents from other states. The retail sales tax does apply to these sales if the vessel will be used in Washington for more than forty-five days.

**(j) Cigarette and tobacco products.** The taxes on cigarettes and tobacco products have been increased and are scheduled for additional increases over the next several years.

**(k) Tax deferrals.** The tax deferral programs have been extended.

**(l) Sales to nonresidents with local delivery.** The law provides an exemption from retail sales tax for sales of tangible personal property to nonresidents of certain other states, possessions, or provinces of Canada when the item is purchased for use outside Washington, but previously required the seller to examine two pieces of identification of the purchaser. Only residents of states, possessions, or provinces having less than a three percent sales tax qualify. SB 5251, Chapter 444, Laws of Washington 1993, requires the vendor to examine only one piece of identification of the customer. The identification document must contain a photograph of the customer and be intended to establish residency of the purchaser in a tax exempt qualifying state, possession, or province, such as a drivers license. The seller must continue to retain a record which identifies the customer and proof that was relied upon in making the tax exempt sale. This provision became effective July 25, 1993.

**(m) Printing and publishing.** Chapter 112, Laws of 1994, restored the publishing B&O tax classification for publishers of periodicals or magazines. This change was retroactive to July 1, 1993. This includes advertising income received by publishers of periodicals and magazines.

**(3) Effect of tax rate changes and timing for tax reporting.** Taxpayers must report their business activities in the proper tax reporting period in order to avoid future tax assessments because of the failure to report the income under the proper tax classification where the tax classification has changed as the result of a law change. Taxpayers can be generally guided by WAC 458-20-235 and WAC 458-20-145 in determining in which period a sale should be reported, though these sections deal primarily with retail transactions.

**(a) B&O tax and retail sales tax.** With respect to services performed and billed after the change in tax classifications, the tax classification which applies is the one in effect at the time the service is performed, irrespective that a contract may have been signed prior to the change. Where the work is begun prior to the tax classification change and there are progress billings, the proper tax classification for tax reporting is the one in effect at the time the service provider was entitled to receive the progress payment.

**(b) Prepaid services.** When the customer has paid for the service in full and is entitled to receive the service prior to the tax classification change, the income will be taxable under the classification in effect at the time payment was received, irrespective that actual performance of the service may occur after the tax classification change.

**(c) Sales of gift certificates.** When a gift certificate is sold which will be redeemed for services, the sale is considered to take place at the time the gift certificate is redeemed and should be reported under the tax classification in effect at that time. It is important that sellers understand the difference between prepaid services and gift certificates. The purchaser of a gift certificate does not purchase a specific service or merchandise. The decision as to the service or merchandise which will be purchased is not made until the time the certificate is given to the seller for redemption. The value of the certificate is applied as if it were cash towards the purchase price, which may be less or greater than the value of the certificate. On the other hand, a prepaid service involves the situation where the customer purchases a specific service or merchandise, makes full payment, and is entitled to receive the service or merchandise. The fact that the customer may choose to purchase the service or merchandise as a gift for a friend does not change this purchase into the purchase of a gift certificate. The following examples show the distinction.

**(i)** Jane Doe purchases a gift certificate having a value of \$50 from ABC Physical Fitness Club. ABC will allow non-members to use its physical fitness facilities through an hourly usage charge. It also has a store from which health foods are sold. Jane Doe gives the gift certificate to a non-member. The sale is considered to take place at the time the gift certificate is redeemed. The tax classification which applies will depend on the type of purchases made and the tax classification which applies to those purchases at the time of redemption.

**(ii)** Jane Doe purchases the right to ten tanning sessions. Payment is made in full and Jane Doe is entitled to use the

tanning booth anytime. Under the terms of the purchase agreement, Jane Doe may give the right to some or all of these tanning sessions to anyone she pleases. This is a prepaid service. The tax classification which applies is that which was in effect at the time Jane Doe made her payment.

(4) **New retail services.** A number of new services have been added to the definition of a retail sale. These service providers continue to be subject to payment of the retail sales tax on purchases of equipment which is used in providing the service. The following services have been added and are now subject to the retail sales tax:

(a) **Landscape maintenance and horticultural services.** This includes grass cutting, hedge trimming, watering lawns and other plants, pruning or trimming of trees and shrubs, fertilizing, pest spraying, etc. This does not include horticultural services performed for farmers or for persons raising timber for the commercial production of timber products.

(b) **Service charges for professional sports tickets.** This involves the purchase of tickets to professional sporting events when the tickets are purchased from independent ticket agents and the agent makes a charge for providing this service. The fee for handling the sale of tickets to attend professional sporting events is subject to the retail sales tax. The local retail sales tax will be based on the location of the seller used by the purchaser in making the purchase. The admission charge to the event is not subject to the retail sales tax. The fee for handling the sale of tickets to cultural events, nonprofessional sports events, or other events is not a retail sale and this income continues to be taxable under the service classification.

(c) **Guided tours and charters.** Charges for guided tours and guided charters in Washington are subject to retail sales tax. Persons engaged in these business activities should refer to WAC 458-20-258, filed October 18, 1993, for more information.

(d) **Physical fitness services.** This includes all activities of services related to physical fitness such as, weight lifting, running tracks, exercise equipment, aerobics classes, personal trainers, etc. Certain activities, such as swimming, racquet ball, tennis, etc., were previously a retail sale and continue to be taxable as such. Physical fitness services do not include self-defense classes, martial arts classes, yoga, or stress-management classes. For persons who are engaged in these activities and who receive the income in the form of dues and initiation fees, WAC 458-20-114 explains the available methods for determining the taxable income and for allocating the income under the appropriate tax classifications. This applies to all organizations offering these services, including health fitness clubs, parks and recreation departments, hospitals, and nonprofit youth organizations. Nonprofit youth organizations should refer to the special notice which the department has sent to these organizations for additional tax reporting information. Organizations which have not previously had to allocate their income under WAC 458-20-114 should contact the Department for assistance in calculating the percentage of dues which should be allocated as retail sales as a result of this change in the law.

However, the law was amended by the 1994 legislature to provide a retail sales tax exemption for physical fitness classes provided by local government and for certain

personal service, such as physical fitness services, performed by nonprofit youth organizations involved in character building of youth. See chapter 85, Laws of 1994 and RCW 82.04.4271.

(e) **Tanning and tattoo services.**

(f) **Escort and dating services.**

(g) **Steam, sauna and Turkish baths.**

(h) **Massage services.** However, massage services which are performed as part of physical therapy services will not be considered retail sales. For purposes of this rule, "physical therapy services" are defined as a treatment plan for physical illness, injury, or accident ordered or prescribed by a doctor. Physical therapy services will not be considered to be retail activities regardless of who performs the services. Physical therapy services, when performed under a doctor's order, will continue to be taxable under the service and other business activities classification, including any massage services which are part of the physical therapy. The therapist must keep a copy of the doctor's referral on file.

(i) **Coin-operated laundry facilities.** The law previously taxed as a retail sale the use of laundry services, including coin-operated laundry facilities, with the exception of coin-operated laundry facilities in apartment houses, hotels, motels, or similar locations where the facilities were for the exclusive use of the tenants. This exception has been removed to now include all laundry services as a retail sale. Any commissions or amounts received by apartment owners, hotels, or motels for allowing the owner of the machines to place the machines on the premises continue to be taxable under the service and other business activities classification. See WAC 458-20-165.

(j) **Equipment rental with operator.** The law now defines equipment rental with operator services as a retail sale. However, where the charge is not for the rental of equipment with an operator, but is for providing subcontract services, the income will be taxable based on the nature of the services performed. For example, a person who provides transportation services will continue to be taxable under the appropriate public utility tax classification even though equipment and an operator are involved in providing the service. This also includes stevedoring, public road construction and similar activities. Though not determinative, the department will consider the type of contract in determining if the sale is in the nature of a rental of equipment with operator or is in the nature of a contract where the contractor has the responsibility to perform activities to contract specifications. Persons who provide the services of equipment with an operator are the consumers of the equipment and subject to retail sales or use tax on equipment purchases.

(5) **Selected business services.** The new B&O tax classification for selected business services includes the following services:

(a) **Stenographic, secretarial, and clerical services.** However, this does not include persons who operate employment offices which provide temporary or permanent employees. Persons operating employment offices who receive a fee for providing temporary or permanent employees continue to be taxable under the service and other business tax classification.

**(b) Computer services.** This category includes but is not limited to computer programming, custom software modification, custom software installation, custom software maintenance, custom software training, and computer systems design. The sale of software which will be sold to multiple users (generally referred to as "canned software") will continue to be a retail sale. The change in the law is to make those computer services which were previously taxed under the service classification taxable under this new B&O tax classification.

**(c) Data processing services.** This category includes but is not limited to word processing, data entry, data retrieval, data search, information compilation, payroll processing, business accounts processing, data production, and other computerized data and information storage or manipulation. Data processing services also includes the use of a computer or computer time for data processing, whether the processing is performed by the provider of the computer or by the purchaser or other beneficiary of the service.

**(d) Information services.** Information services include but are not limited to electronic data retrieval or research that entails furnishing financial or legal information, data or research, general or specialized news, or current information unless such news or current information is furnished to a newspaper publisher or to a radio or television station licensed by the federal communications commission.

**(e) Legal, arbitration, and mediation services.** This includes but is not limited to paralegal services, legal research services, and court reporting services.

**(f) Accounting, auditing, actuarial, bookkeeping, tax preparation, and similar services.**

**(g) Design services.** Design services, whether performed by a certified, noncertified, or licensed person, includes and is not limited to the following:

(i) Engineering services, including civil, electrical, mechanical, petroleum, marine, nuclear, and design engineering, machine designing, machine tool designing, and sewage disposal system designing;

(ii) Architectural services, including but not limited to: structural or landscape design or architecture, interior design, building design, building program management, and space planning.

**(h) Business consulting services.** Business consulting services are those primarily providing operating counsel, advice, or assistance to the management or owner of any business, private, nonprofit, or public organization, including but not limited to those in the following areas: administrative management consulting, general management consulting, human resource consulting or training, management engineering consulting, management information systems consulting, manufacturing management consulting, marketing consulting, operations research consulting, personnel management consulting, physical distribution consulting, site location consulting, economic consulting, motel, hotel, and resort consulting, restaurant consulting, government affairs consulting, and lobbying.

**(i) Business management services.** This includes, but is not limited to, administrative management, business management, and office management. Property management or property leasing, motel, hotel, and resort management, and automobile parking management are not taxable under this

classification and remain taxable under the service and other business activities classification.

**(j) Protective services.** This includes, but is not limited to, detective agency services and private investigating services, armored car services, guard or protective services, lie detection or polygraph services, and security system, burglar, or fire alarm monitoring and maintenance services.

**(k) Public relations or advertising services.** This includes, but is not limited to, layout, art direction, graphic design, copy writing, mechanical preparation, opinion research, marketing research, marketing, or production supervision. It does exclude services provided as part of broadcast or print advertising. Services performed as part of broadcast or print advertising continue to be taxable under the service and other business activities tax classification.

**(l) Aerial and land surveying, geological consulting, and real estate appraising.**

**(6) Administrative rules being revised.** There are a number of administrative rules of the department which will not be entirely correct until revised. The information provided above should be sufficient for taxpayers to identify the specific items in the rule which are no longer correct. If you have any uncertainty of your tax liability, you are encouraged to contact the department to obtain answers to specific tax questions. The following rules are being revised:

(a) WAC 458-20-102 Resale certificates.

(b) WAC 458-20-103 Time and place of sale.

(c) WAC 458-20-114 Nonbusiness income—Bona fide initiation fees, dues, contributions, tuition fees and endowment funds.

(d) WAC 458-20-127 Magazines and periodicals.

(e) WAC 458-20-138 Personal services rendered to others.

(f) WAC 458-20-143 Publishers of newspapers, magazines, and periodicals.

(g) WAC 458-20-146 National and state banks, mutual savings banks, savings and loan associations and other financial institutions.

(h) WAC 458-20-155 Information and computer services.

(i) WAC 458-20-170 Constructing, and repairing of new or existing buildings or other structures upon real property.

(j) WAC 458-20-171 Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic.

(k) WAC 458-20-183 Amusement and recreation activities and businesses.

(l) WAC 458-20-18801 Prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen.

(m) WAC 458-20-193 Inbound and outbound interstate sales of tangible personal property.

(n) WAC 458-20-194 Doing business inside and outside the state.

(o) WAC 458-20-207 Attorneys.

(p) WAC 458-20-211 Leases or rental of tangible personal property, bailments.

(q) WAC 458-20-218 Advertising agencies.

- (r) WAC 458-20-224 Service and other business activities.
- (s) WAC 458-20-226 Landscape gardeners.
- (t) WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection.
- (u) WAC 458-20-233 Tax liability of medical and hospital service bureaus and associations and similar health care organizations.
- (v) WAC 458-20-238 Sales to nonresidents of watercraft requiring Coast Guard registration or documentation.
- (w) WAC 458-20-240 Manufacturers, tax credits.
- (x) WAC 458-20-24001 Sales and use tax deferral—Manufacturing and research/development facilities.
- (y) WAC 458-20-24002 Sales and use tax deferral—New manufacturing and research/development facilities.
- (z) WAC 458-20-258 Travel agents and tour operators.
- (aa) WAC 458-20-189 Sales to and by the state of Washington, counties, cities, school districts and other municipal subdivisions.
- (bb) WAC 458-20-180 Motor transportation, urban transportation.

**WSR 94-13-040  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-48—Filed June 7, 1994, 8:08 a.m., effective June 6, 1994, 11:59 p.m.]

Date of Adoption: June 3, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100P; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable quota of sea cucumbers in Sea Cucumber District 1 is expected to be reached.

Effective Date of Rule: June 6, 1994, 11:59 p.m.

June 3, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-52-07100Q Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective 11:59 p.m. June 6, 1994 until further notice it is unlawful to fish for or possess sea cucumbers taken for commercial use from all state waters except during the times and in the areas as provided for in this section:

(1) Sea cucumber harvest using the shellfish diver gear is allowed in Sea Cucumber Districts 2, 3, and 4, Monday, Tuesday, and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(2) The following waters are closed to the harvest of sea cucumbers at all times:

(a) Eagle Harbor - All waters westerly of a line projected northerly from Wing Point to Eagle Harbor Cresote Light number one and then due west to the shoreline of Bainbridge Island.

(b) Hale Passage - Those waters within a line projected northerly from Point Migley to Sandy Point and a line projected from Point Francis through the marker north of Inati Bay to landfall on Lummi Island.

(c) Olympia - Shelton - All waters of Marine Fish-Shellfish Management and Catch Reporting Area 28D.

(d) Sinclair Inlet - Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26C west of a line projected southerly from the easternmost point of Turner to landfall below the Veterans Home in Annapolis. The remainder of Area 26C is open to harvest.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 6, 1994:

WAC 220-52-07100P Sea cucumbers. (94-26)

**WSR 94-13-049  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-49—Filed June 8, 1994, 8:02 a.m., effective June 11, 1994, 12:01 a.m.]

Date of Adoption: June 8, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-55-001.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule encourages recreational fishing and provides opportunity for persons who might not otherwise fish.

Effective Date of Rule: June 11, 1994, 12:01 a.m.

June 8, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

EMERGENCY

NEW SECTION

**WAC 220-55-00100B Free fishing days.** Notwithstanding the provisions of Chapter 220-55-WAC, effective 12:01 a.m. June 11, 1994 through 11:59 p.m. June 12, 1994, a recreational license is not required to fish for or possess personal use foodfish or shellfish. A catch record card, if required, must be possessed by each angler. All season, time and area closures, and personal use catch limits remain in effect during this period.

**WSR 94-13-055  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 3742—Filed June 8, 1994, 11:44 a.m., effective June 9, 1994, 12:01 a.m.]

Date of Adoption: June 8, 1994.

Purpose: Implements Section 31 of HB 2798. A child is allowed to transfer or accumulate up to \$4,000 of that child's income or resources into one irrevocable educational trust which is earmarked for that child's future educational use.

Citation of Existing Rules Affected by this Order: Amending WAC 388-217-3150 Transfer of property—Establishing intent to qualify for public assistance.

Statutory Authority for Adoption: RCW 74.12.350.

Other Authority: HB 2798, Section 31.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Implements a provision of HB 2798. Allows a child to transfer or accumulate income or resources into an irrevocable educational trust when the trust funds are earmarked for the child's future educational use.

Effective Date of Rule: June 9, 1994, 12:01 a.m.

June 8, 1994  
Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3696, filed 1/27/94, effective 2/27/94)

**WAC 388-217-3150 Transfer of property—Establishing intent to qualify for public assistance.** (1) The client shall have the opportunity to demonstrate that the transfer was for reasons other than to qualify or maintain eligibility for public assistance.

(2) Reasons (noninclusive) below shall, if verified, establish that the transfer was not for the purpose of qualifying or maintaining eligibility for public assistance:

(a) The client was the victim of fraud, misrepresentation or coercion and the transfer was based upon such fraud, misrepresentation or coercion; provided that the client has

been attempting and continues to attempt to recover the property or its equivalent value;

(b) At the time of the transfer, the client was not receiving assistance and did not consider any probable need for assistance in the foreseeable future;

(c) The property was transferred to a spouse pursuant to a divorce or legal separation settlement approved by or ordered by a court of competent jurisdiction;

(d) The client held title only as a trustee for the use and benefit of another person with no beneficial interest himself or herself;

(e) The transfer was to clear title to a resource in which the client had no real beneficial enforceable interest; ((or))

(f) The client can show that his or her eligibility for assistance would not have been affected if he or she had retained, rather than transferred, the transferred property; or

(g) Within an assistance unit, up to four thousand dollars of each child's income or resources may be transferred or accumulated into one irrevocable educational trust per child without penalty when the educational trust is adequately earmarked for that child's future educational use. The department shall provide the client with clear and simple information regarding the creation of irrevocable educational trusts, including all relevant state and federal regulations governing the creation of such trusts.

**WSR 94-13-056  
EMERGENCY RULES  
DEPARTMENT OF  
NATURAL RESOURCES**

[Order 622—Filed June 8, 1994, 1:29 p.m.]

Purpose: Proposed amendment to WAC 332-30-166 will increase the proprietary fees for disposal of dredged material to open water sites in Puget Sound and the Strait of Juan de Fuca.

Citation of Existing Rules Affected by this Order: Amending WAC 332-30-166 Open water disposal sites.

Statutory Authority for Adoption: RCW 79.90.560, 43.30.150.

Other Authority: RCW 79.90.550, 79.90.555, and 79.90.560.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The proprietary fee increase replaces funds suddenly lost by an EPA action outside of the Department of Natural Resources' control. Without the fee increase, the Department of Natural Resources will be forced to close the dredged material disposal sites in June 1994 and dredging projects will have to stop. People associated with water-dependent activities may lose jobs as a result of lost navigational access.

Summary: The Department of Natural Resources is requesting the Board of Natural Resources' approval to raise the Puget Sound dredged material disposal site use proprietary fee from \$0.40/cubic yard (cy) to \$0.45/cy via emer-

EMERGENCY

gency rule change. We also request the board's approval to initiate the process to make the fee increase permanent through the permanent rule change process.

The Department of Natural Resources manages eight open water dredged material disposal sites throughout Puget Sound to meet navigation and commerce interests. The sites were established in 1989 cooperatively with the U.S. Environmental Protection Agency, Washington Department of Ecology and U.S. Army Corps of Engineers through an environmental impact statement (EIS) process. Under the EIS, Department of Natural Resources' assumed responsibility for managing the disposal sites located on state-owned aquatic lands. The Department of Natural Resources' responsibilities include obtaining disposal site shoreline permits, reviewing technical reports on dredged material quality, and post-disposal chemical and biological monitoring.

The legislature established the aquatic lands dredged material disposal site account (ALDMDSA) to cover all of the Department of Natural Resources' costs associated with proprietary management of the disposal sites under RCW 79.90.555. By rule, the Department of Natural Resources establishes a proprietary fee for use of the dredged material disposal sites which is placed into the ALDMDSA. The legislature also gave the Department of Natural Resources the authority to periodically evaluate the fee and to make changes if necessary.

Over the past few years, the ALDMDSA end-of-year fund balance has been around \$200,000. Generally, this balance has been sufficient to handle the unpredictability of dredging projects while meeting the Department of Natural Resources' obligations. However, we now predict that the fund balance will drop below zero sometime this winter and we cannot meet our site monitoring obligations for next spring. Several factors have contributed to this situation, but one unexpected event triggered the current shortfall.

Originally, 275,000 cubic yards (cy) of dredged material was scheduled for disposal at the Department of Natural Resources' Port Gardner site last winter. Without upfront coordination, EPA diverted this material to Eagle Harbor for use in a superfund cleanup. The diversion of material represented a revenue loss of \$110,000 or 40 percent of our expected income to the ALDMDSA in fiscal year 1994. EPA took the position that they could not coordinate with us because the Department of Natural Resources' had been named a potentially responsible party for the cleanup of Eagle Harbor and EPA wanted to maintain confidentiality in the event of an enforcement action against us.

The recent shortfall means we no longer have the funds to conduct dredged material disposal site monitoring in the spring of 1995. Without alternate funding, the Department of Natural Resources' cannot meet its obligations under the EIS and we would need to close the disposal sites in mid June 1994. Closure of the disposal sites will mean cancellation of scheduled dredging projects needed to maintain navigation channels for commerce purposes. Jobs related to waterfront industries dependent on navigational access could also be lost.

In the event the Department of Natural Resources decided to allow dredged material disposal at the sites without the ability to fund the post disposal monitoring, we could be faced with a violation of the federal Clean Water

Act for allowing an unmonitored discharge into waters of the state. We would have no choice but to close down the disposal sites until sufficient funds exist to monitor the sites. We may also potentially violate ecology's sediment management standards which incorporates the conditions of the dredged disposal site EIS by reference.

Recommendation: The Department of Natural Resources recommends that the Board of Natural Resources approve an emergency rule change to raise the dredged material disposal site use proprietary fee from \$0.40/cy to \$0.45/cy. We also recommend the board allow us to initiate appropriate rule revision processes to make the proprietary fee increase permanent. The change consists of amending the current proprietary fee as listed in WAC 332-30-169 shown below. The proprietary fee increase, in combination with cuts in disposal site monitoring costs, will provide a positive fund balance in the ALDMDSA that allows the Department of Natural Resources to meet its obligations and prevent the closure of the disposal sites.

Originally we considered an increase to \$0.50/cy, but the Ports Association expressed concern and provided updated information on projected dredging volumes. After discussions with the Ports Association, we compromised by lowering the increase to \$0.45/cy, but we may have to consider a second increase in a year if the ALDMDSA fund balance does not improve. In the meantime, we plan to work with the ports and other agencies to identify other alternatives for addressing long-term funding problems in the ALDMDSA.

The Ports Association also suggested that the Department of Natural Resources cut costs by scaling back on some post disposal site monitoring. The Department of Natural Resources, EPA, Corps, and ecology met on May 26, 1994 to review the ports' suggestion and agreed to reduce monitoring costs by \$50,000 over the next three years. The EIS for the dredged disposal sites does allow a cut back in required site monitoring after the first few years of monitoring. The agencies agreed the cutbacks are consistent with the EIS based on five years of monitoring data from the disposal sites. The decreased monitoring costs justify the need for only an increase to \$0.45/cy instead of \$0.50/cy.

Analysis: The Department of Natural Resources, in cooperation with the other agencies responsible for dredged material disposal, analyzed the ALDMDSA fund shortage by reviewing past fund balance trends, project revenues, project expenses and uncertainties in assumptions.

Figure 1 presents past revenues, expenditures and fund balance along with future projections for the next three fiscal years, assuming no increase in the disposal fee and no reductions in site monitoring costs. In fiscal year 1989, the legislature provided an appropriation of \$193,000 as seed money for the fund. Since that time, the ALDMDSA has been solely supported by the dredged material disposal fee.

In fiscal year 1990, the fund received a large amount of revenue resulting from the Navy's home port project. The Navy placed a large volume of dredged material at the Rosario Strait disposal site, which has minimal monitoring expenses in comparison to the other disposal sites.

Between fiscal years 1991 and 1994, the amount of dredged material placed in the disposal sites decreased significantly. In addition, most of the material was placed

in the Elliott Bay, Bellingham Bay and Port Gardner disposal sites that have more stringent and expensive monitoring requirements. This combination of decreased revenue and increased monitoring expenses created a large initial drop in the fund balance, which then stabilized around \$200,000 at the end of each fiscal year.

For fiscal year 1995, we estimate that the ALDMDSA fund balance will drop below zero as the result of several factors. The original dredged disposal proprietary fee of \$0.40/cy set in 1989 was based on predictions on the amount of material that would be placed at the disposal sites. The material placed in the sites between 1989 and 1994 has been significantly lower than the 1989 predicted volumes. The lower volumes of material resulted from the postponement or cancellation of several dredging projects due to Washington's economic recession and the diversion of clean dredged material away from the sites for use in habitat restoration and superfund cleanup sites.

Though our dredged material volumes and revenues have dropped, our site monitoring expenses have not decreased. For example, we have to pay the same costs at a site for a full monitoring event whether we have 300,000/cubic yards or 1,000,000 cubic yards placed at a site. Without changes to the proprietary fee or monitoring costs, we expect this trend of decreased revenues with the same level of expenses to continue in the future as governmental agencies encourage the use of clean dredged material in habitat restoration and superfund cleanup projects.

Though the Department of Natural Resources recognized that the ALDMDSA balance would slowly decrease in the future, one event triggered the current situation where we now must request a proprietary fee increase by emergency rule. The U.S. Environmental Protection Agency (US EPA) diverted 275,000 cubic yards of dredged material from disposal at the Port Gardner disposal site for use at the Eagle Harbor superfund cleanup site. EPA took this action under its emergency authority and did not inform the Department of Natural Resources of its planned actions until just before it occurred in fall 1993/winter 1994. EPA has named the Department of Natural Resources as potentially liable for cleanup at Eagle Harbor and stated it could not initially coordinate with us due to the potential for an enforcement action against the Department of Natural Resources.

The diversion of the dredged material to Eagle Harbor represents a loss of \$110,000 to the ALDMDSA fund or approximately forty percent of our originally projected revenue for fiscal year 1994. As shown on figure 1, this revenue loss results in a deficit of approximately \$9,000 at the end of fiscal year 1995, slightly positive balance in 1996 and a deficit of \$25,000 in 1997.

Figure 2 shows the impact of raising the dredged material disposal fee to \$0.50/cy and maintaining our current level of disposal site monitoring. Though the fund balance remains depressed in fiscal year 1995, we do return toward our historic fund balance of \$200,000 in 1996 and 1997. However, cancellation of a major dredging project in fiscal year 1995 could drop the fund balance below zero.

The ports expressed concern that the increase to \$0.50/cy may be premature, given the uncertainty of dredging projects. For example, the Port of Tacoma's West Blair project is projected to occur in fiscal year 1996, but the port estimates it has a 50/50 chance of occurring in fiscal year

1995. The port will not be able to make a commitment on dredging this project until late summer.

This project could significantly impact the Department of Natural Resources' expenditures and fund balance projections. The West Blair project represents approximately forty percent of the dredged material predicted for placement at the disposal sites over the next three fiscal years. Currently, we will have to monitor the Commencement Bay site in both fiscal year 1995 and 1996 to be in compliance with the EIS conditions. However, if the West Blair project occurs in fiscal year 1995, we have only to monitor the Commencement Bay site once and reduce monitoring expenses in half for that site, while retaining the same amount of revenue.

To address the Ports Association's concerns on uncertainty over the West Blair project, we compromised with an increase to \$0.45/cy. If the West Blair project does occur earlier, we should have sufficient funds to meet our disposal site monitoring obligations without raising the proprietary fee a second time.

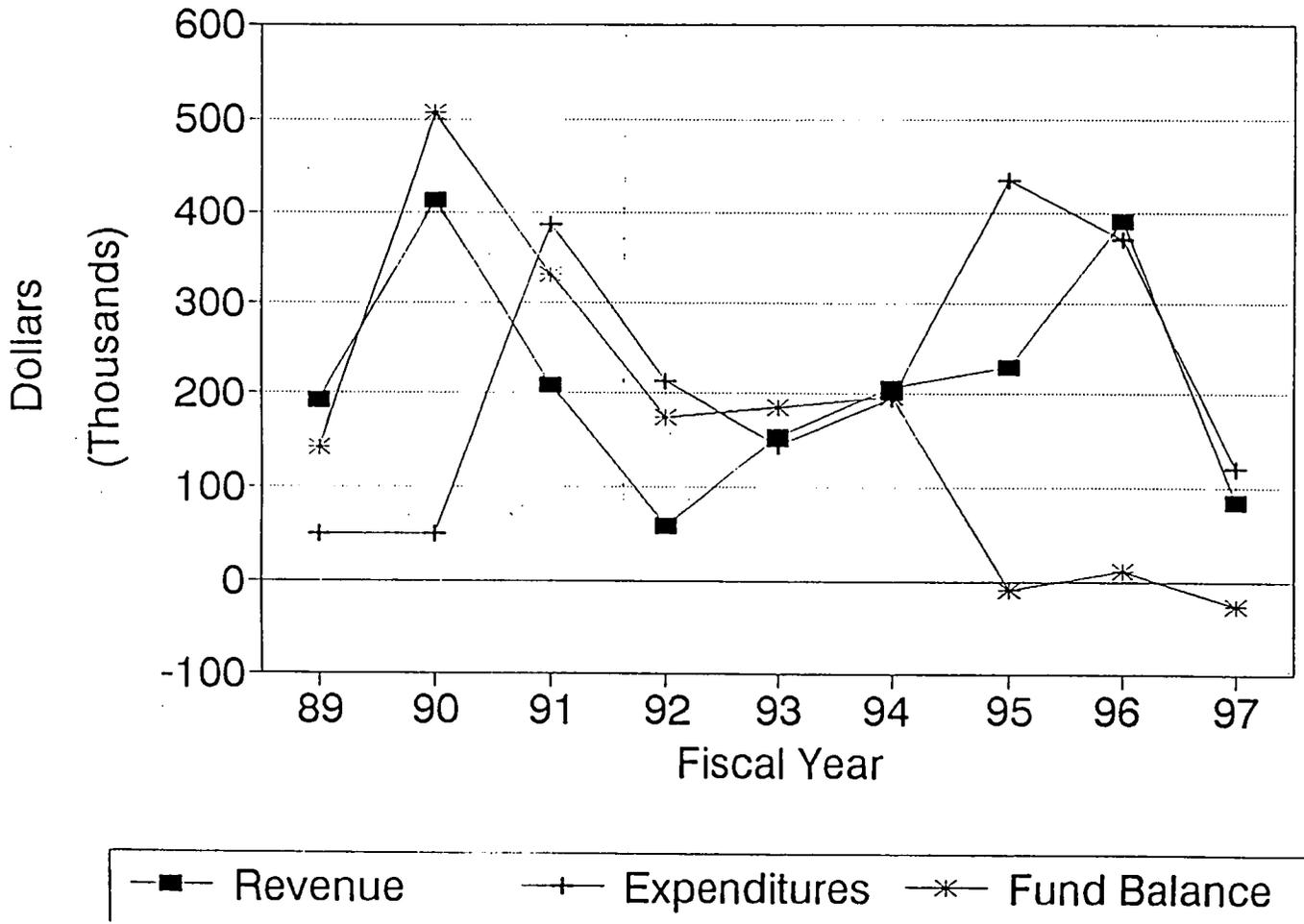
The Ports Association also suggested that the Department of Natural Resources could cut disposal site monitoring costs. The dredged disposal site EIS does allow the reduction of disposal site monitoring after the first several years of site monitoring, if no unexpected impacts are found at the sites. The sites have been monitored four times since 1989 without evidence of unexpected impacts. The four co-lead agencies for the EIS (the Department of Natural Resources, Corps, ecology and EPA) met on May 26, 1994, to review the ports' suggestion. The agencies agreed to cuts of at least \$50,000 in the monitoring program based on the past monitoring data and conditions set in the EIS.

Figure 3 shows the impact of a \$0.45/cy fee and reductions in disposal site monitoring costs. The fund balance becomes positive, but at lower levels than our historic balance of \$200,000/yr. (see Figure 1). Cancellation of a moderate to large sized dredging project could create a deficit in the fund. On the other hand, if the West Blair project does occur in fiscal year 1995 instead of 1996, the fund balance will be slightly above its historic levels of \$200,000.

The increase in the dredged material site disposal fee to \$0.45/cy, in combination with a reduction in site monitoring costs, addresses both the Department of Natural Resources and the Ports Association's concerns. The fee increase maintains a positive fund balance in the ALDMDSA for the next fiscal year, while allowing us to determine the fate of the dredging projects such as Port of Tacoma's West Blair project. Based on the new dredging information, we can determine if a second fee increase will be needed in the future. In addition, we will be working with other agencies and the ports to scope out other options for solving our long-term funding problems.

# FIGURE 1. ALDMDSA FUND

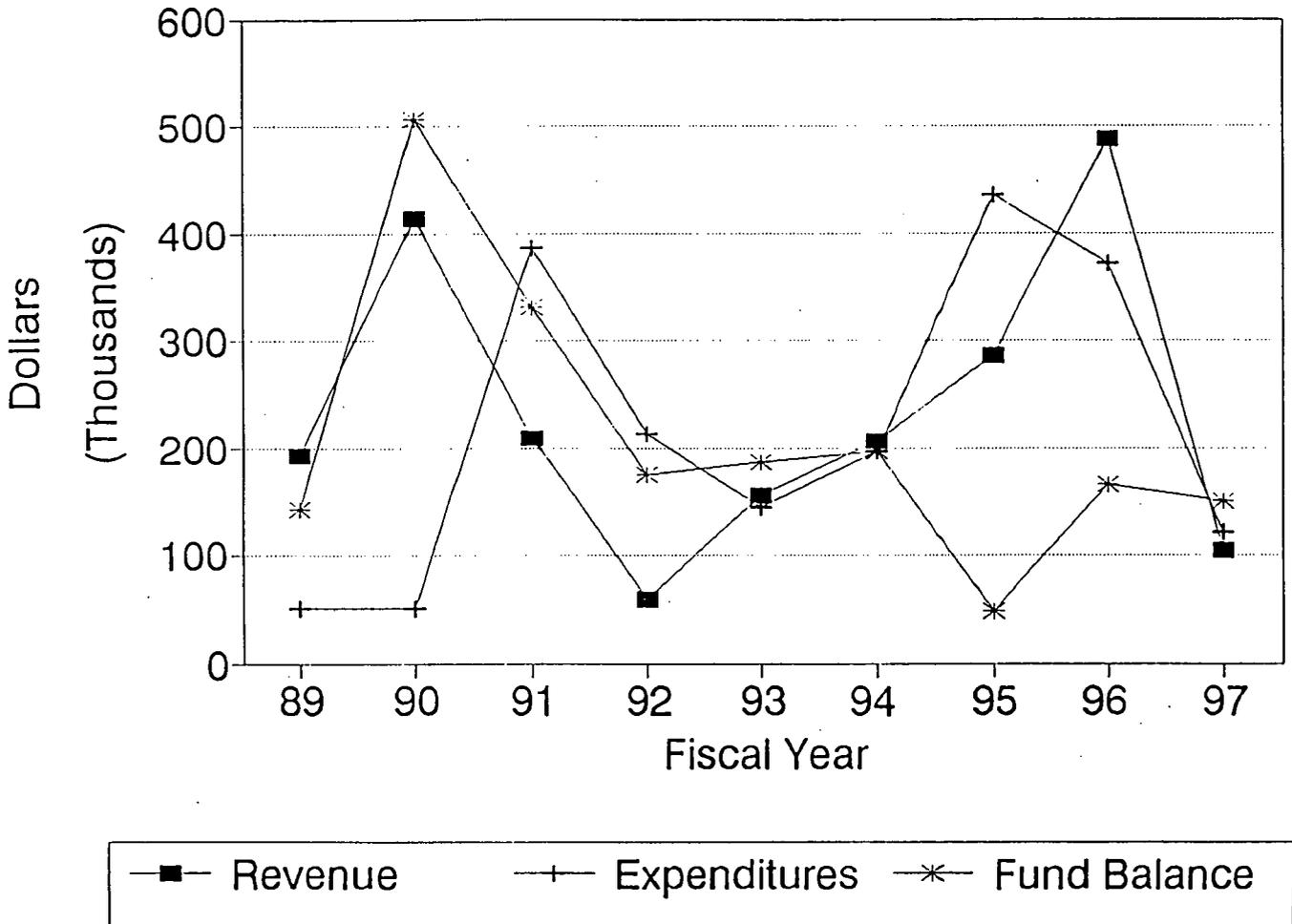
Disposal Fee = \$0.40/cy



EMERGENCY

# FIGURE 2. ALDMDSA FUND

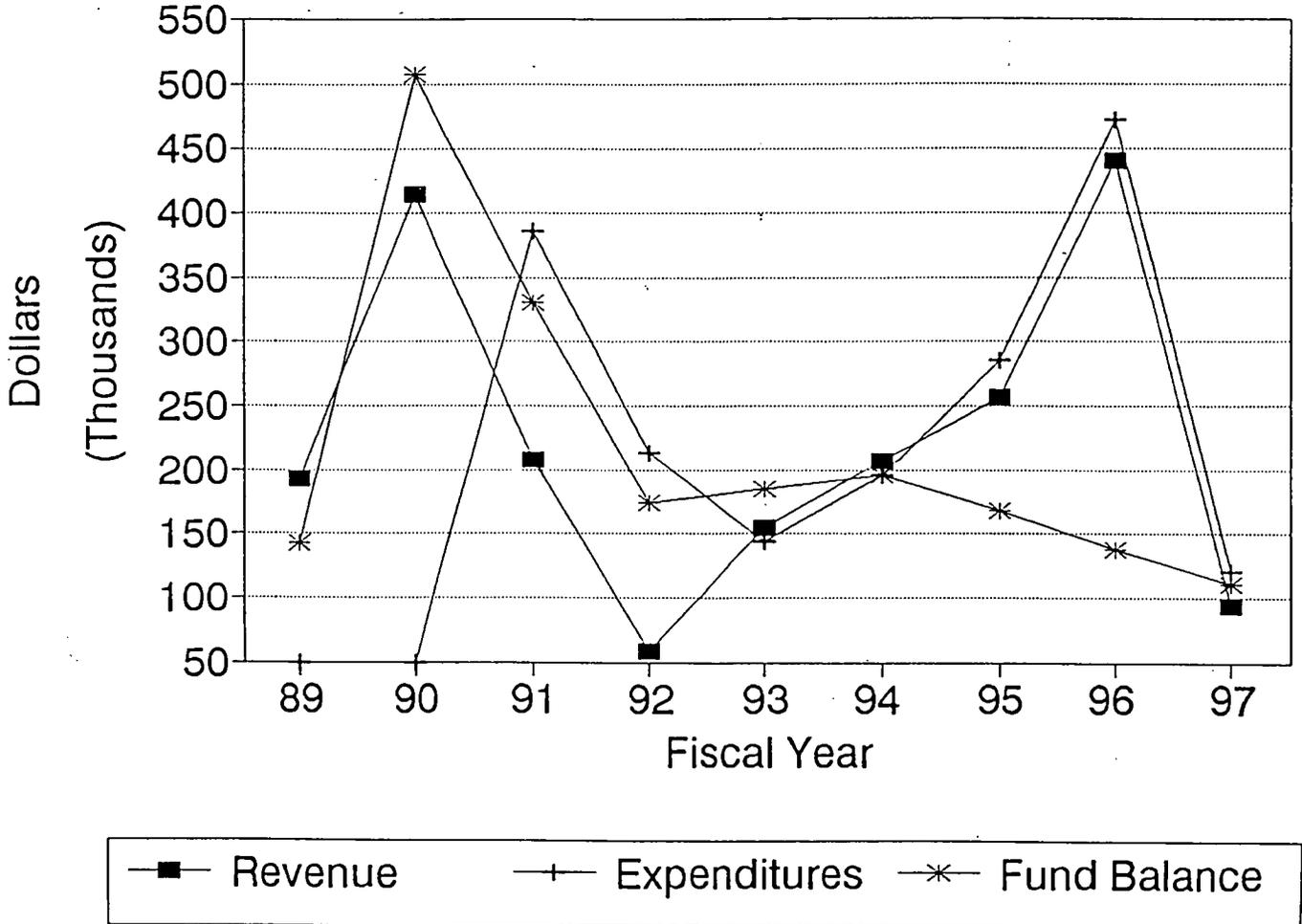
Disposal Fee = \$0.50/cy



EMERGENCY

# FIGURE 3. ALDMDSA FUND

Fee = \$0.45/cy & Reduced Monitoring



EMERGENCY

Effective Date of Rule: Immediately.

June 8, 1994  
 Jennifer M. Belcher, Chair  
 Board of Natural Resources

**AMENDATORY SECTION** (Amending Order [WSR 90-02-085], filed [1/3/90])

**WAC 332-30-166 Open water disposal sites.** (1) Open water disposal sites are established primarily for the disposal of dredged material obtained from marine or fresh waters. These sites are generally not available for disposal of material derived from upland or dryland excavation except when such materials would enhance the aquatic habitat.

(2) Material may be disposed of on state-owned aquatic land only at approved open water disposal sites and only after authorization has been obtained from the department. Applications for use of any area other than an established site shall be rejected. However, the applicant may appeal to

the interagency open water disposal site evaluation committee for establishment of a new site.

(3) Application for use of an established site must be for dredged material that meets the approval of federal and state agencies and for which there is no practical alternative upland disposal site or beneficial use such as beach enhancement.

(4) The department will only issue authorization for use of the site after:

(a) The environmental protection agency and department of ecology notify the department that, in accordance with Sections 404 and 401, respectively, of the Federal Clean Water Act, the dredged materials are suitable for in-water disposal and do not appear to create a threat to human health, welfare, or the environment; and

(b) All necessary federal, state, and local permits are acquired.

(5) Any use authorization granted by the department shall be subject to the terms and conditions of any required federal, state, or local permits.

(6) The department shall suspend or terminate any authorization to use a site upon the expiration of any required permit.

(7) All leases for use of a designated site must require notification to DNR in Olympia twenty-four hours prior to each use. DNR Olympia must be notified five working days prior to the first use to permit an on-site visit to confirm with dump operator the site location.

(8) Pipeline disposal of material to an established disposal site will require special consideration.

(9) Fees will be charged at rates sufficient to cover all departmental costs associated with management of the sites. Fees will be reviewed and adjusted annually or more often as needed. A penalty fee may be charged for unauthorized dumping or dumping beyond the lease site. Army Corps of Engineers navigation channel maintenance projects [where there is no local sponsor] are exempt from this fee schedule.

#### FEES

(a) Puget Sound and Strait of Juan De Fuca:

(i) All disposal sites ~~\$0.40~~ \$0.45 per cubic yard (c.y[.]), \$2,000 minimum[;][.]

(b) Grays Harbor/Willapa Harbor: Minimum fee \$300.00

(c) Damage fee - \$5.00/cubic yard

(10) Open water disposal site selection. Sites are selected and managed by the department with the advice of the interagency open water disposal site evaluation committee (a technical committee of the aquatic resources advisory committee). The committee is composed of representatives of the state departments of ecology, fisheries, game, and natural resources as well as the Federal Army Corps of Engineers, National Marine Fisheries Service, Environmental Protection Agency, and Fish and Wildlife Service. The department chairs the committee. Meetings are irregular. The committee has developed a series of guidelines to be used in selecting disposal sites. The objectives of the site selection guidelines are to reduce damage to living resources known to utilize the area, and to minimize the disruption of normal human activity that is known to occur in the area. The guidelines are as follows:

(a) Select areas of common or usual natural characteristics. Avoid areas with uncommon or unusual characteristics.

(b) Select areas, where possible, of minimal dispersal of material rather than maximum widespread dispersal.

(c) Sites subject to high velocity currents will be limited to sandy or coarse material whenever feasible.

(d) When possible, use disposal sites that have substrate similar to the material being dumped.

(e) Select areas close to dredge sources to insure use of the sites.

(f) Protect known fish nursery, fishery harvest areas, fish migration routes, and aquaculture installations.

(g) Areas proposed for dredged material disposal may require an investigation of the biological and physical systems which exist in the area.

(h) Current velocity, particle size, bottom slope and method of disposal must be considered.

(i) Projects transporting dredged material by pipeline will require individual review.

(j) Placement of temporary site marking buoys may be required.

(k) The department will assure disposal occurs in accordance with permit conditions. Compliance measures may include, but are not limited to, visual or electronic surveillance, marking of sites with buoys, requiring submittal of operator reports and bottom sampling or inspection.

(l) Special consideration should be given to placing material at a site where it will enhance the habitat for living resources.

(m) Locate sites where surveillance is effective and can easily be found by tugboat operators.

(11) The department shall conduct such subtidal surveys as are necessary for siting and managing the disposal sites.

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

**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:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### WSR 94-13-063 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 94-50—Filed June 8, 1994, 4:30 p.m., effective June 9, 1994, 12:01 a.m.]

Date of Adoption: June 8, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500V; and amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts still remain on the halibut quota.

Effective Date of Rule: June 9, 1994, 12:01 a.m.

June 8, 1994

Edward P. Manary  
for Robert Turner  
Director

#### NEW SECTION

**WAC 220-56-25500W Halibut—Seasons and areas.** Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use except from the following Catch Record Card Areas during the times herein provided:

(1) Areas 1 and 2 - June 9.

(2) Area 3 and the portion of Area 4 west of the Bonilla-Tatoosh Line - open 12:01 a.m. June 9, 1994 through 11:59 p.m. June 11, 1994.

(3) Area 4 east of the Bonilla-Tatoosh Line and Areas 5 through 13 -Thursday through Tuesday, May 2 through July 5. A halibut catch record card is required for this fishery.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500V Halibut—Seasons and areas. (94-42)

**WSR 94-13-065  
EMERGENCY RULES  
FOREST PRACTICES BOARD**  
[Filed June 9, 1994, 2:23 p.m.]

Date of Adoption: June 8, 1994.

Purpose: To modify forest practices rules, in order to protect public resources while maintaining a viable timber industry.

Citation of Existing Rules Affected by this Order: Amending WAC 222-16-010, 222-16-080, 222-24-030, 222-30-050, 222-30-060, 222-30-070, 222-30-100, 222-38-020 and 222-38-030; new sections WAC 222-30-065 and 222-30-075.

Statutory Authority for Adoption: .RCW 76.09.040 and chapter 34.05 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary because the permanent rule protecting the northern spotted owl sunsetted on February 9, 1994. This emergency rule will provide protection to the species while the Forest Practices Board conducts the permanent rule adoption process. The marbled murrelet was listed as by the USF&WS in November 1992 and by the Wildlife Commission in October 1993. This emergency rule replaces the board's existing emergency rule on marbled murrelets, which was adopted on March 10, 1994.

Effective Date of Rule: Immediately.

June 8, 1994  
Jennifer M. Belcher  
Commissioner of Public Lands

Reviser's note: The material contained in this filing will appear in the 94-14 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

**WSR 94-13-071  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-47—Filed June 9, 1994, 4:43 p.m., effective June 10, 1994, 12:01 a.m.]

Date of Adoption: June 8, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-385 and 220-57-460.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The estimated return of spring chinook to Soleduck Hatchery is well below the hatchery escapement goal. A closure is necessary to maximize the escapement to the hatchery.

Effective Date of Rule: June 10, 1994, 12:01 a.m.

June 8, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-57-38500V Quillayute River.** Notwithstanding the provisions of WAC 220-57-385, effective 12:01 a.m. June 10, 1994 through June 30, 1994, it is unlawful to fish for salmon for personal use in or to possess salmon taken for personal use from the waters of the Quillayute River.

**NEW SECTION**

**WAC 220-57-46000A Sol Duc River.** Notwithstanding the provisions of WAC 220-57-460, effective 12:01 a.m. June 10, 1994 through June 30, 1994, it is unlawful to fish for salmon for personal use in or to possess salmon taken for personal use from the waters of the Sol Duc River.

**WSR 94-13-072  
EMERGENCY RULES  
DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT**

[Order 94-01—Filed June 10, 1994, 10:35 a.m., effective July 1, 1994]

Date of Adoption: June 1, 1994.

Purpose: To establish an optional consolidated emergency food assistance program (EFAP) pilot project which will allow participants to apportion their EFAP funds in the most advantageous way to meet the particular needs of their communities.

Citation of Existing Rules Affected by this Order: Amending chapter 365-140 WAC.

Statutory Authority for Adoption: RCW 43.63A.060 and section 222(5), chapter 232, Laws of 1992.

EMERGENCY

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The agency wishes to pilot a change in model for EFAP effective July 1, 1994. This rule will allow food banks and distribution centers greater flexibility in how EFAP funds are used, better meeting the needs of their communities. The agency expects that the pilot project will result in more food being available sooner, thereby feeding more people, and quicker, more efficient services to the hungry.

Effective Date of Rule: July 1, 1994.

June 10, 1994  
Mike Fitzgerald  
Director

AMENDATORY SECTION (Amending Order 93-06, filed 8/25/93, effective 9/25/93)

**WAC 365-140-030 Definitions.** (1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Food bank" means an emergency food program that distributes food and other products on a regular basis without a charge.

(4) "Food distributor" means a food distribution agency that collects, warehouses, and distributes food and other products to emergency food programs and other charities on a county, regional, or state-wide basis.

(5) "Commodity program" means a program that primarily distributes USDA surplus commodities to clients (TEFAP).

(6) "Emergency food assistance program" means the multifaceted state-wide administrative activities carried out within the department (~~(of community development)~~) to allocate, award, and monitor state funds appropriated to assist local food banks and food distributors, tribes or tribal organizations, and other food programs.

(7) "Applicant" means a public or private nonprofit organization, tribe or tribal organization which applies for state emergency food assistance.

(8) "Contractor" means an applicant which has been awarded state funds under the emergency food assistance program, and which has entered into a contract with the department of community, trade, and economic development to provide emergency food assistance to individuals.

(9) "Lead agency contractor" means a contractor which may subcontract with one or more local organizations to provide emergency food assistance to individuals.

(10) "Tribal food voucher program" means the state-wide administrative activities carried out within the department (~~(of community development)~~) to allocate, award, and monitor state funds appropriated to assist tribes or tribal organizations in issuing food vouchers to clients.

(11) "Religious service" means any sectarian or non-denominational service, rite, or meeting that involves worship of a higher being.

(12) "Participating agency" means a local public or private nonprofit organization which enters into a subcontract with a contractor to provide emergency food program services.

#### NEW SECTION

**WAC 365-140-045 Pilot project for consolidated emergency food assistance program.** The department has established an optional consolidated emergency food assistance program pilot project for counties or multicounty regions. The following conditions shall apply to pilot project participants:

(1) A county or multicounty region which requests to participate in the pilot project must be approved by the department to do so. Approval shall be granted if all existing participating food banks and contractors in the county or multicounty region agree to participate in the pilot project.

(2) WAC 365-140-040 (1), (2) and (6) and the criteria found in WAC 365-140-050(6) for food distributors shall not apply to participants in the pilot project.

(3) A public or nonprofit agency selected as the emergency food assistance program lead agency contractor for a county or multicounty region shall contract with the department for that county's or region's entire emergency food assistance program allocation.

(4) Except for the additional funds specifically allocated for food banks in timber-dependent communities, funds shall be allocated between food distributors, food banks and special dietary needs foods based on a two-thirds vote of all participating food banks.

(5) The additional funds specifically allocated for food banks in timber-dependent communities shall remain in the amounts identified by the timber task force.

(6) If a lead agency contractor and the participating food banks designate funds for food distribution, a food distributor will be chosen by a two-thirds vote of the participating food banks and the lead agency contractor. The lead agency contractor shall be responsible for subcontracting with the food distributor. The lead agency contractor and the participating food banks will, by a two-thirds vote, determine the criteria the food distributor must meet, and shall ensure that the requirements of WAC 365-140-050(1) are met.

AMENDATORY SECTION (Amending Order 93-06, filed 8/25/93, effective 9/25/93)

**WAC 365-140-050 Applicant eligibility criteria.** (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501(c)3, (~~have a sponsor providing 501(c)3 status,~~) or be a public nonprofit agency, be a recognized tribe, a tribal organization with 501(c)3 status, or an unrecognized tribe with 501(c)3 status.

(2) The applicant must not require participation in a religious service as a condition of receiving emergency food or a food voucher.

(3) The applicant must provide food or food vouchers to individuals in an emergency, regardless of residency.

(4) The applicant must practice nondiscrimination in providing services and employment.

(5) The applicant must not deny food or food vouchers to an individual because of his or her inability to pay.

(6) Applicants for funding as participating agency or food distributor must have had a food bank program or food distribution center in operation for one year prior to the beginning date of the contract year.

(7) The applicant for food bank lead agency contractor may or may not actually provide emergency food program services.

**WSR 94-13-074**  
**EMERGENCY RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5051—Filed June 10, 1994, 3:29 p.m.]

Date of Adoption: June 30, 1994.

Purpose: To establish expiration/renewal dates for new milk processing plant license as required under RCW 15.32.110 as recodified by chapter 143, Laws of 1994.

Statutory Authority for Adoption: RCW 15.32.110 as recodified by chapter 143, Laws of 1994, chapter 15.32 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: SSB 6096 revises dairy statutes and establishes enforcement criteria based on taking action against new milk processing plant license to protect the public health from milk or milk products which contains harmful bacteria, drugs, pesticides or other deleterious materials and to degrade (not allow sale of products) which do not conform to established standards. We need to get these in place immediately to replace enforcement provisions in previous laws which end June 9, 1994.

Effective Date of Rule: Immediately.

June 10, 1994  
James M. Jesernig

NEW SECTION

**WAC 16-103-010 Purpose.** These rules are promulgated under the authority of RCW 15.32.110 as recodified by chapter 143, Laws of 1994. The purpose of these rules is to establish a renewal date for the annual milk processing plant license.

NEW SECTION

**WAC 16-103-020 Milk processing plant license.** The licensing period for milk processing plants shall begin on July 1 and run through the following June 30. All annual milk processing plant licenses shall expire on June 30 of each year.

**WSR 94-13-076**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-52—Filed June 10, 1994, 4:31 p.m., effective June 12, 1994, 11:59 p.m.]

Date of Adoption: June 10, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500A; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable quota of shrimp has been taken.

Effective Date of Rule: June 12, 1994, 11:59 p.m.

June 10, 1994  
Robert Turner  
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 12, 1994:

WAC 220-56-32500A Shrimp and crab—Hood canal. (94-40)

**WSR 94-13-095**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Order 623—Filed June 15, 1994, 11:15 a.m.]

Date of Adoption: June 15, 1994.

Purpose: Establish regions of extra fire hazard which are closed to entry due to the condition of the forest slash.

Statutory Authority for Adoption: RCW 76.04.305.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Certain areas of the state are particularly exposed to fire danger due to the continuous acres of slash. In order to prevent a fire from starting whereby lives and property would be at risk, it is necessary to post these lands as closed to entry.

Effective Date of Rule: Immediately.

June 9, 1994  
Kaleen Cottingham  
Department Supervisor

EMERGENCY

NOTICE OF DECLARATION OF AREAS OF EXTREME FIRE HAZARD

[NEW SECTION]

WAC 332-26-060 South Puget Sound region closures

King County: Township 20 North, Range 8 East: E1/2, SE1/4, Section 10; All of Section 11; Part of the NE1/4, Part of the NW1/4, All of the SW1/4, Part of the SE1/4, Section 12; All Section 13; All Section 14; NE1/4, Section 22; All Section 23 and 24. Township 20 North, Range 10 East: All Section 31, All Section 33. Township 19 North, Range 11 East: All Section 19; All Section 21. Township 19 North, Range 10 East: All Section 1; All Section 7; All Section 9; All Section 11; All Section 13; All Section 15; All Section 17; N1/2, Section 19; N1/4, Section 21; N1/2, Section 23. Township 19 North, Range 9 East: All Section 1; All Section 12; Part Section 13.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he/she may suspend this Notice by issuing a news release to the newspapers of general circulation in the Region and to radio and television stations serving the Region, specifying the date and time of the suspension and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Regional Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he/she will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above described areas against fire, the following rule will be enforced:

"Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations."

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective midnight Wednesday, June 15, 1994, to midnight Saturday, October 15, 1994.

JENNIFER M. BELCHER
Commissioner of Public Lands

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

[NEW SECTION]

WAC 332-26-040 Central region closures

Lewis County: Township 13 North, Range 3 East: all Section 1. Township 14 North, Range 3 East: all Section 23; all Section 25; all Section 35. Township 14 North, Range 5 East: all Section 18; all Section 19; W1/2W1/2; SW1/4SE1/4 Section 20; NW1/4; NW1/4NE1/4; NW1/4SE1/4; N1/2N1/2SW1/4 Section 29.

Grays Harbor County: Township 21 North, Range 6 West: pt. S1/2 lying SE of 500 Road, pt. lying west of 6883 Road, pt. lying south of 6885 Road Section 18; W1/2 except that portion lying west of 500 Road and the portion lying

east of the 6893 Road, E1/2E1/2 except that portion lying east of 6800 Road Section 19; pt. NW1/4 lying NW of 6800 Road Section 30. Township 21 North Range 7 West: pt. E1/2E1/2 lying east of 6875 Road Section 24; pt. N1/2SW1/4, S1/2NW1/4, pt. E1/2 lying west of 6875 Road Section 25; NE1/4NE1/4SE1/4 Section 26.

Thurston County: Township 15 North Range 1 West: S1/2 Section 16; pt. S1/2NE1/4; pt. SE1/4 lying east of Tono Road Section 17; SE1/4SW1/4; SE1/4 Section 20; all except W1/2NW1/4; S1/2SE1/4SE1/4 Section 21; all except E1/2E1/2 Section 22.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he/she may suspend this Notice by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area, specifying the date and time of the suspension, and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Regional Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he/she will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above-described areas against fire, the following rule will be enforced:

Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations.

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective from midnight Wednesday, June 15, 1994, to midnight Saturday, October 15, 1994.

JENNIFER M. BELCHER
Commissioner of Public Lands

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

[NEW SECTION]

WAC 332-26-050 Northwest region closures

WHATCOM COUNTY: Township 40 North, Range 6 East: Section 32 SE1/4, NE1/4 SW1/4; Section 33 SW1/4. Township 39 North, Range 6 East: Section 5 W1/2 NE1/4; Section 12 All; Section 13 All. Township 39 North, Range 7 East: Section 7 All; Section 8 SW1/4; Section 17 W1/2, SE1/4; Section 18 All; Section 19 All; Section 20 All. Township 38 North, Range 5 East: Section 14 SW1/4, SE1/4; Section 22 E1/4, SE1/4; Section 23 N1/2 NW1/4, NW1/4 NE1/4, SW1/4 NW1/4, W1/2 SW1/4; Section 26 NW1/4 NW1/4, N1/2 SW1/4; Section 27 E1/2 NE1/4. Township 37 North, Range 3 East: Section 3 All; Section 4 SE1/4; Section 9 NE1/4, N1/2 SE1/4; Section 10 All; Section 11 W1/2 SW1/4, E1/2 NW1/4, W1/2 NE1/4; Section 15 N1/2 NE1/4, S1/2 NE1/4 NW1/4. Township 37 North, Range 6 East: Section 15 E1/2; Section 20 SE1/4; Section 21 S1/2; Section 22 S1/2; Section 25 All; Section 26 All; Section 27 All; Section 28 All; Section 29 NW1/4; Section

33 Those portions in N1/2 from New York Ridge down to Arlecho Creek; Section 34 - Those portions in the N1/4 from New York Ridge down to Arlecho Creek.

SKAGIT COUNTY: Township 36 North, Range 5 East: Section 1 W1/2 W1/2; Section 12 W1/2. Township 36 North, Range 7 East: Section 2 W1/2; W1/2 SE1/4; Section 11 All; Section 13 NW1/4 and NW1/4 SW1/4; Section 14 N1/2. Township 36 North, Range 8 East: Section 2 All; Section 3 E1/2 SW1/4; E1/2 NW1/4 and NE1/4; Section 27 All. Township 36 North, Range 9 East: Section 17 NW1/4 NW1/4; Section 18 E1/2, SE1/4 NW1/4, N1/2 SW1/4; Section 19 N1/2 NE1/4, SE1/4 NE1/4, SE1/4 NW1/4, NE1/4 SW1/4, S1/2 SE1/4; Section 30 All; Section 31 NW1/4, NW1/4 NE1/4, N1/2 SW1/4. Township 35 North, Range 5 East: Section 3 N1/2 N1/2; Section 4 N1/2. Township 35 North, Range 8 East: Section 3 NW1/4; Section 4 N1/2 NW1/4; Section 17 SE1/4; Section 21 SW1/4 SW1/4 and N1/2 NW1/4; Section 22 N1/2; Section 25 NE1/4 SE1/4; NE1/4; Section 26 S1/2; Section 27 S1/2; Section 28 S1/2 NE1/4, S1/2; Section 32 S1/2 Except NW1/4 SW1/4; Section 33 All; Section 34 All; Section 35 N1/2. Township 35 North, Range 9 East: Section 17 SE1/4; Section 18 E1/2 NW1/4; NE1/4 SW1/4; W1/2 NE1/4; W1/2 SE1/4 North of Highway 20; Section 29 Lot 2; NW1/4 SE1/4; S1/2 S1/2; Section 30 SW1/4; Section 32 N1/2; Section 33 SW1/4. Township 35 North, Range 10 East: Section 13 E1/2 SE1/4; Section 24 NE1/4, E1/2 SE1/4; Section 26 NE1/4; S1/2; Section 27 S1/2 SE1/4 South of the Rockport-Cascade Road; Section 33 E1/2 NE1/4 and SE1/4; Section 34 NE1/4; Section 35 All. Township 35 North, Range 11 East: Section 11 SW1/4 N of Cascade River Road; Section 14 All; Section 15 N1/2 N of Cascade River Rd, S1/2 S of Cascade River Park; Section 17 S1/2; Section 18 S1/2 SE1/4, W1/2 SW1/4; Section 19 All; Section 20 NE1/4; Section 21 N1/2, N1/2 S1/2; Section 22 N1/2 NE1/4, NW1/4, N1/2 SW1/4. Township 34 North, Range 9 East: Section 26 S1/2; Section 35 NE1/4. Section 34 North, Range 10 East: Section 6 S1/2 SW1/4; SW1/4 SE1/4; SE1/4; NE1/4; Section 7 NW1/4; NW1/4 NE1/4; Section 30 S1/2 West of Sauk River; Section 31 NE1/4. Township 33 North, Range 4 East: Section 10 SE1/4, E1/2 SW1/4, S1/2 NE1/4; Section 11 All except NW1/4 & Devil's Lake Area in SE1/4; Section 12 Part S1/2 NE1/4, Part NW1/4 NW1/4, E1/2 SW1/4; Section 13 S1/2, NE1/4, Part E1/2 NW1/4; Section 14 Part N1/2 N1/2, W1/2 SE1/4; Section 15 Part N1/2 SE1/2, Part SE1/4 SE1/4; Section 19 NW1/4, SW1/4 NE1/4; Section 23 SE1/4 SE1/4, N1/2 SW1/4 SE1/4; Section 24 Part N1/2; Township 33 North, Range 10 East: Section 11 SW1/4 less NE1/4; Section 14 SE1/4 NW1/4, S1/2 SW1/4; Section 15 E1/2; Section 22 E1/2 less NW1/4 NE1/4; Section 23 W1/2 less SE1/4 NW1/4, NE1/4 SW1/4; Section 25 W1/2; Section 26 all less W1/2 SW1/4; Section 27 E1/2 NE1/4, W1/2 SE1/4; Section 34 all less NW1/4; NE1/4 SW1/4; Section 35 All.

When, in the opinion of the Regional Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he/she may suspend this Notice by issuing a news release to the newspapers of general circulation in the Region and to radio and television stations serving the Region, specifying the date and time of the suspension and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Regional Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he/she will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above described areas against fire, the following rule will be enforced:

"Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations."

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective midnight Wednesday, June 15, 1994, to midnight Saturday, October 15, 1994.

JENNIFER M. BELCHER  
Commissioner of Public Lands

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

**WSR 94-13-100**  
**EMERGENCY RULES**  
**GAMBLING COMMISSION**  
[Filed June 15, 1994, 3:36 p.m.]

Date of Adoption: June 10, 1994.

Purpose: Allow cardroom operators to raise the fee which may be charged to card players from \$2.00 per half hour to \$3.00 per half hour.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-050.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Immediate amendment complies with HB 2382 that was effective June 9, 1994.

Effective Date of Rule: Immediately.

June 14, 1994  
Shanna R. Lingel  
Rules Coordinator

AMENDATORY SECTION (Amending Order 153, filed 8/12/85)

**WAC 230-40-050 Fees for card playing.** No fee shall be charged a person, directly or indirectly, to play in a card game in excess of those fees set forth below:

(1) For all card games, except as provided in (2) below, the fee shall not exceed (~~(\$2.00)~~) \$3.00 per half hour, or portion thereof, per player.

The fee charged shall be collected by the licensee in cash, or in wagering chips, directly from the player upon each half hour only. No player shall be required to pay for

or purchase any other goods or services as a condition of playing cards beyond the (~~(\$2.00)~~) \$3.00 per half hour per player except under section (3) below. The fee schedule applicable to the type of games and number of tables in the card room shall be conspicuously posted on the premises where it can be clearly seen by the players in the card games.

(2) A person requesting a new deck of cards beyond those regularly furnished by the operator as required by WAC 230-40-070(2) may be charged a fee not to exceed the actual cost to the licensee of the deck. Further, Class D licensees may charge a fee not to exceed actual cost to the licensee per deck for each deck of playing cards furnished to a table as required by these rules, or as requested by any player at the table. The fee shall be collected in cash directly from the players, or the player requesting the deck, at the time the deck is introduced into the game.

(3) This rule shall not prevent a bona fide nonprofit or charitable organization which has been established and operated for purposes other than card playing from charging its usual membership fee to belong to the organization.

(4) The licensee shall collect the same fee from all players at a table except licensed card room employees or the licensed owner. If he elects to allow free play, then all players at a table must be allowed to play for free.

The amount collected each half hour shall be recorded by the licensee immediately following the collection of the fees on a standard card room format prescribed and supplied by the commission to the licensee. All records required by this rule shall be maintained for a period of three years from the end of the licensee's fiscal year for which the record is kept.

**WSR 94-13-121  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-53—Filed June 17, 1994, 4:30 p.m., effective June 20, 1994, 4:00 a.m.]

Date of Adoption: June 17, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-03000G; and amending WAC 220-33-030.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of shad are available in the Columbia River. This rule is consistent with the actions of the Columbia River Compact.

Effective Date of Rule: June 20, 1994, 4:00 a.m.

June 17, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-33-03000H Commercial shad—Columbia River.** Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for, or possess shad for commercial purposes except as provided in this section:

**FISHING PERIODS**

(1) The Camas-Washougal Reef Area is open: 4:00 a.m. June 20, 11:59 p.m. June 24, 1994.

**GEAR**

(2) Gill net gear may be used to fish for shad as provided in WAC 220-33-030(1), except that in the Camas-Washougal Reef Area the webbing of the gear may be constructed of mesh having a breaking strength of less than 30 pounds.

**GENERAL**

(3) During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

**WSR 94-13-136  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-54—Filed June 20, 1994, 3:58 p.m., effective June 21, 1994, 11:59 p.m.]

Date of Adoption: June 20, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100Q; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable surplus of sea cucumbers in Districts 1 and 4 have been landed. Eagle Harbor and Sinclair Inlet are closed due to contamination and for the economic well being of the industry. Area 28D is closed for potential allocation in tribal shellfish negotiations.

Effective Date of Rule: June 21, 1994, 11:59 p.m.

June 20, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

EMERGENCY

NEW SECTION

**WAC 220-52-07100R Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective 11:59 p.m. June 21, 1994 until further notice it is unlawful to fish for or possess sea cucumbers taken for commercial use from all state waters except during the times and in the areas as provided for in this section:

(1) Sea cucumber harvest using the shellfish diver gear is allowed in Sea Cucumber Districts 2 and 3, Monday, Tuesday, and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(2) The following waters are closed to the harvest of sea cucumbers at all times:

(a) Eagle Harbor - All waters westerly of a line projected northerly from Wing Point to Eagle Harbor Cresote Light number one and then due west to the shoreline of Bainbridge Island.

(b) Hale Passage - Those waters within a line projected northerly from Point Migley to Sandy Point and a line projected from Point Francis through the marker north of Inati Bay to landfall on Lummi Island.

(c) Olympia - Shelton - All waters of Marine Fish-Shellfish Management and Catch Reporting Area 28D.

(d) Sinclair Inlet - Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26C west of a line projected southerly from the easternmost point of Turner to landfall below the Veterans Home in Annapolis. The remainder of Area 26C is open to harvest.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 21, 1994:

WAC 220-52-07100Q Sea cucumbers. (94-48)

EMERGENCY

**WSR 94-13-001**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC DISCLOSURE COMMISSION**  
 [Memorandum—June 1, 1994]

The Public Disclosure Commission has cancelled its regular meeting scheduled for Tuesday, June 28, 1994. A special meeting has been scheduled for Wednesday, June 29, 1994. The meeting will begin at 9 a.m. in the Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA.

**WSR 94-13-002**  
**NOTICE OF PUBLIC MEETINGS**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**  
 [Memorandum—June 1, 1994]

Meeting Notice: July 28, 1994 - (1:00-5:00 p.m.)  
 July 29, 1994 - (9:00-12:00 noon)  
 Red Lion Yakima Valley  
 1507 North First Street  
 Yakima, WA 98901

Hearing Notice: July 29, 1994 - (10:00 a.m.)  
 Red Lion Yakima Valley  
 1507 North First Street  
 Yakima, WA 98901

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (206) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

**WSR 94-13-010**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—June 2, 1994]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, June 16, 1994, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A.

A study session to discuss budgetary matters will be held from 8:30-9 a.m., prior to the regular meeting.

**WSR 94-13-011**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC WORKS BOARD**  
 [Memorandum—May 31, 1994]

The Public Works Board must schedule a meeting for 8:30 a.m., June 7, 1994.

The meeting will be handled by conference call. Persons wishing to participate and/or monitor the meeting may do so by appearing at the Office of the Director of Communications, Department of Community, Trade and Economic

Development, Fifth Floor, 906 Columbia Street S.W., Olympia, WA.

The agenda items for this meeting shall be the consideration of the Capital Facilities Plan Loan applications for the city of Warden, and the town of Wilkeson.

**WSR 94-13-023**  
**NOTICE OF PUBLIC MEETINGS**  
**SKAGIT VALLEY COLLEGE**  
 [Memorandum—June 1, 1994]

SPECIAL MEETING  
 BOARD OF TRUSTEES  
 COMMUNITY COLLEGE DISTRICT NO. 4  
 SKAGIT VALLEY COLLEGE  
 2405 College Way  
 Mount Vernon, WA 98273

June 7, 1994, 7:00 p.m.  
 Board Room, Campus Center Annex

There will be a special meeting of the board of trustees on Tuesday, June 7, 1994, 7:00 p.m., in the Board Room of the Campus Center Annex for the purpose of reviewing and discussing the 1994-95 proposed budget. During the course of the meeting, the board of trustees may hold an executive session if necessary. No formal board action is contemplated.

Skagit Valley College will schedule meetings in locations that are free of mobility barriers, and interpreters for deaf individuals and brailled or taped information for blind individuals can be provided when adequate notice is given to the president's office at the college.

**WSR 94-13-035**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION IMPROVEMENT BOARD**  
 [Memorandum—June 3, 1994]

MEETING NOTICE FOR JUNE 1994  
 TRANSPORTATION IMPROVEMENT BOARD  
 OLYMPIA, WASHINGTON 98504-0901

Increase subcommittee, 1:30 p.m., Thursday, June 23, 1994, in Bellingham at the Best Western Heritage Inn, 151 East McLeod Road.

Sidewalk subcommittee, 2:30 p.m., Thursday, June 23, 1994, at the Best Western Heritage Inn.

RJT subcommittee, 3:30 p.m., Thursday, June 23, 1994, at the Best Western Heritage Inn.

Work session, 7:00 p.m., Thursday, June 23, 1994, in Bellingham at the Best Western Heritage Inn.

Board meeting, 9:00 a.m., Friday, June 24, 1994, in Bellingham at the Best Western Heritage Inn.

Special Needs: For special accommodations or to request an auxiliary aid, please contact the TIB office at (206) 753-7198 by June 15, 1994.

MISCELLANEOUS

The next scheduled meeting is July 22, 1994, in Olympia. A notice with further detail of the July meeting will be mailed July 1, 1994.

**WSR 94-13-036**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**  
 [Memorandum—June 6, 1994]

Eastern Washington University  
**BOARD OF TRUSTEES**  
 June 10, 1994, 9:00 a.m.  
 Special Meeting  
 Louise Anderson Hall, First Floor Lounge

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in PUB Room 302 on campus.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling Carol Golden, (509) 359-2371.

**WSR 94-13-037**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Wheat Commission)  
 [Memorandum—June 1, 1994]

The Washington Wheat Commission hereby complies with regulations as stated in RCW 42.30.075 and provides pertinent scheduled meeting changes, per the board of directors, for publication in the state Register. This meeting location change is submitted at least 20 days prior to the rescheduled meeting date.

SEPTEMBER MEETING WAS PREVIOUSLY LISTED AS:  
 Regular - September 21 (10:00 a.m.) and 22 (8:30 a.m.)  
 West 907 Riverside Avenue  
 Spokane, WA.

PLEASE CHANGE TO:  
 Regular - September 21 (10:00 a.m.) and 22 (8:30 a.m.)  
 Washington Athletic Club  
 1325 Sixth Street  
 Seattle, WA

**WSR 94-13-038**  
**NOTICE OF PUBLIC MEETINGS**  
**BUILDING CODE COUNCIL**  
 [Memorandum—June 3, 1994]

The Washington State Building Code Council meeting scheduled for June 10, 1994, in Vancouver, Washington has been canceled.

**WSR 94-13-042**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
 [Memorandum—May 26, 1994]

Wednesday, June 8, 1994, 6:30 p.m., the Washington State Library Commission will meet for a staff briefing at the Window's of Seasons Restaurant, Cavannaugh's Inn at the Park, Spokane, Washington.

Thursday, June 9, 1994, 10:00 a.m., the Washington State Library Commission will hold its regular business meeting in Meeting Room #1a, Spokane Public Library, 906 West Main, Spokane, WA.

**WSR 94-13-045**  
**NOTICE OF PUBLIC MEETINGS**  
**HARDWOODS COMMISSION**  
 [Memorandum—June 6, 1994]

The Washington Hardwoods Commission will be holding its annual meeting on Thursday, June 30, 1994, at 3:00 p.m. in the Spruce Room of the Red Lion Inn, Kelso, Washington.

**WSR 94-13-057**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
 [EO 94-07]

**EXECUTIVE ORDER**  
**ON REGULATORY REFORM**

**I. Introduction.**

A. **Purpose.** This executive order is adopted to increase public confidence in agency rule making activities, to improve coordination among state agencies, to improve the efficiency and effectiveness of regulatory programs, and to avoid imposing undue burdens on business, the public, local governments, and state agencies. Except as otherwise provided herein, this Executive Order supplements Executive Order 93-06 and provides state agencies guidance in meeting their regulatory objectives. It is the purpose of this Executive Order to:

1. Reinforce the accountability of agency directors to the Governor for the regulatory actions of their agencies.
2. Provide better information to the Governor, the Legislature, and the public about the implementation of agency regulatory programs.
3. Establish factors for agencies to consider during the rule making process.
4. Encourage voluntary compliance with statutes and rules through the provision of technical assistance.
5. Protect the public health and safety and the environment, promote the state's economy, and maintain the quality of life of the citizens of the state.

B. Philosophy of Regulation. Agency regulation is intended to benefit both the public and those who are affected by the rules. The effective use of regulation assures equal treatment for the regulated community. The use of rules provides that agency policies are made in a public setting. Ineffective regulation can result in time-consuming and expensive procedures providing little public or private benefit. In order to further the effective use of regulation, the following principles shall guide agencies in their program implementation:

1. Agencies should focus, within the constraints imposed by statutory requirements, on those issues posing greater risks to the public or from which the public can expect to receive greater benefits.
2. Agencies should attempt to use less intrusive methods of achieving desired outcomes.
3. Agencies should be open to reasonable alternative methods of achieving regulatory objectives.
4. Agencies should approach their regulatory duties assuming that most individuals and businesses who are subject to regulation will attempt to comply with the law, particularly when they are given sufficient information. In this context, enforcement assures that the majority of a regulated community who do intend to comply with the law are not placed at a competitive disadvantage.
5. Agencies should develop methods to determine whether regulatory programs are meeting program objectives.
6. In addition to an agency director's legal responsibility over agency operations, each agency director shall be responsible to the Governor for assuring that the spirit and intent of this Executive Order are carried out.

C. Effect on Quasi-judicial Boards. The provisions of this Executive Order do not apply to a quasi-judicial board or commission as it relates to its adjudicatory proceedings.

## II. Planning

- A. Each state agency shall prepare an annual fiscal year agenda for significant rules under development. The agenda shall be adopted not later than June 30. The agenda shall be made available upon request to any person and shall be published by the agency in the Washington State Register. The agenda shall also be submitted to the director of the Office of Financial Management and to any other state agency which may reasonably be expected to have an interest in the subject of rules which will be developed.
- B. Paragraph A. of Section V. of EO 93-06, directing state agencies to adopt a list of potential rule making activities, is rescinded.

## III. Office of Financial Management Review Procedures

A. Quarterly Reports to the Office of Financial Management. State agencies shall submit to the Office of Financial Management each quarter a report of their rule adoption activities for the prior quarter. The report shall be provided to the Office of Financial Management in the manner and format required by the Office of Financial Management and shall include at least the following information for new, amended, and repealed rules:

1. The number adopted, proposed for adoption, and proposals withdrawn.
2. The number adopted as emergency rules.
3. The number adopted in order to comply with federal statute, with federal rules or standards, and with recently enacted state statutes.
4. The number adopted at the request of a non-governmental entity.
5. The number adopted on the agency's own initiative.
6. The number adopted in order to clarify, streamline, or reform agency procedures.
7. The number of petitions for review of rules received by the agency.
8. The number of rules appealed to superior court.
9. The number adopted using negotiated rule making, pilot rule making, or other alternative rule making mechanisms.
10. Any other summary information required by the director of the Office of Financial Management.
11. For purposes of the report required by this section, each Washington State Register filing shall be considered as a separate rule.

B. When an agency commences a significant rule making activity, as determined by the agency, it shall provide a copy of its notice of intent, required by RCW 34.05.310(1), to the director of the Office of Financial Management and to other state agencies that may have an interest in or be affected by the rule making.

C. If a state agency director believes that another state agency is engaging in rule making activities which may potentially conflict with its rules or policies, the agency director shall notify the other agency and the director of the Office of Financial Management of his or her concern.

D. Agencies shall attempt to resolve disputes among themselves using the procedures established in EO 93-06 and RCW 34.05.310. If agencies are unable to resolve a dispute within a reasonable period of time, the director of the Office of Financial Management shall collect appropriate information concerning the dispute and, in the director's discretion, either resolve the dispute or inform the Governor of the nature of the dispute and provide a recommendation for resolution.

**IV. Regulatory Fiscal Note.**

- A. The Office of Financial Management shall revise the fiscal note form to include the following information on each bill for which a fiscal note is prepared: whether new rules are required or existing rules must be amended in order to implement the legislation, the approximate cost involved in developing those rules, the types of entities which may potentially be affected by the legislation, and whether other agencies have authority over the same subject matter.
- B. In its review of agency request legislation prepared for introduction in the 1995 legislative session, the Office of Financial Management shall review the legislation to ensure that any proposed delegation of rule making authority is clear in its intent.

**V. Rule Adoption Factors.**

- A. As early in the rule-development process as possible, but not later than the time a rule is published for comment and adoption as a permanent rule, an agency, based on reasonably available information, shall consider and prepare a written analysis of the proposed rule addressing the following:
  1. The objective of the rule.
  2. Whether changes to other rules or statutes would achieve the same objective.
  3. How the provisions of the proposed rule will be coordinated with other rules of the agency and rules of other state agencies, local governments, and the federal government.
  4. Whether it has chosen a reasonable, cost-effective manner to achieve the regulatory objective.
  5. The anticipated environmental and fiscal consequences of adopting and not adopting the proposed rule, recognizing the difficulty of quantifying some consequences.
- B. The agency shall identify and assess alternative forms of regulation and, where appropriate, shall specify performance standards in addition to standards for behavior and manner of compliance.
- C. If a rule proposed in order to comply with federal law contains significant differences from a comparable federal rule or standard, or if a proposed rule provides differences in application to public and private entities, the agency shall provide a written analysis explaining the nature of the differences, evaluating their consequences, and providing a rationale for adopting the rule as drafted.
- D. An agency shall include the written analyses required by Part V in the rule making file and shall make the analyses available to any person upon request. The analyses shall be updated based on additional information received by the agency during the rule making process.
- E. An agency is encouraged, but not required, to comply with this Part V when adopting an emergency rule under RCW 34.05.350.

**VI. Voluntary Compliance through Technical Assistance**

- A. To the maximum extent feasible, within the limits of an agency's current budget and consistent with statutory requirements, an agency with regulatory enforcement authority shall promote voluntary compliance with state and federal law enforced by the agency and the agency's rules through the provision of technical assistance, including technical assistance visits.
- B. For purposes of this Executive Order, technical assistance includes:
  1. Information on the laws, rules, compliance methods, and technologies applicable to the agency's programs;
  2. Information on methods to avoid compliance problems;
  3. Assistance in applying for permits; and
  4. Information on the mission, goals, and objectives of the program.
- C. For the purposes of this Executive Order, a technical assistance visit is a visit of an agency employee to a facility, business, or other location that is declared by the agency employee at the beginning of the visit to be a technical assistance visit.
- D. During a technical assistance visit, an agency employee shall inform the owner or operator of the facility of any violations of law or agency rules and provide technical assistance concerning compliance.
- E. Except as provided in Paragraph G:
  1. A technical assistance visit shall not be regarded as an inspection or investigation; and
  2. The owner or operator shall be given a reasonable period of time to correct violations before any penalty or sanction is imposed for those violations.
- F. An agency may reinspect a facility within a reasonable period of time after a technical assistance visit and take appropriate enforcement action for any uncorrected violations.
- G. An agency employee who observes a violation during a technical assistance visit may take immediate enforcement action if:
  1. The violation places a person in danger of death or bodily harm, is causing or is likely to cause more than minor environmental harm, presents a risk to worker or public health and safety, or is causing or is likely to cause physical damage to the property of others in an amount exceeding one thousand dollars; or
  2. The person has previously been subject to an enforcement action for the same violation.

**VII. Effective Dates**

- A. The application of this Executive Order is prospective only.
- B. For fiscal year 1995, the agenda required by Part II shall be adopted not later than August 31, 1994.
- C. An agency is encouraged, but is not required, to comply with the provisions of Part V of this

Executive Order for any rule which is proposed for adoption by filing in the Washington State Register prior to July 31, 1994.

- D. Agencies shall report the information required by Part III., Paragraph A, beginning with the calendar quarter ending September 30, 1994.

This order shall take effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia on this 6TH day of June, A.D., nineteen hundred and ninety-four.

Mike Lowry

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

**WSR 94-13-067**

**NOTICE OF PUBLIC MEETINGS  
CONVENTION AND TRADE CENTER**

[Memorandum—June 8, 1994]

A regular meeting of the board of directors of the Washington State Convention and Trade Center will be held on Wednesday, June 15, 1994, at 1:30 p.m. in Room 310 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call 447-5000.

**WSR 94-13-073**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF  
NATURAL RESOURCES**

[Memorandum—June 10, 1994]

The Board of Natural Resources meeting for August 2, 1994, has been cancelled. This meeting was scheduled to begin at 9 a.m. in Conference Room 172 in the Natural Resources Building, Olympia, Washington.

If you have any questions, please call 902-1005.

**WSR 94-13-075**

**NOTICE OF PUBLIC MEETINGS  
SEATTLE COMMUNITY COLLEGES**

[Memorandum—June 2, 1994]

The Seattle Community College District board of trustees will hold their regular meeting on Tuesday, June 7, 1994, at Seattle Central Community College, beginning with a work session, at 4:00 p.m., in 4180D, and a reception for Burlington Northern Awards, at 5:30 p.m. in the Broadway Performance Hall, BA306. The meeting will begin at 6:00

p.m., at the Central College, which is located at 1701 Broadway, Seattle, WA 98122.

**WSR 94-13-083**

**NOTICE OF PUBLIC MEETINGS  
WORKFORCE TRAINING AND  
EDUCATION COORDINATING BOARD**

[Memorandum—June 9, 1994]

Washington State Workforce Training and Education Coordinating Board, June 29-30, 1994, Renton Technical College, Building H, 3000 Northeast Fourth Street, Renton, WA.

The Workforce Training and Education Coordinating Board will hold an informal dinner meeting on June 29 in the Tacoma Room at the WestCoast SeaTac Hotel beginning at 6:30 p.m. There will be no action taken at this meeting and will hold its regular business meeting on Thursday, June 30, beginning at 8:30 a.m. The meeting will be held in Building H, Room 102 at Renton Technical College.

**WSR 94-13-084**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT**

[Memorandum—June 10, 1994]

The Washington State Department of Community, Trade and Economic Development plans to hold a public hearing on the proposed 1995 state plan for the low-income home energy assistance program (LIHEAP).

The hearing will be held Thursday, July 28, 1994, at the Olympia Center, 222 North Columbia, Room 200, Olympia, WA 98501. The hearing will begin at 10:00 a.m. and close at 12:00 p.m. unless taking testimony requires more time.

Two typewritten copies of all oral testimony are requested. There will be a question and answer period. Written testimony will be accepted until 5:00 p.m., July 28, 1994. Written testimony should be sent to the attention of Bruce Yasutake, Energy Services Section, Department of Community, Trade and Economic Development, 906 Columbia Street Southwest, P.O. Box 48300, Olympia, WA 98504-8300.

The state plan is available in alternate format upon request. Meetings sponsored by the Department of Community, Trade and Economic Development shall be accessible to persons with disabilities. Accommodations may be arranged with a minimum of ten working days notice to Bruce Yasutake, or TDD (206) 753-2200.

If you have any questions or need additional information, please contact Bruce Yasutake at (206) 586-0498 or SCAN 321-0498.

MISCELLANEOUS

**WSR 94-13-092**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC EMPLOYEES**  
**BENEFITS BOARD**  
[Memorandum—June 9, 1994]

The Health Care Authority has received applications to participate in the Public Employees Benefits Board program by two political subdivisions. There will be a public forum to receive comments regarding their participation on June 20 beginning at 2:00 p.m. in the fourth floor conference room at the Health Care Authority. The political subdivisions making application are: King County Water District No. 119; two eligible employees with a total of five dependents; effective July 1, 1994; and King County Water District No. 54; three employees with five dependents; effective August 1.

A vote by the Public Employees Benefits Board is not required, therefore, attendance by members is not mandatory. If you have any questions, please contact Margaret T. Stanley, Chair, or the board assistant, Judy Lamm, at 923-2828.

**WSR 94-13-093**  
**NOTICE OF PUBLIC MEETINGS**  
**SOUTH PUGET SOUND**  
**COMMUNITY COLLEGE**  
[Memorandum—June 2, 1994]

**Regular Meeting Schedule**  
**1994-95**

<u>DATE</u>	<u>TIME</u>
Thursday, July 7, 1994	3:00 p.m.
August 1994 - No meeting	
Thursday, September 1, 1994	3:00 p.m.
Thursday, October 13, 1994	3:00 p.m.
Thursday, November 3, 1994	3:00 p.m.
Thursday, December 1, 1994	3:00 p.m.
Thursday, January 5, 1995	3:00 p.m.
Thursday, February 2, 1995	3:00 p.m.
Thursday, March 2, 1995	3:00 p.m.
Thursday, April 6, 1995	3:00 p.m.
Thursday, May 4, 1995	3:00 p.m.
Thursday, June 1, 1995	3:00 p.m.

**WSR 94-13-106**  
**NOTICE OF PUBLIC MEETINGS**  
**MARINE OVERSIGHT BOARD**  
[Memorandum—June 10, 1994]

The board has canceled the following public meeting: July 15, 1994.

The board has scheduled the following public meeting: October 21, 1994, at 1 p.m., Seattle-Tacoma International Airport, Theater, Door No. 5132, Ticketing Level (hallway area behind Mark Air ticketing), Contact: Marine Oversight Board Office, Olympia, (206) 664-9130, SCAN 366-9130.

**WSR 94-13-115**  
**NOTICE OF PUBLIC MEETINGS**  
**HIGHLINE COMMUNITY COLLEGE**  
[Memorandum—June 13, 1994]

By formal action at the June 9, 1994, meeting of the Community College District 9 board of trustees, the date of the July 1994, meeting was changed from July 14 to July 7, 1994. The time and location of the meeting remain the same. A notice of the date change will be forwarded to all interested parties.

**WSR 94-13-134**  
**NOTICE OF PUBLIC MEETINGS**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**  
[Memorandum—June 17, 1994]

The Interagency Committee for Outdoor Recreation (IAC) will meet Friday, July 29 in the Summit I meeting room at the Summit Inn at Snoqualmie Pass, beginning at 8:00 a.m.

At this meeting the IAC will consider Washington wildlife and recreation program (WWRP) issues in preparation for the September 26-27, 1994, project selection session. Additional planned agenda items include a public hearing on possible WAC rule changes, review of proposals for the 1995 legislative session, and approval of the agency's operating and capital budget proposals.

Related activities: On Wednesday, July 27 the committee will meet in an open work session to discuss WWRP 1995-97 issues. The work session will begin at 2:00 p.m. in the Summit II meeting room. This session is open to all interested persons, however no action or public testimony will be taken. On Thursday, July 28, IAC members will participate in a field trip to sites funded by IAC in and around the East King County area.

If you plan to participate or have materials for committee review, please submit information to IAC no later than July 6, 1994. This will allow time for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by July 6 at (206) 902-3000 or TDD (206) 902-1996.

**WSR 94-13-137**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMUNITY COLLEGES OF SPOKANE**  
[Memorandum—June 15, 1994]

The July 1994 meeting of the board of trustees of Community Colleges of Spokane, Washington Community College District 17, has been canceled.

MISCELLANEOUS

**WSR 94-13-138**  
**NOTICE OF PUBLIC MEETINGS**  
**SKAGIT VALLEY COLLEGE**

[Memorandum—June 15, 1994]

The board of trustees of Community College District No. 4 has revised its regular meeting schedule for the remainder of the 1994 calendar as follows: July 11, 3:00 p.m.; September 12, 3:00 p.m.; October 24, 3:00 p.m.; November 28, 3:00 p.m.; and December 19, 3:00 p.m.

**WSR 94-13-154**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**

[Memorandum—June 17, 1994]

The Washington State Human Rights Commission will hold its July regular commission meeting in Bellingham, Washington, on July 27 and 28, 1994. The meetings will be held at the Bellingham Public Library, Lower Level Lecture Room, 210 Central Avenue, Bellingham, WA. The meeting on July 27, will be a planning and training session beginning at 7:00 p.m. The regular business meeting on July 28, will begin at 9:00 a.m.

**WSR 94-13-163**  
**NOTICE OF PUBLIC MEETING**  
**DEPARTMENT OF ECOLOGY**  
 (Resource Damage Assessment Committee)

[Memorandum—June 21, 1994]

Pursuant to WAC 173-183-230 through 173-183-260, and 173-183-820 through 173-183-870, the regular meeting of the Washington State Resource Damage Assessment Committee during July 1994 through December 1994 will be held on the second Wednesday of each month, commencing at 9:00 a.m. The meetings will be held in Room 1S-17 at the Department of Ecology Headquarters Building, located at 300 Desmond Drive in Lacey, WA. For more information contact Paul Heimowitz at (206) 407-6972.

**WSR 94-13-164**  
**DEPARTMENT OF ECOLOGY**

[Filed June 21, 1994, 10:35 a.m.]

**PUBLIC NOTICE OF ISSUANCE OF A GENERAL PERMIT  
 FOR PROCESS WATER, STORM WATER, AND MINE  
 DEWATERING WATER DISCHARGES ASSOCIATED WITH  
 SAND AND GRAVEL OPERATIONS, ROCK QUARRIES, AND  
 SIMILAR MINING FACILITIES, INCLUDING STOCKPILES OF  
 MINED MATERIALS, CONCRETE BATCH OPERATIONS AND  
 HOT MIX ASPHALT OPERATIONS**

**DETERMINATION TO ISSUE:** The Department of Ecology (the department) has worked with private industry, state government, local government, and the Environmental Protection Agency to develop a general permit program for the gravel mining and quarrying industry in the state of Washington. The department intends to require permit

coverage for certain facilities that discharge storm water, process water, or mine dewatering water to surface water or ground water. Standard industrial classification (SIC) codes eligible for coverage are 0811, 1411, 1422, 1423, 1429, 1442, 1446, 1455, 1459, 1499, 2411, 2951, and 3273. The permit is referred to as the sand and gravel general permit. The geographical area covered by this general permit shall be the entire state of Washington.

The department has determined to issue this sand and gravel general permit. The issuance date of this permit is July 6, 1994. The effective date of the permit is August 6, 1994.

All facilities accepted under this general permit will not be relieved of any responsibility or liability at any time during the life of the permit for: Violating or exceeding state water quality standards; or violating any other local, state, or federal regulation or standard as may pertain to the individual facility.

The goal of this general permit is to protect ground water, surface water, and the quality of sediment in waters of the state by limiting the discharge of pollutants in wastewater and storm water from mines and quarries, hot mix asphalt plants, and concrete batch plants. The pollutants that are limited in this general permit result from the processing of mined material, storm water runoff, mine dewatering, and from ancillary operations. This general permit limits the discharge of pollutants to surface waters under the authority of the Federal Water Pollution Control Act (U.S.C.S. 1251) and limits the discharge of pollutants to surface and ground water under the authority of the state Water Pollution Control Act, chapter 90.48 RCW. Methods of compliance with this permit include chemical or physical treatment of the wastewater and implementation of best management practices (BMPs).

Facilities are categorized as active sites or inactive sites, which depends on the extent of site reclamation and types of industrial activity at the facility. Categorization as an active site or inactive site determines which effluent limitations apply, the level of required monitoring, the type of pollution prevention plan, and which BMPs are required by the permit.

**CHANGES IN THE GENERAL PERMIT RESULTING FROM PUBLIC HEARINGS:** Six public hearings were held during May 1994 at various locations around the state. Written comments were also submitted, and a responsiveness summary prepared. Certain changes in permit language resulted.

1. The title of the general permit was changed to state that mine dewatering water discharges are covered by the permit. Also, in the title and throughout the permit, the term "asphalt batch plant" was changed to "hot mix asphalt plant" to conform to industry terminology.

2. In special condition S1, the pH effluent limit for ground water discharges was changed. The draft general permit indicated that ground water and surface water discharges had the same pH effluent limit, which did not reflect the pH standard in WAC 173-200-040.

3. Special condition S3.B.1.a. was changed to indicate that coverage is provided for Type 3 storm water. This conforms to language in the Clean Water Act and 40 CFR 122.26.

4. Changes were made in special condition S3.B.5. and Appendix 1 to reflect that the permit provides coverage for

MISCELLANEOUS

hot mix asphalt plants that employ a baghouse for air emissions control and that discharge storm water to surface water.

5. Special condition S3.B.7. was added to clarify that coverage is provided for forestry rock sites that are silvicultural point sources. A related change was also made to Appendix 1, to add SIC Code 811 (Timber Tracts) and SIC Code 2411 (Logging). Another related change was made in the definitions section, where the term silvicultural point source was added.

6. Special condition S5.E. was changed to clarify the coverage and containment requirements for asphalt concrete and petroleum contaminated soils.

7. In accordance with WAC 173-226-090, special condition S8.A.2. added pH, temperature, and electrical conductivity as parameters that are exempt from the laboratory accreditation requirements of chapter 173-50 WAC.

**MAJOR ELEMENTS OF THE PERMIT: Storm Water Pollution Prevention Plan.** The permit requires active sites to prepare a written plan and implement the BMPs necessary to control industrial pollutants found at the facility that could contaminate storm water runoff. Preparation of the plan and implementation of the BMPs is to be accomplished during a schedule of compliance stated in the permit, not to exceed 21 months from the issuance date of the permit.

**Storm Water Pollution Prevention Plan for Erosion and Sediment Control.** The permit requires active sites and inactive sites to prepare a written plan and implement the BMPs necessary to control storm water runoff contaminated with sediment originating from disturbed areas at the facility. Preparation of the plan and implementation of the BMPs are to be accomplished during a schedule of compliance stated in the permit, not to exceed 21 months from the issuance date of the permit.

**Monitoring Plan.** The permit requires active sites to develop and implement a monitoring plan for compliance monitoring with effluent limits set for discharges of process water, storm water, and mine dewatering water. Inactive Sites are not required to prepare a plan or conduct monitoring. The extent of monitoring depends on the type of industrial activity and whether wastewater is discharged to surface water, ground water, or recycled. The plan must be prepared and implemented within three months from the date of coverage under the permit.

**Settling Pond Liner Plan.** The permit requires preparation of a plan to line any settling pond that receives wastewater discharges from a hot mix asphalt plant with a wet scrubber or from a concrete batch plant. The pond must be lined by October 4, 1997. The permit provides an alternative to pond lining that allows the facility to prepare an individual or group engineering report to evaluate treatment methods and cost scenarios for this class of dischargers.

**TYPES OF FACILITIES OR DISCHARGERS REQUIRED TO APPLY FOR COVERAGE:** Process water, storm water, and mine dewatering water associated with certain types of mining operations, concrete and asphalt production, and ancillary facilities are the focus of this general permit. These operations or facilities may require coverage under this general permit for discharges to surface water or discharges to ground water. Specific operations designated

by standard industrial classification (SIC) codes eligible for coverage in this general permit are:

0811 Timber Tracts  
 1411 Dimension Stone  
 1422 Crushed and Broken Limestone  
 1423 Crushed and Broken Granite  
 1429 Crushed and Broken Stone, Not Elsewhere Classified  
 1442 Construction Sand and Gravel  
 1446 Industrial Sand  
 1455 Kaolin and Ball Clay  
 1459 Clay, Ceramic, and Refractory Minerals, Not Otherwise Classified  
 1499 Miscellaneous Nonmetallic Minerals, Except Fuels  
 2411 Logging  
 2951 Asphalt Paving Mixtures and Blocks  
 3273 Ready-Mixed Concrete

The types of facilities included are sand and gravel mines, rock quarries, clay mines, silica mines, diatomite mines, olivine mines, dolomite mines, forestry rock sites that are silvicultural point sources, stockpiles of materials under specified conditions, concrete batch plants, and hot mix asphalt plants. Some facilities may require coverage for storm water only.

The criteria for coverage are explained in more detail in the permit. All facilities identified by the SIC codes listed above and which meet the criteria in the permit must apply for and be covered by the general permit, even if the only discharge is storm water. Facilities not eligible for coverage under the general permit must apply for an individual permit.

**HOW TO OBTAIN COVERAGE UNDER THIS GENERAL PERMIT:** All facilities required to apply for and obtain coverage under either this general permit or an individual permit shall do so according to the waste discharge general permit program, chapter 173-226 WAC. Existing facilities must apply no later than October 4, 1994. Contact the regional office for the county in which your facility is located for details on how to apply for coverage. All such facilities shall submit a Notice of Intent to Apply for Coverage (NOI) to the appropriate department regional office (see addresses below) within the following time limits:

For existing facilities, in no event shall application be made later than October 4, 1994, or ninety days after the issuance date of this general permit.

For new facilities, in no event shall application be made later than thirty days prior to commencement of the activity which may result in the discharge of any pollutant. Any new facility shall submit to the department, along with any NOI, proof that such facility has complied with State Environmental Policy Act (SEPA).

Individual permits will be issued in those instances where: The department determines the general permit is not appropriate for that facility or an individual facility does not wish to be covered or limited by this general permit (see Request to be Excluded from Coverage Under a General Permit for details).

Any facility required to apply for and obtain coverage under either this general permit or an individual NPDES/state waste discharge permit, except those stipulated in WAC 173-216-050, and found not to have done so within the time provided will be deemed to be in violation of the state Water Pollution Control Act and/or the federal Clean

Water Act, and shall be subject to the enforcement sanctions provided in such acts for unlawfully discharging without a permit.

WHERE TO GET ADDITIONAL INFORMATION: Additional information and copies of the general permit, fact sheet, NOI, small business economic impact statement (SBEIS), SBEIS summary, and other related documents are available upon request and are also available for inspection and copying between the hours of 8:00 a.m. and 4:30 p.m., weekdays at the department regional offices. To obtain a copy or to arrange to view copies call or write the appropriate regional office.

REGIONAL OFFICE ADDRESS	COUNTY IN WHICH FACILITY IS LOCATED
Department of Ecology Central Regional Office 106 South 6th Avenue Yakima, WA 98902-3378 Attn: Steven Huber Permit Coordinator Phone (509) 575-2680 TDD (509) 454-7673	Benton Chelan Douglas Kittitas Klickitat Okanogan Yakima
Department of Ecology Eastern Regional Office North 4601 Monroe, Suite 100 Spokane, WA 99205-1295 Attn: Mike Huffman Permit Coordinator Phone (509) 456-2874 TDD (509) 458-2055	Adams Asotin Columbia Ferry Franklin Garfield Grant Lincoln Pend Oreille Spokane Stevens Walla Walla Whitman
Department of Ecology Northwest Regional Office Mail Stop NB-81 3190 160th Avenue Southeast Bellevue, WA 98008-5452 Attn: Carla Skog Permit Coordinator Phone (206) 649-7201 TDD (206) 649-4259	Island King Kitsap San Juan Skagit Snohomish Whatcom
Department of Ecology Southwest Regional Office Abbot Raphael Hall Saint Martin's Campus (Lacey) P.O. Box 47775 Olympia, WA 98504-7775 Attn: Holly Francis Permit Coordinator Phone (206) 407-6280 TDD (206) 407-6306	Clallam Clark Cowlitz Grays Harbor Jefferson Lewis Mason Pacific Pierce Skamania Thurston Wahkiakum

REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER A GENERAL PERMIT: Any discharger authorized by this general

permit may request to be excluded from coverage under this general permit by applying for an individual permit. The discharger shall submit to the director of ecology an application as described in WAC 173-220-040 or 173-216-070, whichever is applicable, with reasons supporting the request. The director shall either issue an individual permit or deny the request with a statement explaining the reason for the denial. When an individual permit is issued to a discharger otherwise subject to this general permit, the applicability of this general permit to that discharger is automatically terminated on the effective date of the individual permit.

OPPORTUNITY TO APPEAL: Pursuant to the provisions of chapter 43.21B RCW, any person who objects to the terms and conditions of this general permit may file an appeal of the permit by August 5, 1994, or within thirty days of issuance of this general permit. Appeals should be served to: Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be served to the Department of Ecology, Central Regional Office, 106 South 6th Avenue, Yakima, WA 98902-3387.

Any appeal must contain the following in accordance with the rules of the hearings board: The appellant's name and address; a description of the substance of the permit that is the subject of the appeal; the date of the permit; a clear and concise statement of facts upon which the appellant relies to sustain his or her statement of error; a clear, separate, and concise statement of every error alleged to have been committed; and a statement setting forth the relief sought.

A decision of the Department of Ecology concerning coverage under this general permit for a particular facility is appealable within thirty days of that decision.

Ecology is an equal opportunity and affirmative action employer.

**WSR 94-13-199**  
**NOTICE OF PUBLIC MEETINGS**  
**CENTRAL WASHINGTON UNIVERSITY**  
[Memorandum—June 20, 1994]

Regular meetings of the Central Washington University board of trustees will be held in Room 412, Barge Hall, on the Central Washington University campus in Ellensburg at 11:00 a.m. on the following dates:

- October 14, 1994
- December 2, 1994
- January 27, 1995
- March 24, 1995
- June 9, 1995

**WSR 94-13-200**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION COMMISSION**  
[Memorandum—June 16, 1994]

The July 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Tuesday, July 12, and 9:00 a.m. on Wednesday, July 13, 1994, in the Transporta-

tion Commission Room (1D2), Transportation Building, Olympia, Washington. Tuesday afternoon's agenda will include a public hearing to discuss the Department of Transportation's proposed 1995-97 budget. There will be committee meetings at 9:00 a.m., Tuesday, July 12, in the Transportation Building, Rooms 1D2 and 3F22, Olympia, Washington.

The August 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, August 17, and 9:00 a.m. on Wednesday [Thursday], August 18, 1994, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be committee meetings at 9:00 a.m., Wednesday, August 17, in the Transportation Building, Rooms 1D2 and 3F21, Olympia, Washington.

**WSR 94-13-209**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Noxious Weed Control Board)  
 [Memorandum—June 21, 1994]

The Washington State Noxious Weed Control Board meetings will be held as follows:

July 20, 1994  
 8:30 a.m. - 5:00 p.m.  
 Moses Lake Library  
 418 East 5th Avenue  
 Moses Lake, WA

September 21, 1994  
 8:30 a.m. - 5:00 p.m.  
 Fireside Room  
 Big Bend Community College  
 Moses Lake, Washington

November 16, 1994  
 8:30 a.m. - 5:00 p.m.  
 Fireside Room  
 Big Ben Community College  
 Moses Lake, Washington

The public is welcome to attend all meetings. Contact Laurie Penders, Executive Secretary, Washington State Noxious Weed Control Board, (206) 872-2972 if you have any questions.

**WSR 94-13-211**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
 (Forest Practices Board)  
 [Memorandum—June 20, 1994]

The special meeting of the Forest Practices Board scheduled for July 13 has been cancelled.

The regular meeting of the board originally set for August 10, 1994, per WAC 222-08-040, has been rescheduled for August 4, 1994. It will take place in Conference Room 172

of the Natural Resources Building, Olympia, beginning at 9 a.m.

For more information, call the Forest Practices Board recording secretary at 902-1413, or write:

Forest Practices Board  
 Department of Natural Resources  
 Forest Practices Division  
 P.O. Box 47012  
 Olympia, WA 98504-7012

**WSR 94-13-212**  
**DEPARTMENT OF ECOLOGY**  
 [Filed June 22, 1994, 11:24 a.m.]

The Department of Ecology today filed a Preproposal Statement of Intent to adopt rules which will extend a moratorium on new water rights from the Columbia and Snake rivers. The existing moratorium technically expires on June 30, 1994, and the proposed rules will not be adopted until October 1994 at the earliest. This addendum is included in the state Register to clarify the department's intent regarding water right applications which have been held during the moratorium.

The existing rule indicates that these applications will be acted upon "after the expiration of the withdrawal of waters." This language did not anticipate the possible necessity of an extension of the moratorium. However, the situation which precipitated the initial moratorium has greatly worsened in a number of ways, making a hold on further new appropriations from the Columbia and Snake rivers even more important than when the moratorium was originally adopted. Therefore it would be highly inappropriate to process any applications received since December 21, 1991, during the period between the expiration of the present rules and formal adoption of the proposed rules. This addendum is included with the Preproposal Statement of Intent to clearly inform applicants that these applications will not be processed during this period.

**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

**Suffixes:**

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

**WAC #** shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
1-21-010	AMD-P	94-09-045	16-212-060	AMD	94-10-002	16-228-245	REP	94-13-195
1-21-010	AMD	94-12-075	16-212-070	AMD-P	94-06-058	16-228-250	REP-P	94-09-017
1-21-170	AMD-P	94-09-045	16-212-070	AMD	94-10-002	16-228-250	REP	94-13-195
1-21-170	AMD	94-12-075	16-212-080	AMD-P	94-06-058	16-228-255	REP-P	94-09-017
4-25-020	REP-P	94-13-060	16-212-080	AMD	94-10-002	16-228-255	REP	94-13-195
4-25-030	REP-P	94-13-060	16-212-082	AMD-P	94-06-058	16-228-260	REP-P	94-09-017
4-25-080	REP-P	94-13-060	16-212-082	AMD	94-10-002	16-228-260	REP	94-13-195
4-25-185	REP	94-02-070	16-219	AMD-C	94-08-033	16-228-265	REP-P	94-09-017
4-25-186	REP	94-02-070	16-219-015	AMD-P	94-05-092	16-228-265	REP	94-13-195
4-25-187	REP	94-02-070	16-219-015	AMD	94-09-028	16-228-275	REP-P	94-09-017
4-25-188	REP	94-02-070	16-219-017	NEW-P	94-05-092	16-228-275	REP	94-13-195
4-25-270	REP-P	94-13-060	16-219-017	NEW	94-09-028	16-304-040	AMD-P	94-09-046
4-25-280	REP	94-02-070	16-219-018	NEW-P	94-05-092	16-304-040	AMD	94-12-046
4-25-300	REP	94-02-070	16-219-018	NEW	94-09-028	16-304-050	AMD-P	94-09-046
4-25-320	REP	94-02-070	16-219-020	AMD-P	94-05-092	16-304-050	AMD	94-12-046
4-25-410	NEW-P	94-13-059	16-219-020	AMD	94-09-028	16-304-110	AMD-P	94-09-046
4-25-521	NEW	94-02-068	16-219-022	NEW-P	94-05-092	16-304-110	AMD	94-12-046
4-25-522	NEW	94-02-068	16-219-022	NEW	94-09-028	16-304-130	AMD-P	94-09-046
4-25-625	NEW-P	94-13-062	16-219-025	AMD-P	94-05-092	16-304-130	AMD	94-12-046
4-25-627	NEW-P	94-13-062	16-219-025	AMD	94-09-028	16-313-015	AMD-P	94-09-046
4-25-780	NEW	94-10-039	16-219-027	NEW-P	94-05-092	16-313-015	AMD	94-12-046
4-25-810	NEW	94-02-072	16-219-027	NEW	94-09-028	16-313-035	AMD-P	94-09-046
4-25-811	NEW	94-02-072	16-219-029	NEW-P	94-05-092	16-313-035	AMD	94-12-046
4-25-812	NEW	94-02-072	16-219-029	NEW	94-09-028	16-316-0901	AMD-P	94-09-046
4-25-813	NEW	94-02-072	16-219-030	REP-P	94-05-092	16-316-0901	AMD	94-12-046
4-25-820	NEW	94-02-071	16-219-030	REP	94-09-028	16-316-105	AMD-P	94-09-046
4-25-910	NEW-P	94-13-061	16-219-031	NEW-P	94-05-092	16-316-105	AMD	94-12-046
4-25-920	NEW	94-02-069	16-219-031	NEW	94-09-028	16-316-230	AMD-P	94-09-046
16-32-009	NEW-P	94-09-072	16-219-100	NEW-P	94-05-061	16-316-230	AMD	94-12-046
16-32-009	NEW	94-12-053	16-219-100	NEW	94-08-035	16-316-350	AMD-P	94-09-046
16-32-010	REP-P	94-09-072	16-219-105	NEW-P	94-05-061	16-316-350	AMD	94-12-046
16-32-010	REP	94-12-053	16-219-105	NEW	94-08-035	16-316-440	AMD-P	94-09-046
16-32-011	NEW-P	94-09-072	16-221-001	REP	94-03-024	16-316-440	AMD	94-12-046
16-32-011	NEW	94-12-053	16-221-010	REP	94-03-024	16-316-474	AMD-P	94-09-046
16-38-001	REP	94-05-009	16-221-020	REP	94-03-024	16-316-474	AMD	94-12-046
16-38-010	REP	94-05-009	16-221-030	REP	94-03-024	16-316-717	AMD-P	94-09-046
16-38-020	REP	94-05-009	16-221-040	REP	94-03-024	16-316-717	AMD	94-12-046
16-54-035A	NEW-E	94-09-004	16-223-001	REP	94-03-023	16-316-727	AMD-P	94-09-046
16-86-015	AMD	94-05-008	16-223-002	REP	94-03-023	16-316-727	AMD	94-12-046
16-103-001	AMD	94-05-040	16-223-004	REP	94-03-023	16-316-800	AMD-P	94-09-046
16-103-010	NEW-E	94-13-074	16-223-005	REP	94-03-023	16-316-800	AMD	94-12-046
16-103-020	NEW-E	94-13-074	16-223-010	REP	94-03-023	16-316-820	AMD-P	94-09-046
16-108-010	AMD-P	94-05-074	16-223-020	REP	94-03-023	16-316-820	AMD	94-12-046
16-108-010	AMD-W	94-07-038	16-223-030	REP	94-03-023	16-316-830	AMD-P	94-09-046
16-200-805	AMD-P	94-05-060	16-223-040	REP	94-03-023	16-316-830	AMD	94-12-046
16-200-805	AMD	94-08-034	16-223-050	REP	94-03-023	16-324-640	REP-P	94-01-110
16-212-020	AMD-P	94-06-058	16-223-060	REP	94-03-023	16-324-640	REP	94-11-070
16-212-020	AMD	94-10-002	16-223-070	REP	94-03-023	16-400-210	AMD-E	94-04-091
16-212-030	AMD-P	94-06-058	16-228-235	REP-P	94-09-017	16-400-210	AMD-P	94-13-041
16-212-030	AMD	94-10-002	16-228-235	REP	94-13-195	16-403-145	AMD-P	94-05-050
16-212-060	AMD-P	94-06-058	16-228-245	REP-P	94-09-017	16-403-145	AMD	94-07-133

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
16-403-150	AMD-P	94-05-050	16-620-410	NEW	94-13-070	51-04-030	PREP	94-12-015
16-403-150	AMD	94-07-133	16-675-010	AMD-P	94-09-054	51-04-060	AMD	94-05-058
16-403-290	AMD-P	94-05-050	16-675-010	AMD	94-12-035	51-11	PREP	94-12-017
16-403-290	AMD	94-07-133	16-675-029	NEW-P	94-09-054	51-11-0201	AMD	94-05-059
16-415-010	REP	94-03-026	16-675-029	NEW	94-12-035	51-11-0402	AMD	94-05-059
16-415-020	REP	94-03-026	16-675-030	AMD-P	94-09-054	51-11-0502	AMD-E	94-05-007
16-415-030	REP	94-03-026	16-675-030	AMD	94-12-035	51-11-0502	AMD	94-05-059
16-415-040	REP	94-03-026	16-675-039	NEW-P	94-09-054	51-11-0525	AMD	94-05-059
16-432-010	REP	94-03-025	16-675-039	NEW	94-12-035	51-11-0527	AMD	94-05-059
16-432-020	REP	94-03-025	16-675-040	AMD-P	94-09-054	51-11-0601	AMD	94-05-059
16-432-030	REP	94-03-025	16-675-040	AMD	94-12-035	51-11-0602	AMD	94-05-059
16-432-040	REP	94-03-025	16-678-001	REP	94-03-022	51-11-0603	AMD	94-05-059
16-432-050	REP	94-03-025	16-678-010	REP	94-03-022	51-11-0625	AMD	94-05-059
16-432-060	REP	94-03-025	16-680-001	REP	94-03-021	51-11-0626	AMD	94-05-059
16-432-070	REP	94-03-025	16-680-010	REP	94-03-021	51-11-0627	AMD	94-05-059
16-432-080	REP	94-03-025	16-680-015	REP	94-03-021	51-11-0628	AMD	94-05-059
16-432-090	REP	94-03-025	16-694-001	AMD-P	94-09-055	51-11-0629	AMD	94-05-059
16-432-100	REP	94-03-025	16-694-001	AMD	94-12-034	51-11-0630	AMD	94-05-059
16-432-110	REP	94-03-025	44-06	AMD	94-13-039	51-11-1006	AMD-E	94-05-007
16-432-120	REP	94-03-025	44-06-010	AMD-P	94-06-050	51-11-1006	AMD	94-05-059
16-432-130	REP	94-03-025	44-06-010	AMD	94-13-039	51-11-1011	NEW-E	94-05-007
16-470-92005	NEW-C	94-06-003	44-06-020	AMD-P	94-06-050	51-13	PREP	94-12-016
16-470-92005	NEW-W	94-06-051	44-06-020	AMD	94-13-039	55-01-010	AMD-E	94-06-032
16-470-92010	NEW-C	94-06-003	44-06-030	AMD-P	94-06-050	55-01-010	AMD-W	94-07-075
16-470-92010	NEW-W	94-06-051	44-06-030	AMD	94-13-039	55-01-020	AMD-E	94-06-032
16-470-92015	NEW-C	94-06-003	44-06-040	AMD-P	94-06-050	55-01-020	AMD-W	94-07-075
16-470-92015	NEW-W	94-06-051	44-06-040	AMD	94-13-039	55-01-030	AMD-E	94-06-032
16-470-92020	NEW-C	94-06-003	44-06-050	AMD-P	94-06-050	55-01-030	AMD-W	94-07-075
16-470-92020	NEW-W	94-06-051	44-06-050	AMD	94-13-039	55-01-040	AMD-E	94-06-032
16-470-92025	NEW-C	94-06-003	44-06-060	AMD-P	94-06-050	55-01-040	AMD-W	94-07-075
16-470-92025	NEW-W	94-06-051	44-06-060	AMD	94-13-039	55-01-050	AMD-E	94-06-032
16-470-92030	NEW-C	94-06-003	44-06-070	AMD-P	94-06-050	55-01-050	AMD-W	94-07-075
16-470-92030	NEW-W	94-06-051	44-06-070	AMD	94-13-039	55-01-060	AMD-E	94-06-032
16-470-92035	NEW-C	94-06-003	44-06-080	AMD-P	94-06-050	55-01-060	AMD-W	94-07-075
16-470-92035	NEW-W	94-06-051	44-06-080	AMD	94-13-039	55-01-070	AMD-E	94-06-032
16-470-92040	NEW-C	94-06-003	44-06-085	NEW-P	94-06-050	55-01-070	AMD-W	94-07-075
16-470-92040	NEW-W	94-06-051	44-06-085	NEW	94-13-039	55-01-080	AMD-W	94-07-075
16-482-016	AMD-P	94-01-111	44-06-090	AMD-P	94-06-050	67-35-030	AMD-P	94-07-067
16-482-016	AMD	94-11-069	44-06-090	AMD	94-13-039	67-35-030	AMD	94-11-054
16-514-020	AMD-P	94-05-073	44-06-110	AMD-P	94-06-050	67-35-230	AMD-P	94-07-067
16-514-020	AMD	94-08-091	44-06-110	AMD	94-13-039	67-35-230	AMD-W	94-11-053
16-580-040	AMD-P	94-05-066	44-06-120	AMD-P	94-06-050	67-35-230	AMD-P	94-12-072
16-580-040	AMD	94-08-090	44-06-120	AMD	94-13-039	82-50-021	AMD-P	94-10-055
16-602-025	NEW	94-05-049	44-06-130	AMD-P	94-06-050	82-50-021	AMD	94-13-097
16-602-027	NEW-P	94-09-052	44-06-140	AMD-P	94-06-050	106-116-011	AMD-P	94-07-090
16-602-027	NEW	94-12-045	44-06-140	AMD	94-13-039	106-116-011	AMD-E	94-07-091
16-604-008	NEW-P	94-10-074	44-06-150	NEW-P	94-06-050	106-116-011	AMD	94-10-049
16-604-008	NEW	94-13-069	44-06-150	NEW	94-13-039	106-116-040	AMD-P	94-07-090
16-604-010	AMD-P	94-10-074	44-06-160	NEW-P	94-06-050	106-116-040	AMD-E	94-07-091
16-604-010	AMD	94-13-069	44-06-160	NEW	94-13-039	106-116-040	AMD	94-10-049
16-604-012	NEW-P	94-10-074	50-60-010	NEW	94-03-009	106-116-042	AMD-P	94-07-090
16-604-012	NEW	94-13-069	50-60-020	NEW	94-03-009	106-116-042	AMD-E	94-07-091
16-605A-001	NEW-P	94-10-076	50-60-030	NEW	94-03-009	106-116-042	AMD	94-10-049
16-605A-001	NEW	94-13-068	50-60-040	NEW	94-03-009	106-116-103	AMD-P	94-07-090
16-605A-010	NEW-P	94-10-076	50-60-050	NEW	94-03-009	106-116-103	AMD-E	94-07-091
16-605A-010	NEW	94-13-068	50-60-060	NEW	94-03-009	106-116-103	AMD	94-10-049
16-620-010	AMD-P	94-10-075	50-60-070	NEW	94-03-009	106-116-10401	AMD-P	94-07-090
16-620-010	AMD	94-13-070	50-60-080	NEW	94-03-009	106-116-10401	AMD-E	94-07-091
16-620-015	NEW-P	94-10-075	50-60-090	NEW	94-03-009	106-116-10401	AMD	94-10-049
16-620-015	NEW	94-13-070	50-60-100	NEW	94-03-009	106-116-201	AMD-P	94-07-090
16-620-270	REP-P	94-10-075	50-60-110	NEW	94-03-009	106-116-201	AMD-E	94-07-091
16-620-270	REP	94-13-070	50-60-120	NEW	94-03-009	106-116-201	AMD	94-10-049
16-620-280	AMD-P	94-10-075	50-60-130	NEW	94-03-009	106-116-202	AMD-P	94-07-090
16-620-280	AMD	94-13-070	50-60-140	NEW	94-03-009	106-116-202	AMD-E	94-07-091
16-620-290	AMD-P	94-10-075	50-60-150	NEW	94-03-009	106-116-202	AMD	94-10-049
16-620-290	AMD	94-13-070	50-60-160	NEW	94-03-009	106-116-203	AMD-P	94-07-090
16-620-340	AMD-P	94-10-075	50-60-170	NEW	94-03-009	106-116-203	AMD-E	94-07-091
16-620-340	AMD	94-13-070	50-60-180	NEW	94-03-009	106-116-203	AMD	94-10-049
16-620-380	AMD-P	94-10-075	51-04-015	AMD	94-05-058	106-116-204	AMD-P	94-07-090
16-620-380	AMD	94-13-070	51-04-018	AMD	94-05-058	106-116-204	AMD-E	94-07-091
16-620-400	NEW-P	94-10-075	51-04-020	AMD	94-05-058	106-116-204	AMD	94-10-049
16-620-400	NEW	94-13-070	51-04-025	AMD	94-05-058	106-116-205	AMD-P	94-07-090
16-620-410	NEW-P	94-10-075	51-04-030	AMD-W	94-05-102	106-116-205	AMD-E	94-07-091

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
106-116-205	AMD	94-10-049	106-116-853	AMD-P	94-07-090	132F-108-030	NEW-P	94-05-097A
106-116-207	AMD-P	94-07-090	106-116-853	AMD-E	94-07-091	132F-108-040	NEW-P	94-05-097A
106-116-207	AMD-E	94-07-091	106-116-853	AMD	94-10-049	132F-108-050	NEW-P	94-05-097A
106-116-207	AMD	94-10-049	106-116-901	AMD-P	94-07-090	132F-108-060	NEW-P	94-05-097A
106-116-208	AMD-P	94-07-090	106-116-901	AMD-E	94-07-091	132F-108-070	NEW-P	94-05-097A
106-116-208	AMD-E	94-07-091	106-116-901	AMD	94-10-049	132F-108-080	NEW-P	94-05-097A
106-116-208	AMD	94-10-049	131-46-010	AMD	94-04-120	132F-108-090	NEW-P	94-05-097A
106-116-212	AMD-P	94-07-090	131-46-020	AMD	94-04-120	132F-108-100	NEW-P	94-05-097A
106-116-212	AMD-E	94-07-091	131-46-025	AMD	94-04-120	132F-108-110	NEW-P	94-05-097A
106-116-212	AMD	94-10-049	131-46-027	NEW	94-04-120	132F-108-120	NEW-P	94-05-097A
106-116-213	AMD-P	94-07-090	131-46-029	NEW	94-04-120	132F-108-130	NEW-P	94-05-097A
106-116-213	AMD-E	94-07-091	131-46-030	AMD	94-04-120	132F-108-140	NEW-P	94-05-097A
106-116-213	AMD	94-10-049	131-46-035	AMD	94-04-120	132H-160-040	REP	94-04-098
106-116-301	AMD-P	94-07-090	131-46-040	AMD	94-04-120	132H-160-050	REP	94-04-098
106-116-301	AMD-E	94-07-091	131-46-045	AMD	94-04-120	132H-160-056	REP	94-04-098
106-116-301	AMD	94-10-049	131-46-050	AMD	94-04-120	132H-160-059	REP	94-04-098
106-116-303	AMD-P	94-07-090	131-46-055	AMD	94-04-120	132H-160-070	REP	94-04-098
106-116-303	AMD-E	94-07-091	131-46-060	AMD	94-04-120	132H-160-080	REP	94-04-098
106-116-303	AMD	94-10-049	131-46-065	AMD	94-04-120	132H-160-120	REP	94-04-098
106-116-304	AMD-P	94-07-090	131-46-070	AMD	94-04-120	132H-160-140	REP	94-04-098
106-116-304	AMD-E	94-07-091	131-46-075	AMD	94-04-120	132H-160-150	REP	94-04-098
106-116-304	AMD	94-10-049	131-46-077	NEW	94-04-120	132H-160-260	REP	94-04-098
106-116-305	AMD-P	94-07-090	131-46-080	AMD	94-04-120	132H-160-320	REP	94-04-098
106-116-305	AMD-E	94-07-091	131-46-085	AMD	94-04-120	132H-160-330	REP	94-04-098
106-116-305	AMD	94-10-049	131-46-090	AMD	94-04-120	132H-160-350	REP	94-04-098
106-116-306	AMD-P	94-07-090	131-46-095	AMD	94-04-120	132H-160-390	REP	94-04-098
106-116-306	AMD-E	94-07-091	131-46-100	AMD	94-04-120	132H-160-400	REP	94-04-098
106-116-306	AMD	94-10-049	131-46-105	AMD	94-04-120	132H-160-430	REP	94-04-098
106-116-307	AMD-P	94-07-090	131-46-110	AMD	94-04-120	132H-160-440	REP	94-04-098
106-116-307	AMD-E	94-07-091	131-46-115	AMD	94-04-120	132H-160-492	REP	94-04-098
106-116-307	AMD	94-10-049	131-46-120	AMD	94-04-120	132H-160-520	REP	94-04-098
106-116-308	AMD-P	94-07-090	131-46-125	NEW	94-04-120	132H-160-600	REP	94-04-098
106-116-308	AMD-E	94-07-091	131-46-130	NEW	94-04-120	132H-160-610	REP	94-04-098
106-116-308	AMD	94-10-049	132F-08-001	REP-P	94-05-097A	132H-160-620	REP	94-04-098
106-116-310	AMD-P	94-07-090	132F-08-005	REP-P	94-05-097A	132H-160-630	REP	94-04-098
106-116-310	AMD-E	94-07-091	132F-08-010	REP-P	94-05-097A	132H-160-640	REP	94-04-098
106-116-310	AMD	94-10-049	132F-08-080	REP-P	94-05-097A	132H-160-650	REP	94-04-098
106-116-311	AMD-P	94-07-090	132F-08-090	REP-P	94-05-097A	132H-160-660	REP	94-04-098
106-116-311	AMD-E	94-07-091	132F-08-100	REP-P	94-05-097A	132H-160-670	REP	94-04-098
106-116-311	AMD	94-10-049	132F-08-110	REP-P	94-05-097A	132H-160-680	REP	94-04-098
106-116-403	AMD-P	94-07-090	132F-08-120	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-403	AMD-E	94-07-091	132F-08-130	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-403	AMD	94-10-049	132F-08-140	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-410	AMD-P	94-07-090	132F-08-230	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-410	AMD-E	94-07-091	132F-08-240	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-410	AMD	94-10-049	132F-08-250	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-501	AMD-P	94-07-090	132F-08-260	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-501	AMD-E	94-07-091	132F-08-270	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-501	AMD	94-10-049	132F-08-280	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-513	AMD-P	94-07-090	132F-08-290	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-513	AMD-E	94-07-091	132F-08-300	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-513	AMD	94-10-049	132F-08-310	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-514	AMD-P	94-07-090	132F-08-320	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-514	AMD-E	94-07-091	132F-08-330	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-514	AMD	94-10-049	132F-08-340	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-515	AMD-P	94-07-090	132F-08-350	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-515	AMD-E	94-07-091	132F-08-360	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-515	AMD	94-10-049	132F-08-400	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-521	AMD-P	94-07-090	132F-08-410	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-521	AMD-E	94-07-091	132F-08-420	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-521	AMD	94-10-049	132F-08-430	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-601	AMD-P	94-07-090	132F-08-440	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-601	AMD-E	94-07-091	132F-08-450	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-601	AMD	94-10-049	132F-08-460	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-603	AMD-P	94-07-090	132F-08-470	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-603	AMD-E	94-07-091	132F-08-480	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-603	AMD	94-10-049	132F-104-030	AMD-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-701	AMD-P	94-07-090	132F-104-811	AMD-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-701	AMD-E	94-07-091	132F-104-813	AMD-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-701	AMD	94-10-049	132F-104-815	AMD-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-702	AMD-P	94-07-090	132F-104-819	AMD-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-702	AMD-E	94-07-091	132F-108-010	NEW-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-702	AMD	94-10-049	132F-108-020	NEW-P	94-05-097A	132H-160-690	REP	94-04-098

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
132J-128-090	REP	94-04-053	137-56-080	AMD	94-07-065	162-26-010	AMD-W	94-04-087
132J-128-100	REP	94-04-053	137-56-090	AMD	94-07-065	162-26-020	AMD-W	94-04-087
132J-128-110	REP	94-04-053	137-56-095	AMD	94-07-065	162-26-030	AMD-W	94-04-087
132J-128-120	REP	94-04-053	137-56-100	AMD	94-07-065	162-26-040	AMD-W	94-04-087
132J-128-130	REP	94-04-053	137-56-110	AMD	94-07-065	162-26-050	AMD-W	94-04-087
132J-128-140	REP	94-04-053	137-56-120	AMD	94-07-065	162-26-060	AMD-W	94-04-087
132J-128-200	NEW	94-04-053	137-56-140	AMD	94-07-065	162-26-070	AMD-W	94-04-087
132J-128-210	NEW	94-04-053	137-56-150	AMD	94-07-065	162-26-080	AMD-W	94-04-087
132J-136-020	REP	94-04-054	137-56-160	AMD	94-07-065	162-26-090	AMD-W	94-04-087
132J-136-025	REP	94-04-054	137-56-170	AMD	94-07-065	162-26-100	AMD-W	94-04-087
132J-136-030	REP	94-04-054	137-56-175	NEW	94-07-065	162-26-110	AMD-W	94-04-087
132J-136-040	REP	94-04-054	137-56-180	AMD	94-07-065	162-26-120	AMD-W	94-04-087
132J-136-050	REP	94-04-054	137-56-190	REP	94-07-065	162-26-130	AMD-W	94-04-087
132R-190-010	AMD	94-07-019	137-56-200	AMD	94-07-065	162-26-140	AMD-W	94-04-087
132R-190-020	AMD	94-07-019	137-56-210	AMD	94-07-065	162-30-010	AMD-W	94-04-087
132R-190-030	AMD	94-07-019	137-56-220	AMD	94-07-065	162-30-020	AMD-W	94-04-087
132R-190-035	AMD	94-07-019	137-56-230	AMD	94-07-065	162-30-030	NEW-W	94-04-087
132R-190-040	AMD	94-07-019	137-56-240	AMD	94-07-065	162-30-035	NEW-W	94-04-087
132R-190-050	AMD	94-07-019	137-56-250	AMD	94-07-065	162-30-040	NEW-W	94-04-087
132R-190-060	AMD	94-07-019	148-120-010	NEW-P	94-08-066	162-30-050	NEW-W	94-04-087
132R-190-070	AMD	94-07-019	148-120-010	NEW	94-13-058	162-30-060	NEW-W	94-04-087
132R-190-080	AMD	94-07-019	148-120-015	NEW-P	94-08-066	162-30-070	NEW-W	94-04-087
132R-190-090	AMD	94-07-019	148-120-015	NEW	94-13-058	162-30-080	NEW-W	94-04-087
132R-190-100	AMD	94-07-019	148-120-100	NEW-P	94-08-066	162-30-090	NEW-W	94-04-087
132R-190-110	AMD	94-07-019	148-120-100	NEW	94-13-058	162-30-100	NEW-W	94-04-087
132V-300-020	AMD-W	94-03-082	148-120-120	NEW-P	94-08-066	173-19-100	AMD-P	94-03-093
132Y-125-004	AMD	94-03-010	148-120-120	NEW	94-13-058	173-19-120	AMD-P	94-03-092
136-130-040	AMD-P	94-06-028	148-120-200	NEW-P	94-08-066	173-19-120	AMD	94-10-081
136-130-040	AMD	94-10-022	148-120-200	NEW	94-13-058	173-19-2401	AMD-C	94-05-038
136-130-060	AMD-P	94-06-029	148-120-205	NEW-P	94-08-066	173-19-2401	AMD	94-07-013
136-130-060	AMD	94-10-020	148-120-205	NEW	94-13-058	173-19-2602	AMD-P	94-04-107
136-160-010	REP-P	94-13-182	148-120-210	NEW-P	94-08-066	173-19-2602	AMD	94-10-082
136-160-020	REP-P	94-13-182	148-120-210	NEW	94-13-058	173-19-3303	AMD-P	94-07-120
136-160-030	REP-P	94-13-182	148-120-220	NEW-P	94-08-066	173-19-3303	AMD	94-13-046
136-160-040	REP-P	94-13-182	148-120-220	NEW	94-13-058	173-19-3506	AMD-W	94-07-074
136-160-050	AMD-P	94-06-028	148-120-225	NEW-P	94-08-066	173-19-3506	AMD-P	94-10-040
136-160-050	AMD	94-10-022	148-120-225	NEW	94-13-058	173-19-360	AMD-P	94-10-041
136-160-050	REP-P	94-13-182	148-120-230	NEW-P	94-08-066	173-19-390	AMD	94-03-095
136-160-060	AMD-P	94-06-030	148-120-230	NEW	94-13-058	173-19-4203	AMD-P	94-07-119
136-160-060	AMD	94-10-023	148-120-234	NEW-P	94-08-066	173-19-4203	AMD	94-13-047
136-160-060	REP-P	94-13-182	148-120-234	NEW	94-13-058	173-19-4205	AMD-P	94-03-094
136-160-065	REP-P	94-13-182	148-120-236	NEW-P	94-08-066	173-19-4205	AMD	94-10-080
136-161-010	NEW-P	94-13-182	148-120-236	NEW	94-13-058	173-34-010	REP-P	94-03-071
136-161-020	NEW-P	94-13-182	162-12-100	AMD-W	94-04-087	173-34-010	REP	94-07-078
136-161-030	NEW-P	94-13-182	162-12-110	REP-W	94-04-087	173-34-020	REP-P	94-03-071
136-161-040	NEW-P	94-13-182	162-12-120	AMD-W	94-04-087	173-34-020	REP	94-07-078
136-161-050	NEW-P	94-13-182	162-12-130	AMD-W	94-04-087	173-34-030	REP-P	94-03-071
136-161-060	NEW-P	94-13-182	162-12-135	AMD-W	94-04-087	173-34-030	REP	94-07-078
136-161-070	NEW-P	94-13-182	162-12-140	AMD-W	94-04-087	173-34-040	REP-P	94-03-071
136-161-080	NEW-P	94-13-182	162-12-150	AMD-W	94-04-087	173-34-040	REP	94-07-078
136-161-090	NEW-P	94-13-182	162-12-160	AMD-W	94-04-087	173-34-050	REP-P	94-03-071
136-161-100	NEW-P	94-13-182	162-12-170	AMD-W	94-04-087	173-34-050	REP	94-07-078
136-165-010	NEW-P	94-13-184	162-12-180	AMD-W	94-04-087	173-58-010	AMD-P	94-05-037
136-165-020	NEW-P	94-13-184	162-18-010	REP-W	94-04-087	173-58-010	AMD	94-12-001
136-165-030	NEW-P	94-13-184	162-18-020	REP-W	94-04-087	173-58-020	AMD-P	94-05-037
136-165-040	NEW-P	94-13-184	162-18-030	REP-W	94-04-087	173-58-020	AMD	94-12-001
136-165-050	NEW-P	94-13-184	162-18-040	REP-W	94-04-087	173-58-090	AMD-P	94-05-037
136-167-010	NEW-P	94-13-183	162-18-050	REP-W	94-04-087	173-58-090	AMD	94-12-001
136-167-020	NEW-P	94-13-183	162-18-060	REP-W	94-04-087	173-60-010	AMD-P	94-05-037
136-167-030	NEW-P	94-13-183	162-18-070	REP-W	94-04-087	173-60-010	AMD	94-12-001
136-167-040	NEW-P	94-13-183	162-18-080	REP-W	94-04-087	173-60-020	AMD-P	94-05-037
136-170-010	AMD-P	94-13-185	162-18-090	REP-W	94-04-087	173-60-020	AMD	94-12-001
136-170-030	AMD-P	94-13-185	162-18-100	REP-W	94-04-087	173-60-050	AMD-P	94-05-037
136-170-040	NEW-P	94-13-185	162-22-010	AMD-W	94-04-087	173-60-050	AMD	94-12-001
136-180-040	AMD-P	94-06-031	162-22-020	AMD-W	94-04-087	173-60-070	AMD-P	94-05-037
136-180-040	AMD	94-10-021	162-22-030	REP-W	94-04-087	173-60-070	AMD	94-12-001
137-56-010	AMD	94-07-065	162-22-040	REP-W	94-04-087	173-70-010	REP-P	94-05-037
137-56-015	AMD	94-07-065	162-22-050	AMD-W	94-04-087	173-70-010	REP	94-12-001
137-56-030	AMD	94-07-065	162-22-060	AMD-W	94-04-087	173-70-020	REP-P	94-05-037
137-56-040	AMD	94-07-065	162-22-070	AMD-W	94-04-087	173-70-020	REP	94-12-001
137-56-050	AMD	94-07-065	162-22-080	AMD-W	94-04-087	173-70-030	REP-P	94-05-037
137-56-060	AMD	94-07-065	162-22-090	AMD-W	94-04-087	173-70-030	REP	94-12-001
137-56-070	AMD	94-07-065	162-22-100	AMD-W	94-04-087	173-70-040	REP-P	94-05-037

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
173-70-040	REP	94-12-001	173-224-050	AMD-P	94-02-080	173-440-900	REP-P	94-10-078
173-70-050	REP-P	94-05-037	173-224-050	AMD	94-10-027	173-460-020	AMD	94-03-072
173-70-050	REP	94-12-001	173-224-070	REP-P	94-02-080	173-460-030	AMD	94-03-072
173-70-060	REP-P	94-05-037	173-224-090	AMD-P	94-02-080	173-460-040	AMD	94-03-072
173-70-060	REP	94-12-001	173-224-090	AMD	94-10-027	173-460-050	AMD	94-03-072
173-70-070	REP-P	94-05-037	173-224-100	AMD-P	94-02-080	173-460-060	AMD	94-03-072
173-70-070	REP	94-12-001	173-224-100	AMD	94-10-027	173-460-080	AMD	94-03-072
173-70-080	REP-P	94-05-037	173-224-120	REP-P	94-02-080	173-460-090	AMD	94-03-072
173-70-080	REP	94-12-001	173-303	AMD-C	94-08-092	173-460-100	AMD	94-03-072
173-70-090	REP-P	94-05-037	173-303-071	AMD	94-12-018	173-460-110	AMD	94-03-072
173-70-090	REP	94-12-001	173-303-104	AMD	94-12-018	173-460-150	AMD	94-03-072
173-70-100	REP-P	94-05-037	173-320-010	REP-P	94-03-071	173-460-160	AMD	94-03-072
173-70-100	REP	94-12-001	173-320-010	REP	94-07-078	173-492-070	AMD	94-07-040
173-70-110	REP-P	94-05-037	173-320-020	REP-P	94-03-071	173-563-090	PREP	94-13-162
173-70-110	REP	94-12-001	173-320-020	REP	94-07-078	180-16-200	AMD	94-03-104
173-70-120	REP-P	94-05-037	173-320-030	REP-P	94-03-071	180-24-310	AMD-P	94-08-103
173-70-120	REP	94-12-001	173-320-030	REP	94-07-078	180-24-310	AMD	94-13-018
173-95-010	REP	94-04-030	173-320-040	REP-P	94-03-071	180-24-312	AMD-P	94-08-103
173-95-020	REP	94-04-030	173-320-040	REP	94-07-078	180-24-312	AMD	94-13-018
173-95-030	REP	94-04-030	173-320-050	REP-P	94-03-071	180-24-315	AMD-P	94-08-103
173-95-040	REP	94-04-030	173-320-050	REP	94-07-078	180-24-315	AMD	94-13-018
173-95-050	REP	94-04-030	173-320-060	REP-P	94-03-071	180-24-320	AMD-P	94-08-103
173-95-060	REP	94-04-030	173-320-060	REP	94-07-078	180-24-320	AMD	94-13-018
173-95-070	REP	94-04-030	173-320-070	REP-P	94-03-071	180-24-325	AMD-P	94-08-103
173-95-080	REP	94-04-030	173-320-070	REP	94-07-078	180-24-325	AMD	94-13-018
173-95-090	REP	94-04-030	173-320-080	REP-P	94-03-071	180-24-355	AMD-P	94-08-103
173-95-100	REP	94-04-030	173-320-080	REP	94-07-078	180-24-355	AMD	94-13-018
173-95-110	REP	94-04-030	173-335-010	REP-P	94-03-071	180-29-130	AMD-P	94-08-104
173-95-120	REP	94-04-030	173-335-010	REP	94-07-078	180-29-130	AMD	94-13-019
173-95-130	REP	94-04-030	173-335-020	REP-P	94-03-071	180-29-135	AMD-P	94-05-088
173-95-140	REP	94-04-030	173-335-020	REP	94-07-078	180-29-135	AMD-C	94-08-068
173-95-150	REP	94-04-030	173-335-030	REP-P	94-03-071	180-29-147	NEW-P	94-05-088
173-95-160	REP	94-04-030	173-335-030	REP	94-07-078	180-29-147	NEW-C	94-08-068
173-180A-010	NEW	94-10-084	173-335-040	REP-P	94-03-071	180-29-170	AMD-P	94-05-088
173-180A-020	NEW	94-10-084	173-335-040	REP	94-07-078	180-29-170	AMD-C	94-08-068
173-180A-030	NEW	94-10-084	173-335-050	REP-P	94-03-071	180-33-025	AMD-P	94-08-105
173-180A-040	NEW	94-10-084	173-335-050	REP	94-07-078	180-33-025	AMD	94-13-020
173-180A-050	NEW	94-10-084	173-400	NEW-C	94-08-072	180-40-235	AMD	94-03-102
173-180A-060	NEW	94-10-084	173-400	NEW-C	94-10-079	180-50-115	AMD	94-03-104
173-180A-070	NEW	94-10-084	173-400-045	NEW-P	94-04-106	180-50-120	AMD	94-03-104
173-180A-080	NEW	94-10-084	173-400-101	NEW-P	94-04-105	180-51-050	AMD	94-03-100
173-180A-090	NEW	94-10-084	173-400-101	NEW	94-10-042	180-51-050	AMD-P	94-08-067
173-180A-100	NEW	94-10-084	173-400-116	NEW-P	94-04-106	180-51-050	AMD	94-13-017
173-180A-110	NEW	94-10-084	173-401	AMD-C	94-08-073	180-51-075	AMD	94-03-104
173-180A-120	NEW	94-10-084	173-401-200	AMD-P	94-04-104	180-51-105	AMD	94-03-103
173-180A-130	NEW	94-10-084	173-401-200	AMD	94-11-105	180-78-266	NEW-P	94-05-034
173-180A-140	NEW	94-10-084	173-401-510	AMD-P	94-04-104	180-78-266	NEW	94-08-055
173-180A-150	NEW	94-10-084	173-401-510	AMD	94-11-105	180-79-241	AMD-P	94-08-106
173-180B-010	NEW	94-10-083	173-401-530	NEW-P	94-04-104	180-79-241	AMD	94-13-021
173-180B-020	NEW	94-10-083	173-401-530	NEW	94-11-105	180-95-010	AMD	94-03-103
173-180B-030	NEW	94-10-083	173-401-531	NEW-P	94-04-104	180-95-020	AMD	94-03-103
173-180B-040	NEW	94-10-083	173-401-531	NEW	94-11-105	180-95-030	AMD	94-03-103
173-180B-050	NEW	94-10-083	173-401-532	NEW-P	94-04-104	180-95-040	AMD	94-03-103
173-180B-060	NEW	94-10-083	173-401-532	NEW	94-11-105	180-95-050	AMD	94-03-103
173-180B-070	NEW	94-10-083	173-401-533	NEW-P	94-04-104	180-95-060	AMD	94-03-103
173-180B-080	NEW	94-10-083	173-401-533	NEW	94-11-105	180-96-005	AMD	94-03-101
173-180B-090	NEW	94-10-083	173-402-010	REP-P	94-10-078	180-96-010	AMD	94-03-101
173-180B-100	NEW	94-10-083	173-402-020	REP-P	94-10-078	180-96-015	REP	94-03-101
173-180B-110	NEW	94-10-083	173-422-020	AMD	94-05-039	180-96-025	REP	94-03-101
173-180B-120	NEW	94-10-083	173-422-030	AMD	94-05-039	180-96-030	REP	94-03-101
173-180B-130	NEW	94-10-083	173-422-050	AMD	94-05-039	180-96-035	AMD	94-03-101
173-180B-140	NEW	94-10-083	173-422-070	AMD	94-05-039	180-96-045	AMD	94-03-101
173-202-020	AMD-E	94-04-108	173-422-075	AMD	94-05-039	180-96-048	NEW	94-03-101
173-202-020	AMD-P	94-08-071	173-422-095	AMD	94-05-039	180-96-050	AMD	94-03-101
173-202-020	AMD-E	94-12-054	173-422-130	AMD	94-05-039	180-96-053	NEW	94-03-101
173-204	PREP	94-13-161	173-422-140	REP	94-05-039	180-96-055	REP	94-03-101
173-224	AMD-C	94-05-082	173-422-160	AMD	94-05-039	180-96-058	NEW	94-03-101
173-224-020	AMD-P	94-02-080	173-422-170	AMD	94-05-039	180-96-060	REP	94-03-101
173-224-020	AMD	94-10-027	173-440-010	REP-P	94-10-078	180-96-065	REP	94-03-101
173-224-030	AMD-P	94-02-080	173-440-020	REP-P	94-10-078	180-96-070	REP	94-03-101
173-224-030	AMD	94-10-027	173-440-030	REP-P	94-10-078	180-96-075	REP	94-03-101
173-224-040	AMD-P	94-02-080	173-440-040	REP-P	94-10-078	182-12-110	AMD-E	94-08-027
173-224-040	AMD	94-10-027	173-440-100	REP-P	94-10-078	182-12-111	AMD-E	94-08-027

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
182-12-115	AMD-E	94-08-027	194-22-190	PREP	94-08-070	220-44-050	AMD-P	94-10-073
182-12-122	AMD-E	94-08-027	194-22-190	NEW-P	94-11-128	220-44-050	AMD	94-13-077
182-14-010	NEW-E	94-08-028	197-11-225	NEW-E	94-12-032	220-44-05000I	REP-E	94-05-003
182-14-020	NEW-E	94-08-028	197-11-228	NEW-E	94-12-032	220-44-05000J	NEW-E	94-05-003
182-14-030	NEW-E	94-08-028	197-11-230	NEW-E	94-12-032	220-44-090	NEW-P	94-03-106
182-14-040	NEW-E	94-08-028	197-11-232	NEW-E	94-12-032	220-44-090	NEW-C	94-12-007
182-14-050	NEW-E	94-08-028	197-11-235	NEW-E	94-12-032	220-44-090	NEW	94-12-009
182-14-060	NEW-E	94-08-028	204-24-050	AMD-E	94-02-081	220-44-09000C	NEW-E	94-11-073
182-14-070	NEW-E	94-08-028	204-24-050	AMD-P	94-02-082	220-44-09000D	REP-E	94-13-015
182-14-080	NEW-E	94-08-028	204-24-050	AMD	94-08-069	220-44-09000D	NEW-E	94-13-015
182-14-090	NEW-E	94-08-028	204-30-010	REP	94-05-024	220-47-304	AMD-P	94-09-071
182-14-100	NEW-E	94-08-028	204-30-020	REP	94-05-024	220-47-307	AMD-P	94-09-071
192-28-145	AMD-P	94-04-124	204-30-030	REP	94-05-024	220-47-311	AMD-P	94-09-071
192-28-145	AMD	94-10-044	204-30-040	REP	94-05-024	220-47-401	AMD-P	94-09-071
192-34-010	NEW	94-07-115	204-30-050	REP	94-05-024	220-47-411	AMD-P	94-09-071
192-34-015	NEW	94-07-115	204-30-060	REP	94-05-024	220-47-412	AMD-P	94-09-071
192-34-020	NEW	94-07-115	204-30-070	REP	94-05-024	220-48-001	AMD-P	94-03-106
192-34-025	NEW	94-07-115	204-30-080	REP	94-05-024	220-48-001	AMD-C	94-12-007
194-20-010	PREP	94-08-070	204-91A-170	PREP	94-13-078	220-48-001	AMD	94-12-009
194-20-020	PREP	94-08-070	208-04-010	NEW	94-09-010	220-48-005	AMD-P	94-03-106
194-20-030	PREP	94-08-070	208-04-020	NEW	94-09-010	220-48-005	AMD-C	94-12-007
194-20-040	PREP	94-08-070	208-04-030	NEW	94-09-010	220-48-005	AMD	94-12-009
194-20-050	PREP	94-08-070	220-12-02000B	NEW-E	94-07-052	220-48-011	AMD-P	94-03-106
194-20-060	PREP	94-08-070	220-16-015	AMD-P	94-03-106	220-48-011	AMD-C	94-12-007
194-20-070	PREP	94-08-070	220-16-015	AMD-C	94-12-007	220-48-011	AMD	94-12-009
194-20-080	PREP	94-08-070	220-16-015	AMD	94-12-009	220-48-015	AMD-P	94-03-106
194-20-090	PREP	94-08-070	220-16-460	NEW-P	94-03-105	220-48-015	AMD-C	94-12-007
194-20-100	PREP	94-08-070	220-16-46000A	NEW-E	94-10-043	220-48-015	AMD	94-12-009
194-20-110	PREP	94-08-070	220-20-021	AMD-P	94-03-106	220-48-015	AMD-P	94-13-064
194-20-120	PREP	94-08-070	220-20-021	AMD-C	94-12-007	220-48-016	NEW-P	94-03-106
194-20-130	PREP	94-08-070	220-20-021	AMD	94-12-009	220-48-016	NEW-C	94-12-007
194-20-140	PREP	94-08-070	220-20-025	AMD-P	94-03-106	220-48-016	NEW	94-12-009
194-20-150	PREP	94-08-070	220-20-025	AMD-C	94-12-007	220-48-017	AMD-P	94-03-106
194-20-160	PREP	94-08-070	220-20-025	AMD	94-12-009	220-48-017	AMD-C	94-12-007
194-20-170	PREP	94-08-070	220-20-02500B	NEW-E	94-05-002	220-48-017	AMD	94-12-009
194-20-180	PREP	94-08-070	220-20-051	AMD-P	94-11-005	220-48-019	AMD-P	94-03-106
194-20-190	PREP	94-08-070	220-20-05100A	REP-E	94-11-006	220-48-019	AMD-C	94-12-007
194-22-010	PREP	94-08-070	220-20-05100B	NEW-E	94-11-006	220-48-019	AMD	94-12-009
194-22-010	NEW-P	94-11-128	220-20-065	NEW-P	94-11-005	220-48-028	AMD-P	94-03-106
194-22-020	PREP	94-08-070	220-20-06500A	REP-E	94-11-006	220-48-028	AMD-C	94-12-007
194-22-020	NEW-P	94-11-128	220-20-06500B	NEW-E	94-11-006	220-48-028	AMD	94-12-009
194-22-030	PREP	94-08-070	220-22-030	AMD-P	94-09-071	220-48-031	AMD-P	94-03-106
194-22-030	NEW-P	94-11-128	220-32-05100E	NEW-E	94-04-048	220-48-031	AMD-C	94-12-007
194-22-040	PREP	94-08-070	220-32-05500F	NEW-E	94-09-022	220-48-031	AMD	94-12-009
194-22-040	NEW-P	94-11-128	220-32-05500G	REP-E	94-13-016	220-48-041	AMD-P	94-03-106
194-22-050	PREP	94-08-070	220-32-05500H	NEW-E	94-11-106	220-48-041	AMD-C	94-12-007
194-22-050	NEW-P	94-11-128	220-32-05500I	NEW-E	94-13-016	220-48-041	AMD	94-12-009
194-22-060	PREP	94-08-070	220-33-01000U	NEW-E	94-04-101	220-48-051	AMD-P	94-03-106
194-22-060	NEW-P	94-11-128	220-33-01000V	REP-E	94-06-042	220-48-051	AMD-C	94-12-007
194-22-070	PREP	94-08-070	220-33-01000V	NEW-E	94-06-042	220-48-051	AMD	94-12-009
194-22-070	NEW-P	94-11-128	220-33-01000V	REP-E	94-07-009	220-48-061	AMD-P	94-03-106
194-22-080	PREP	94-08-070	220-33-01000W	NEW-E	94-07-009	220-48-061	AMD-C	94-12-007
194-22-080	NEW-P	94-11-128	220-33-03000G	NEW-E	94-11-107	220-48-061	AMD	94-12-009
194-22-090	PREP	94-08-070	220-33-03000G	REP-E	94-13-121	220-48-071	AMD-P	94-03-106
194-22-090	NEW-P	94-11-128	220-33-03000H	NEW-E	94-13-121	220-48-071	AMD-C	94-12-007
194-22-100	PREP	94-08-070	220-33-060	AMD-P	94-03-106	220-48-071	AMD	94-12-009
194-22-100	NEW-P	94-11-128	220-33-060	AMD-C	94-12-007	220-49-005	NEW-P	94-03-106
194-22-110	PREP	94-08-070	220-33-060	AMD	94-12-009	220-49-005	NEW-C	94-12-007
194-22-110	NEW-P	94-11-128	220-36-021	AMD-P	94-09-070	220-49-005	NEW	94-12-009
194-22-120	PREP	94-08-070	220-36-021	AMD	94-13-014	220-49-011	AMD-P	94-03-106
194-22-120	NEW-P	94-11-128	220-36-023	AMD-P	94-09-070	220-49-011	AMD-C	94-12-007
194-22-130	PREP	94-08-070	220-36-023	AMD	94-13-014	220-49-011	AMD	94-12-009
194-22-130	NEW-P	94-11-128	220-40-021	AMD-P	94-09-070	220-49-012	AMD-P	94-03-106
194-22-140	PREP	94-08-070	220-40-021	AMD	94-13-014	220-49-012	AMD-C	94-12-007
194-22-140	NEW-P	94-11-128	220-40-027	AMD-P	94-09-070	220-49-012	AMD	94-12-009
194-22-150	PREP	94-08-070	220-40-027	AMD-C	94-13-013	220-49-013	AMD-P	94-03-106
194-22-150	NEW-P	94-11-128	220-44-020	AMD-P	94-03-106	220-49-013	AMD-C	94-12-007
194-22-160	PREP	94-08-070	220-44-020	AMD-C	94-12-007	220-49-013	AMD	94-12-009
194-22-160	NEW-P	94-11-128	220-44-020	AMD	94-12-009	220-49-014	AMD-P	94-03-106
194-22-170	PREP	94-08-070	220-44-030	AMD-P	94-03-106	220-49-014	AMD-C	94-12-007
194-22-170	NEW-P	94-11-128	220-44-030	AMD-C	94-12-007	220-49-014	AMD	94-12-009
194-22-180	PREP	94-08-070	220-44-030	AMD	94-12-009	220-49-015	REP-P	94-03-106
194-22-180	NEW-P	94-11-128	220-44-04000E	NEW-E	94-11-074	220-49-015	REP-C	94-12-007

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
220-49-015	REP	94-12-009	220-52-043	AMD-C	94-12-007	220-56-23500H	NEW-E	94-10-043
220-49-016	REP-P	94-03-106	220-52-043	AMD	94-12-009	220-56-240	AMD-P	94-03-105
220-49-016	REP-C	94-12-007	220-52-046	AMD-P	94-03-106	220-56-245	AMD-P	94-03-105
220-49-016	REP	94-12-009	220-52-046	AMD-C	94-12-007	220-56-24500M	NEW-E	94-10-043
220-49-017	AMD-P	94-03-106	220-52-046	AMD	94-12-009	220-56-255	AMD-P	94-03-105
220-49-017	AMD-C	94-12-007	220-52-050	AMD-P	94-03-106	220-56-25500U	NEW-E	94-10-043
220-49-017	AMD	94-12-009	220-52-050	AMD-C	94-12-007	220-56-25500U	REP-E	94-12-062
220-49-020	AMD-P	94-03-106	220-52-050	AMD	94-12-009	220-56-25500V	NEW-E	94-12-062
220-49-020	AMD-C	94-12-007	220-52-051	AMD-P	94-03-098	220-56-25500V	REP-E	94-13-063
220-49-020	AMD	94-12-009	220-52-051	AMD-P	94-03-106	220-56-25500W	NEW-E	94-13-063
220-49-02000F	NEW-E	94-04-047	220-52-051	AMD	94-07-092	220-56-285	AMD-P	94-03-105
220-49-02000G	NEW-E	94-09-021	220-52-051	AMD-C	94-12-007	220-56-28500B	NEW-E	94-10-043
220-49-021	AMD-P	94-03-106	220-52-051	AMD-W	94-12-061	220-56-305	AMD-P	94-03-105
220-49-021	AMD-C	94-12-007	220-52-05100Q	NEW-E	94-11-072	220-56-30500A	NEW-E	94-10-043
220-49-021	AMD	94-12-009	220-52-060	AMD-P	94-03-106	220-56-307	AMD-P	94-03-105
220-49-022	REP-P	94-03-106	220-52-060	AMD-C	94-12-007	220-56-30700A	NEW-E	94-10-043
220-49-022	REP-C	94-12-007	220-52-060	AMD	94-12-009	220-56-315	AMD-P	94-03-105
220-49-022	REP	94-12-009	220-52-063	AMD-P	94-03-106	220-56-31500B	NEW-E	94-10-043
220-49-023	AMD-P	94-03-106	220-52-063	AMD-C	94-12-007	220-56-320	AMD-P	94-03-105
220-49-023	AMD-C	94-12-007	220-52-063	AMD	94-12-009	220-56-32500Z	NEW-E	94-11-072
220-49-023	AMD	94-12-009	220-52-066	AMD-P	94-03-106	220-56-32500A	NEW-E	94-12-008
220-49-024	AMD-P	94-03-106	220-52-066	AMD-C	94-12-007	220-56-32500A	REP-E	94-13-076
220-49-024	AMD-C	94-12-007	220-52-066	AMD	94-12-009	220-56-350	AMD-P	94-03-105
220-49-024	AMD	94-12-009	220-52-068	AMD-P	94-03-106	220-56-35000X	NEW-E	94-07-052
220-49-025	REP-P	94-03-106	220-52-068	AMD-C	94-12-007	220-56-35000X	REP-E	94-07-076
220-49-025	REP-C	94-12-007	220-52-068	AMD	94-12-009	220-56-35000Y	NEW-E	94-07-076
220-49-025	REP	94-12-009	220-52-069	AMD-P	94-03-106	220-56-35000Y	REP-E	94-12-033
220-49-026	REP-P	94-03-106	220-52-069	AMD-C	94-12-007	220-56-35000Z	NEW-E	94-12-033
220-49-026	REP-C	94-12-007	220-52-069	AMD	94-12-009	220-56-36000H	NEW-E	94-07-003
220-49-026	REP	94-12-009	220-52-070	AMD-P	94-03-106	220-56-36000H	REP-E	94-08-009
220-49-055	REP-P	94-03-106	220-52-070	AMD-C	94-12-007	220-56-36000I	NEW-E	94-08-009
220-49-055	REP-C	94-12-007	220-52-070	AMD	94-12-009	220-56-36000J	REP-E	94-09-023
220-49-055	REP	94-12-009	220-52-071	AMD-P	94-03-106	220-56-36000J	NEW-E	94-09-023
220-49-056	AMD-P	94-03-106	220-52-071	AMD-C	94-12-007	220-56-36000J	REP-E	94-10-038
220-49-056	AMD-C	94-12-007	220-52-071	AMD	94-12-009	220-56-36000K	NEW-E	94-10-038
220-49-056	AMD	94-12-009	220-52-07100P	NEW-E	94-10-037	220-56-380	AMD-P	94-03-105
220-49-057	AMD-P	94-03-106	220-52-07100P	REP-E	94-13-040	220-56-38000R	NEW-E	94-07-052
220-49-057	AMD-C	94-12-007	220-52-07100Q	NEW-E	94-13-040	220-56-38000R	REP-E	94-07-076
220-49-057	AMD	94-12-009	220-52-07100Q	REP-E	94-13-136	220-56-38000S	NEW-E	94-07-076
220-49-063	AMD-P	94-03-106	220-52-07100R	NEW-E	94-13-136	220-56-38000S	REP-E	94-12-033
220-49-063	AMD-C	94-12-007	220-52-073	AMD-P	94-03-106	220-56-38000T	NEW-E	94-12-033
220-49-063	AMD	94-12-009	220-52-073	AMD-C	94-12-007	220-56-382	AMD-P	94-03-105
220-49-06300A	NEW-E	94-07-063	220-52-073	AMD	94-12-009	220-56-38200A	NEW-E	94-10-043
220-49-06300A	REP-E	94-07-077	220-52-07300R	REP-E	94-03-063	220-56-390	AMD-P	94-03-105
220-49-06300B	NEW-E	94-07-077	220-52-07300S	NEW-E	94-03-063	220-56-400	AMD-P	94-03-105
220-49-064	AMD-P	94-03-106	220-52-07300S	REP-E	94-05-055	220-56-40000C	NEW-E	94-10-043
220-49-064	AMD-C	94-12-007	220-52-07300T	NEW-E	94-05-055	220-56-405	AMD-P	94-03-105
220-49-064	AMD	94-12-009	220-52-075	AMD-P	94-03-106	220-56-410	AMD-P	94-03-105
220-49-06400A	NEW-E	94-07-063	220-52-075	AMD-C	94-12-007	220-56-415	NEW-P	94-03-105
220-49-06400A	REP-E	94-07-077	220-52-075	AMD	94-12-009	220-57-130	AMD-P	94-03-105
220-49-06400B	NEW-E	94-07-077	220-55-00100B	NEW-E	94-13-049	220-57-135	AMD-P	94-03-105
220-52-010	AMD-P	94-03-106	220-55-015	AMD-P	94-11-005	220-57-140	AMD-P	94-03-105
220-52-010	AMD-C	94-12-007	220-55-01500A	REP-E	94-11-006	220-57-14000Q	NEW-E	94-10-068
220-52-010	AMD	94-12-009	220-55-01500B	NEW-E	94-11-006	220-57-155	AMD-P	94-03-105
220-52-018	AMD-P	94-03-106	220-55-155	NEW-P	94-11-005	220-57-16000T	NEW-E	94-08-049
220-52-018	AMD-C	94-12-007	220-55-15500A	REP-E	94-11-006	220-57-16000U	NEW-E	94-10-036
220-52-018	AMD	94-12-009	220-55-15500B	NEW-E	94-11-006	220-57-17500Y	NEW-E	94-11-075
220-52-019	AMD-P	94-03-106	220-56-100	AMD-P	94-03-105	220-57-200	AMD-P	94-03-105
220-52-019	AMD-C	94-12-007	220-56-10000A	NEW-E	94-10-043	220-57-210	AMD-P	94-03-105
220-52-019	AMD	94-12-009	220-56-105	AMD-P	94-03-105	220-57-215	AMD-P	94-03-105
220-52-01901	AMD-P	94-03-106	220-56-10500C	NEW-E	94-08-014	220-57-22000C	NEW-E	94-13-003
220-52-01901	AMD-C	94-12-007	220-56-10500C	REP-E	94-10-036	220-57-230	AMD-P	94-03-105
220-52-01901	AMD	94-12-009	220-56-11500A	NEW-E	94-10-043	220-57-235	REP-P	94-03-105
220-52-020	AMD-P	94-03-106	220-56-123	NEW-P	94-03-105	220-57-250	AMD-P	94-03-105
220-52-020	AMD-C	94-12-007	220-56-124	AMD-P	94-03-105	220-57-255	AMD-P	94-03-105
220-52-020	AMD	94-12-009	220-56-128	AMD-P	94-03-105	220-57-26000A	NEW-E	94-13-003
220-52-030	AMD-P	94-03-106	220-56-12800I	NEW-E	94-10-043	220-57-270	AMD-P	94-03-105
220-52-030	AMD-C	94-12-007	220-56-190	AMD-P	94-03-105	220-57-280	AMD-P	94-03-105
220-52-030	AMD	94-12-009	220-56-19000X	NEW-E	94-10-043	220-57-285	AMD-P	94-03-105
220-52-040	AMD-P	94-03-106	220-56-191	AMD-P	94-03-105	220-57-29000P	NEW-E	94-08-014
220-52-040	AMD-C	94-12-007	220-56-19100E	NEW-E	94-10-043	220-57-29000P	REP-E	94-11-127
220-52-040	AMD	94-12-009	220-56-195	AMD-P	94-03-105	220-57-29000Q	NEW-E	94-11-127
220-52-043	AMD-P	94-03-106	220-56-235	AMD-P	94-03-105	220-57-300	AMD-P	94-03-105

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
220-57-310	AMD-P	94-03-105	220-110-090	REP-P	94-11-126	223-08-162	NEW-E	94-07-062
220-57-31500Y	NEW-E	94-08-014	220-110-100	AMD-P	94-11-126	223-08-162	NEW-P	94-07-097
220-57-31500Y	REP-E	94-10-036	220-110-110	REP-P	94-11-126	223-08-162	NEW	94-12-030
220-57-31500Z	NEW-E	94-10-036	220-110-120	AMD-P	94-11-126	223-08-165	AMD-E	94-07-062
220-57-319	AMD-P	94-03-105	220-110-130	AMD-P	94-11-126	223-08-165	AMD-P	94-07-097
220-57-335	AMD-P	94-03-105	220-110-140	AMD-P	94-11-126	223-08-165	AMD	94-12-030
220-57-350	AMD-P	94-03-105	220-110-150	AMD-P	94-11-126	223-08-171	NEW-E	94-07-062
220-57-370	AMD-P	94-03-105	220-110-160	AMD-P	94-11-126	223-08-171	NEW-P	94-07-097
220-57-385	AMD-P	94-03-105	220-110-170	AMD-P	94-11-126	223-08-171	NEW	94-12-030
220-57-38500V	NEW-E	94-13-071	220-110-180	AMD-P	94-11-126	223-08-252	NEW-E	94-07-062
220-57-400	AMD-P	94-03-105	220-110-190	AMD-P	94-11-126	223-08-252	NEW-P	94-07-097
220-57-415	AMD-P	94-03-105	220-110-200	AMD-P	94-11-126	223-08-252	NEW	94-12-030
220-57-425	AMD-P	94-03-105	220-110-210	AMD-P	94-11-126	230-02-030	AMD-P	94-07-083
220-57-430	AMD-P	94-03-105	220-110-220	AMD-P	94-11-126	230-02-030	AMD	94-11-095
220-57-435	AMD-P	94-03-105	220-110-223	NEW-P	94-11-126	230-02-125	AMD-P	94-07-083
220-57-450	AMD-P	94-03-105	220-110-224	NEW-P	94-11-126	230-02-125	AMD	94-11-095
220-57-455	AMD-P	94-03-105	220-110-230	AMD-P	94-11-126	230-02-161	AMD-P	94-04-024
220-57-46000A	NEW-E	94-13-071	220-110-240	AMD-P	94-11-126	230-02-161	AMD	94-07-084
220-57-465	AMD-P	94-03-105	220-110-250	AMD-P	94-11-126	230-04-035	AMD-P	94-04-024
220-57-473	AMD-P	94-03-105	220-110-260	REP-P	94-11-126	230-04-035	AMD	94-07-084
220-57-47300A	NEW-E	94-10-043	220-110-270	AMD-P	94-11-126	230-04-075	AMD-P	94-04-024
220-57-480	AMD-P	94-03-105	220-110-271	NEW-P	94-11-126	230-04-075	AMD	94-07-084
220-57-490	AMD-P	94-03-105	220-110-280	AMD-P	94-11-126	230-08-015	AMD-P	94-04-024
220-57-495	AMD-P	94-03-105	220-110-285	NEW-P	94-11-126	230-08-015	AMD	94-07-084
220-57-49500L	NEW-E	94-10-043	220-110-290	AMD-P	94-11-126	230-08-120	AMD-P	94-07-083
220-57-49700H	NEW-E	94-08-014	220-110-300	AMD-P	94-11-126	230-08-120	AMD	94-11-095
220-57-49700H	REP-E	94-11-127	220-110-310	AMD-P	94-11-126	230-08-130	AMD-P	94-07-083
220-57-49700I	NEW-E	94-11-127	220-110-320	AMD-P	94-11-126	230-08-130	AMD	94-11-095
220-57-50500V	NEW-E	94-08-014	220-110-330	AMD-P	94-11-126	230-08-150	AMD-P	94-07-083
220-57-50500V	REP-E	94-10-036	220-110-340	AMD-P	94-11-126	230-08-150	AMD	94-11-095
220-57-50500W	NEW-E	94-10-036	220-110-350	AMD-P	94-11-126	230-08-160	AMD-P	94-07-083
220-57-51500K	NEW-E	94-08-014	220-110-360	NEW-P	94-11-126	230-08-160	AMD	94-11-095
220-57-51500K	REP-E	94-10-036	222-16-010	AMD-E	94-05-046	230-08-260	AMD-P	94-07-083
220-57-520	AMD-P	94-03-105	222-16-010	AMD-E	94-07-053	230-08-260	AMD	94-11-095
220-57-525	AMD-P	94-03-105	222-16-010	AMD-P	94-09-029	230-12-010	AMD-P	94-04-024
220-57A-00100A	NEW-E	94-11-068	222-16-010	AMD-E	94-09-030	230-12-010	AMD	94-07-084
220-57A-00100A	REP-E	94-12-012	222-16-010	AMD-W	94-12-076	230-12-040	AMD-P	94-10-005
220-57A-00100B	NEW-E	94-12-012	222-16-010	AMD-E	94-13-065	230-12-040	AMD	94-13-099
220-57A-012	AMD-P	94-03-105	222-16-035	AMD-P	94-09-029	230-12-050	AMD-P	94-10-005
220-57A-01200A	NEW-E	94-10-043	222-16-035	AMD-E	94-09-030	230-12-050	AMD	94-13-099
220-57A-01200A	REP-E	94-11-068	222-16-080	AMD-E	94-05-046	230-12-070	AMD-P	94-10-005
220-57A-01200B	NEW-E	94-11-068	222-16-080	AMD-E	94-07-053	230-12-070	AMD	94-13-099
220-57A-152	AMD-P	94-03-105	222-16-080	AMD-W	94-12-076	230-12-305	AMD-P	94-04-024
220-57A-15200A	NEW-E	94-10-043	222-16-080	AMD-E	94-13-065	230-12-305	AMD	94-07-084
220-57A-15200A	REP-E	94-11-068	222-24-030	AMD-E	94-05-046	230-20-064	AMD-P	94-04-024
220-57A-15200B	NEW-E	94-11-068	222-24-030	AMD-E	94-13-065	230-20-064	AMD	94-07-084
220-88A-010	NEW-P	94-03-098	222-30-020	AMD-P	94-09-029	230-20-103	NEW-P	94-10-005
220-88A-010	NEW	94-07-092	222-30-020	AMD-E	94-09-030	230-20-103	NEW-C	94-13-101
220-88A-020	NEW-P	94-03-098	222-30-050	AMD-E	94-05-046	230-20-111	AMD-P	94-04-024
220-88A-020	NEW	94-07-092	222-30-050	AMD-E	94-13-065	230-20-111	AMD	94-07-084
220-88A-030	NEW-P	94-03-098	222-30-060	AMD-E	94-05-046	230-20-220	AMD-P	94-04-024
220-88A-030	NEW	94-07-092	222-30-060	AMD-E	94-13-065	230-20-220	AMD	94-07-084
220-88A-040	NEW-P	94-03-098	222-30-065	NEW-E	94-05-046	230-20-230	AMD-P	94-04-024
220-88A-040	NEW	94-07-092	222-30-065	NEW-E	94-13-065	230-20-230	AMD	94-07-084
220-88A-050	NEW-P	94-03-098	222-30-070	AMD-E	94-05-046	230-20-244	NEW-P	94-10-005
220-88A-050	NEW	94-07-092	222-30-070	AMD-E	94-13-065	230-20-244	NEW-C	94-11-094
220-88A-060	NEW-P	94-03-098	222-30-075	NEW-E	94-05-046	230-20-246	AMD-P	94-13-113
220-88A-060	NEW	94-07-092	222-30-075	AMD-E	94-13-065	230-20-246	AMD-P	94-04-024
220-88A-070	NEW-P	94-03-098	222-30-100	AMD-E	94-05-046	230-20-400	AMD	94-07-084
220-88A-070	NEW	94-07-092	222-30-100	AMD-E	94-13-065	230-20-400	AMD	94-07-084
220-88A-080	NEW-P	94-03-098	222-38-020	AMD-E	94-05-046	230-20-680	AMD-P	94-04-024
220-88A-080	NEW	94-07-092	222-38-020	AMD-E	94-13-065	230-20-680	AMD	94-07-084
220-88A-080	AMD-P	94-13-064	222-38-030	AMD-E	94-05-046	230-25-160	AMD-P	94-04-024
220-110-010	AMD-P	94-11-126	220-38-030	AMD-E	94-13-065	230-25-160	AMD	94-07-084
220-110-020	AMD-P	94-11-126	223-08-010	AMD-E	94-07-062	230-25-200	AMD-P	94-07-083
220-110-030	AMD-P	94-11-126	223-08-010	AMD-P	94-07-097	230-25-200	AMD	94-11-095
220-110-032	NEW-P	94-11-126	223-08-010	AMD	94-12-030	230-30-050	AMD-P	94-07-083
220-110-035	NEW-P	94-11-126	223-08-072	NEW-E	94-07-062	230-30-050	AMD	94-11-095
220-110-040	AMD-P	94-11-126	223-08-072	NEW-P	94-07-097	230-30-060	AMD-P	94-04-024
220-110-050	AMD-P	94-11-126	223-08-072	NEW	94-12-030	230-30-060	AMD	94-07-084
220-110-060	AMD-P	94-11-126	223-08-072	NEW	94-07-062	230-30-072	AMD-P	94-04-024
220-110-070	AMD-P	94-11-126	223-08-148	NEW-E	94-07-062	230-30-072	AMD	94-07-084
220-110-080	AMD-P	94-11-126	223-08-148	NEW-P	94-07-097	230-30-102	AMD-P	94-04-024
			223-08-148	NEW	94-12-030	230-30-102	AMD	94-07-084

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
230-30-103	AMD-P	94-04-024	232-28-243	NEW	94-11-049	240-20-050	NEW-P	94-05-100
230-30-103	AMD	94-07-084	232-28-244	NEW-P	94-05-079	240-20-050	NEW-E	94-05-101
230-40-010	AMD-P	94-10-006	232-28-244	NEW	94-11-050	240-20-050	NEW	94-10-030
230-40-010	AMD	94-13-098	232-28-245	NEW-P	94-05-078	240-20-050	NEW	94-11-081
230-40-050	AMD-E	94-13-100	232-28-245	NEW	94-11-051	240-20-052	NEW-P	94-05-100
230-40-050	AMD-P	94-13-112	232-28-24501	NEW-E	94-12-069	240-20-052	NEW-E	94-05-101
230-40-055	AMD-P	94-04-024	232-28-417	AMD-E	94-04-007	240-20-052	NEW	94-10-030
230-40-055	AMD	94-07-084	232-28-61940	NEW	94-04-018	240-20-052	NEW	94-11-081
230-40-120	AMD-P	94-10-006	232-28-61941	NEW	94-06-012	240-20-054	NEW-P	94-05-100
230-40-120	AMD	94-13-098	232-28-61942	NEW	94-06-013	240-20-054	NEW-E	94-05-101
230-40-225	AMD-P	94-10-006	232-28-61944	NEW-E	94-03-038	240-20-054	NEW	94-10-030
230-40-225	AMD	94-13-098	232-28-61945	NEW-E	94-04-012	240-20-054	NEW	94-11-081
232-12-131	AMD-P	94-04-118	232-28-61945	NEW-P	94-06-038	240-20-056	NEW-P	94-05-100
232-12-131	AMD-W	94-06-036	232-28-61945	NEW	94-09-068	240-20-056	NEW-E	94-05-101
232-12-131	AMD-P	94-06-037	232-28-61946	NEW-P	94-06-039	240-20-056	NEW	94-10-030
232-12-131	AMD	94-11-030	232-28-61946	NEW	94-09-067	240-20-056	NEW	94-11-081
232-12-166	AMD-P	94-06-043	232-28-61947	NEW-P	94-06-040	240-20-058	NEW-P	94-05-100
232-12-166	AMD	94-09-019	232-28-61947	NEW	94-09-066	240-20-058	NEW-E	94-05-101
232-12-168	AMD	94-06-014	232-28-61948	NEW-E	94-09-005	240-20-058	NEW	94-10-030
232-28-022	REP-P	94-04-055	232-28-61949	NEW-E	94-08-048	240-20-058	NEW	94-11-081
232-28-022	REP	94-11-031	232-28-61950	NEW-P	94-09-069	240-20-060	NEW-P	94-05-100
232-28-02201	NEW-P	94-04-055	232-28-61950	NEW	94-12-067	240-20-060	NEW-E	94-05-101
232-28-02201	NEW	94-11-031	232-28-61951	NEW-P	94-11-125	240-20-060	NEW	94-10-030
232-28-02202	NEW-P	94-04-057	236-14	PREP	94-09-047	240-20-060	NEW	94-11-081
232-28-02202	NEW	94-11-032	236-48-190	PREP	94-11-007	240-20-065	NEW-P	94-05-100
232-28-02203	NEW-P	94-04-056	240-20-001	NEW-P	94-05-100	240-20-065	NEW-E	94-05-101
232-28-02203	NEW	94-11-033	240-20-001	NEW-E	94-05-101	240-20-065	NEW	94-10-030
232-28-02204	NEW-P	94-04-058	240-20-001	NEW	94-10-030	240-20-065	NEW	94-11-081
232-28-02204	NEW	94-11-034	240-20-001	NEW	94-11-081	240-20-070	NEW-P	94-05-100
232-28-02205	NEW-P	94-04-059	240-20-010	NEW-P	94-05-100	240-20-070	NEW-E	94-05-101
232-28-02205	NEW	94-11-035	240-20-010	NEW-E	94-05-101	240-20-070	NEW	94-10-030
232-28-02206	NEW-P	94-04-060	240-20-010	NEW	94-10-030	240-20-070	NEW	94-11-081
232-28-02206	NEW	94-11-036	240-20-010	NEW	94-11-081	240-20-075	NEW-P	94-05-100
232-28-02210	NEW-P	94-04-061	240-20-015	NEW-P	94-05-100	240-20-075	NEW-E	94-05-101
232-28-02210	NEW	94-11-037	240-20-015	NEW-E	94-05-101	240-20-075	NEW-P	94-10-029
232-28-02220	NEW-P	94-04-062	240-20-015	NEW	94-10-030	240-20-075	NEW-E	94-10-031
232-28-02220	NEW	94-11-038	240-20-015	NEW	94-11-081	240-20-080	NEW-P	94-05-100
232-28-02230	NEW-P	94-04-063	240-20-020	NEW-P	94-05-100	240-20-080	NEW-E	94-05-101
232-28-02230	NEW	94-11-039	240-20-020	NEW-E	94-05-101	240-20-080	NEW	94-10-030
232-28-02240	NEW-P	94-04-064	240-20-020	NEW	94-10-030	240-20-080	NEW	94-11-081
232-28-02240	NEW	94-11-040	240-20-020	NEW	94-11-081	240-20-090	NEW-P	94-05-100
232-28-02241	NEW-E	94-12-068	240-20-025	NEW-P	94-05-100	240-20-090	NEW-E	94-05-101
232-28-02250	NEW-P	94-04-065	240-20-025	NEW-E	94-05-101	240-20-090	NEW	94-10-030
232-28-02250	NEW	94-11-041	240-20-025	NEW	94-10-030	240-20-090	NEW	94-11-081
232-28-02260	NEW-P	94-04-066	240-20-025	NEW	94-11-081	240-20-110	NEW-P	94-05-100
232-28-02260	NEW	94-11-042	240-20-030	NEW-P	94-05-100	240-20-110	NEW-E	94-05-101
232-28-02270	NEW-P	94-04-067	240-20-030	NEW-E	94-05-101	240-20-110	NEW	94-10-030
232-28-02270	NEW	94-11-043	240-20-030	NEW	94-10-030	240-20-110	NEW	94-11-081
232-28-02280	NEW-P	94-04-068	240-20-030	NEW	94-11-081	240-20-120	NEW-P	94-05-100
232-28-02280	NEW	94-11-044	240-20-035	NEW-P	94-05-100	240-20-120	NEW-E	94-05-101
232-28-02290	NEW-P	94-04-069	240-20-035	NEW-E	94-05-101	240-20-120	NEW	94-10-030
232-28-02290	NEW	94-11-045	240-20-035	NEW	94-10-030	240-20-120	NEW	94-11-081
232-28-226	REP-P	94-04-114	240-20-035	NEW	94-11-081	240-20-130	NEW-P	94-05-100
232-28-226	REP	94-11-046	240-20-040	NEW-P	94-05-100	240-20-130	NEW-E	94-05-101
232-28-227	REP-P	94-04-116	240-20-040	NEW-E	94-05-101	240-20-130	NEW	94-10-030
232-28-227	REP	94-11-048	240-20-040	NEW	94-10-030	240-20-130	NEW	94-11-081
232-28-228	REP-P	94-04-115	240-20-040	NEW	94-11-081	240-20-210	NEW-P	94-05-100
232-28-228	REP	94-11-047	240-20-042	NEW-P	94-05-100	240-20-210	NEW-E	94-05-101
232-28-236	REP-P	94-05-079	240-20-042	NEW-E	94-05-101	240-20-210	NEW	94-10-030
232-28-236	REP	94-11-050	240-20-042	NEW	94-10-030	240-20-210	NEW	94-11-081
232-28-237	REP-P	94-05-078	240-20-042	NEW	94-11-081	240-20-220	NEW-P	94-05-100
232-28-237	REP	94-11-051	240-20-044	NEW-P	94-05-100	240-20-220	NEW-E	94-05-101
232-28-238	REP-P	94-04-117	240-20-044	NEW-E	94-05-101	240-20-220	NEW	94-10-030
232-28-238	REP	94-11-049	240-20-044	NEW	94-10-030	240-20-220	NEW	94-11-081
232-28-239	NEW	94-04-123	240-20-044	NEW	94-11-081	240-20-230	NEW-P	94-05-100
232-28-240	NEW-P	94-04-114	240-20-046	NEW-P	94-05-100	240-20-230	NEW-E	94-05-101
232-28-240	NEW	94-11-046	240-20-046	NEW-E	94-05-101	240-20-230	NEW	94-10-030
232-28-241	NEW-P	94-04-115	240-20-046	NEW	94-10-030	240-20-230	NEW	94-11-081
232-28-241	NEW	94-11-047	240-20-046	NEW	94-11-081	240-20-310	NEW-P	94-05-100
232-28-242	NEW-P	94-04-116	240-20-048	NEW-P	94-05-100	240-20-310	NEW-E	94-05-101
232-28-242	NEW	94-11-048	240-20-048	NEW-E	94-05-101	240-20-310	NEW	94-10-030
232-28-24201	NEW-E	94-11-078	240-20-048	NEW	94-10-030	240-20-310	NEW	94-11-081
232-28-243	NEW-P	94-04-117	240-20-048	NEW	94-11-081	240-20-320	NEW-P	94-05-100

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
240-20-320	NEW-E	94-05-101	245-01-150	NEW	94-04-046	246-10-704	AMD	94-04-079
240-20-320	NEW	94-10-030	245-02-010	NEW-P	94-06-060	246-10-705	AMD	94-04-079
240-20-320	NEW	94-11-081	245-02-010	NEW-P	94-12-081	246-10-706	AMD	94-04-079
240-20-330	NEW-P	94-05-100	245-02-010	NEW-W	94-13-208	246-10-707	AMD	94-04-079
240-20-330	NEW-E	94-05-101	245-02-020	NEW-P	94-06-060	246-11-010	AMD	94-04-078
240-20-330	NEW	94-10-030	245-02-020	NEW-P	94-12-081	246-11-020	AMD	94-04-078
240-20-330	NEW	94-11-081	245-02-020	NEW-W	94-13-208	246-11-030	AMD	94-04-078
240-20-410	NEW-P	94-05-100	245-02-025	NEW-P	94-12-081	246-11-050	AMD	94-04-078
240-20-410	NEW-E	94-05-101	245-02-030	NEW-P	94-06-060	246-11-060	AMD	94-04-078
240-20-410	NEW	94-10-030	245-02-030	NEW-P	94-12-081	246-11-080	AMD	94-04-078
240-20-410	NEW	94-11-081	245-02-030	NEW-W	94-13-208	246-11-090	AMD	94-04-078
240-20-420	NEW-P	94-05-100	245-02-040	NEW-P	94-06-060	246-11-100	AMD	94-04-078
240-20-420	NEW-E	94-05-101	245-02-040	NEW-P	94-12-081	246-11-110	AMD	94-04-078
240-20-420	NEW	94-10-030	245-02-040	NEW-W	94-13-208	246-11-130	AMD	94-04-078
240-20-420	NEW	94-11-081	245-02-050	NEW-P	94-06-060	246-11-140	AMD	94-04-078
240-20-430	NEW-P	94-05-100	245-02-050	NEW-P	94-12-081	246-11-160	AMD	94-04-078
240-20-430	NEW-E	94-05-101	245-02-050	NEW-W	94-13-208	246-11-180	AMD	94-04-078
240-20-430	NEW	94-10-030	245-02-060	NEW-P	94-12-081	246-11-220	AMD	94-04-078
240-20-430	NEW	94-11-081	245-02-070	NEW-P	94-12-081	246-11-230	AMD	94-04-078
240-20-425	NEW-E	94-04-015	245-02-080	NEW-P	94-12-081	246-11-250	AMD	94-04-078
240-20-427	NEW-E	94-04-015	245-02-090	NEW-P	94-12-081	246-11-260	AMD	94-04-078
242-02-040	AMD	94-07-033	245-02-100	NEW-P	94-12-078	246-11-270	AMD	94-04-078
242-02-052	AMD	94-07-033	245-02-110	NEW-P	94-12-078	246-11-280	AMD	94-04-078
242-02-072	AMD	94-07-033	245-02-115	NEW-P	94-12-078	246-11-290	AMD	94-04-078
242-02-110	AMD	94-07-033	245-02-120	NEW-P	94-12-078	246-11-300	AMD	94-04-078
242-02-140	AMD	94-07-033	245-02-125	NEW-P	94-12-078	246-11-320	AMD-W	94-13-087
242-02-210	AMD	94-07-033	245-02-130	NEW-P	94-12-078	246-11-330	AMD	94-04-078
242-02-220	AMD	94-07-033	245-02-135	NEW-P	94-12-078	246-11-340	AMD	94-04-078
242-02-240	AMD	94-07-033	245-02-140	NEW-P	94-12-078	246-11-360	AMD	94-04-078
242-02-250	AMD	94-07-033	245-02-145	NEW-P	94-12-078	246-11-370	AMD	94-04-078
242-02-270	AMD	94-07-033	245-02-150	NEW-P	94-12-078	246-11-380	AMD	94-04-078
242-02-280	AMD	94-07-033	245-02-155	NEW-P	94-12-078	246-11-390	AMD	94-04-078
242-02-310	AMD	94-07-033	245-02-160	NEW-P	94-12-078	246-11-400	AMD	94-04-078
242-02-320	AMD	94-07-033	245-02-165	NEW-P	94-12-078	246-11-420	AMD	94-04-078
242-02-330	AMD	94-07-033	245-02-170	NEW-P	94-12-078	246-11-425	NEW	94-04-078
242-02-340	AMD	94-07-033	245-02-175	NEW-P	94-12-078	246-11-430	AMD	94-04-078
242-02-410	AMD	94-07-033	245-02-180	NEW-P	94-12-078	246-11-440	AMD	94-04-078
242-02-440	AMD	94-07-033	245-04-100	NEW-P	94-10-085	246-11-450	AMD	94-04-078
242-02-510	AMD	94-07-033	245-04-100	NEW-S	94-12-079	246-11-480	AMD	94-04-078
242-02-520	NEW-W	94-07-007	245-04-110	NEW-P	94-10-085	246-11-500	AMD	94-04-078
242-02-522	AMD	94-07-033	245-04-110	NEW-S	94-12-079	246-11-510	AMD	94-04-078
242-02-530	AMD	94-07-033	245-04-115	NEW-P	94-10-085	246-11-530	AMD	94-04-078
242-02-540	AMD	94-07-033	245-04-115	NEW-S	94-12-079	246-11-540	AMD	94-04-078
242-02-550	AMD	94-07-033	246-08-450	AMD	94-04-079	246-11-560	AMD	94-04-078
242-02-554	AMD	94-07-033	246-10-102	AMD	94-04-079	246-11-580	AMD	94-04-078
242-02-558	AMD	94-07-033	246-10-103	AMD	94-04-079	246-11-590	AMD	94-04-078
242-02-570	AMD	94-07-033	246-10-107	AMD	94-04-079	246-11-600	AMD	94-04-078
242-02-580	AMD	94-07-033	246-10-109	AMD	94-04-079	246-11-610	AMD	94-04-078
242-02-620	AMD	94-07-033	246-10-110	AMD	94-04-079	246-50-001	PREP	94-09-042
242-02-680	AMD	94-07-033	246-10-114	AMD	94-04-079	246-50-010	PREP	94-09-042
242-02-830	AMD	94-07-033	246-10-115	AMD	94-04-079	246-50-020	PREP	94-09-042
242-02-850	AMD	94-07-033	246-10-123	AMD	94-04-079	246-50-030	PREP	94-09-042
242-02-880	AMD	94-07-033	246-10-124	AMD	94-04-079	246-50-040	PREP	94-09-042
242-02-892	NEW-W	94-07-007	246-10-201	AMD	94-04-079	246-50-990	PREP	94-09-042
242-02-910	AMD	94-07-033	246-10-202	AMD	94-04-079	246-100	PREP	94-12-048
242-02-920	AMD	94-07-033	246-10-203	AMD	94-04-079	246-132-020	REP	94-06-048
242-04-050	AMD	94-07-033	246-10-204	AMD	94-04-079	246-132-030	REP	94-06-048
245-01-010	NEW	94-04-046	246-10-205	AMD	94-04-079	246-170	PREP	94-12-048
245-01-020	NEW	94-04-046	246-10-303	AMD-W	94-13-088	246-225-020	AMD	94-06-017
245-01-020	AMD-P	94-06-060	246-10-304	AMD	94-04-079	246-227-030	NEW-W	94-06-016
245-01-020	AMD-W	94-13-208	246-10-305	AMD	94-04-079	246-227-100	NEW-W	94-06-016
245-01-030	NEW	94-04-046	246-10-401	AMD	94-04-079	246-239-020	AMD	94-06-017
245-01-040	NEW	94-04-046	246-10-402	AMD	94-04-079	246-239-022	NEW	94-06-017
245-01-050	NEW	94-04-046	246-10-403	AMD	94-04-079	246-239-030	AMD	94-06-017
245-01-060	NEW	94-04-046	246-10-404	AMD	94-04-079	246-239-035	NEW	94-06-017
245-01-070	NEW	94-04-046	246-10-501	AMD	94-04-079	246-239-050	AMD	94-06-017
245-01-080	NEW	94-04-046	246-10-502	AMD	94-04-079	246-239-070	AMD	94-06-017
245-01-090	NEW	94-04-046	246-10-503	AMD	94-04-079	246-239-080	AMD	94-06-017
245-01-100	NEW	94-04-046	246-10-504	AMD	94-04-079	246-239-090	AMD	94-06-017
245-01-110	NEW	94-04-046	246-10-604	AMD	94-04-079	246-239-100	AMD	94-06-017
245-01-120	NEW	94-04-046	246-10-607	AMD	94-04-079	246-240-020	AMD	94-06-017
245-01-130	NEW	94-04-046	246-10-701	AMD	94-04-079	246-247-001	AMD	94-07-010
245-01-140	NEW	94-04-046	246-10-702	AMD	94-04-079	246-247-002	NEW	94-07-010

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-247-010	AMD	94-07-010	246-272-18501	NEW	94-09-025	246-291-320	NEW-P	94-06-008
246-247-020	AMD	94-07-010	246-272-190	REP	94-09-025	246-291-330	NEW-P	94-06-008
246-247-030	AMD	94-07-010	246-272-19501	NEW	94-09-025	246-291-340	NEW-P	94-06-008
246-247-040	AMD	94-07-010	246-272-200	REP	94-09-025	246-291-350	NEW-P	94-06-008
246-247-050	REP	94-07-010	246-272-20501	NEW	94-09-025	246-291-360	NEW-P	94-06-008
246-247-060	AMD	94-07-010	246-272-210	REP	94-09-025	246-291-370	NEW-P	94-06-008
246-247-065	NEW	94-07-010	246-272-21501	NEW	94-09-025	246-292-001	AMD	94-04-004
246-247-070	REP	94-07-010	246-272-220	REP	94-09-025	246-292-010	AMD	94-04-004
246-247-075	NEW	94-07-010	246-272-22501	NEW	94-09-025	246-292-020	AMD	94-04-004
246-247-080	AMD	94-07-010	246-272-230	REP	94-09-025	246-292-030	AMD	94-04-004
246-247-085	NEW	94-07-010	246-272-23501	NEW	94-09-025	246-292-040	AMD	94-04-004
246-247-090	REP	94-07-010	246-272-240	REP	94-09-025	246-292-050	AMD	94-04-004
246-247-100	AMD	94-07-010	246-272-24001	NEW	94-09-025	246-292-055	NEW	94-04-004
246-247-110	NEW	94-07-010	246-272-25001	NEW	94-09-025	246-292-060	AMD	94-04-004
246-247-120	NEW	94-07-010	246-272-26001	NEW	94-09-025	246-292-070	AMD	94-04-004
246-247-130	NEW	94-07-010	246-272-27001	NEW	94-09-025	246-292-075	NEW	94-04-004
246-254-053	AMD-P	94-07-108	246-272-28001	NEW	94-09-025	246-292-080	AMD	94-04-004
246-254-053	AMD	94-11-010	246-282	PREP	94-12-087	246-292-090	AMD	94-04-004
246-254-070	AMD-P	94-07-107	246-282	PREP	94-12-088	246-292-100	AMD	94-04-004
246-254-070	AMD	94-11-011	246-290-010	AMD-P	94-08-075	246-292-110	AMD	94-04-004
246-254-080	AMD-P	94-07-107	246-290-020	AMD-P	94-08-075	246-292-120	REP	94-04-004
246-254-080	AMD	94-11-011	246-290-025	NEW-P	94-08-075	246-292-130	REP	94-04-004
246-254-090	AMD-P	94-07-107	246-290-030	AMD-P	94-08-075	246-292-140	REP	94-04-004
246-254-090	AMD	94-11-011	246-290-040	AMD-P	94-08-075	246-292-150	REP	94-04-004
246-254-100	AMD-P	94-07-107	246-290-060	AMD-P	94-08-075	246-292-160	NEW	94-04-004
246-254-100	AMD	94-11-011	246-290-100	AMD-P	94-08-075	246-292-170	NEW	94-04-004
246-254-120	AMD-P	94-07-107	246-290-110	AMD-P	94-08-075	246-292-990	REP	94-04-004
246-254-120	AMD	94-11-011	246-290-115	NEW-P	94-08-075	246-295-001	NEW-P	94-13-085
246-254-160	AMD	94-07-010	246-290-130	AMD-P	94-08-075	246-295-010	NEW-P	94-13-085
246-260-990	REP-P	94-07-121	246-290-135	AMD-P	94-08-075	246-295-020	NEW-P	94-13-085
246-260-990	REP	94-11-056	246-290-140	AMD-P	94-08-075	246-295-030	NEW-P	94-13-085
246-260-9901	NEW-P	94-07-121	246-290-230	AMD-P	94-08-075	246-295-040	NEW-P	94-13-085
246-260-9901	NEW	94-11-056	246-290-300	AMD-P	94-08-075	246-295-050	NEW-P	94-13-085
246-272-001	REP	94-09-025	246-290-310	AMD-P	94-08-075	246-295-060	NEW-P	94-13-085
246-272-00101	NEW	94-09-025	246-290-320	AMD-P	94-08-075	246-295-070	NEW-P	94-13-085
246-272-002	REP	94-09-025	246-290-330	AMD-P	94-08-075	246-295-080	NEW-P	94-13-085
246-272-005	REP	94-09-025	246-290-410	AMD-P	94-08-075	246-295-090	NEW-P	94-13-085
246-272-00501	NEW	94-09-025	246-290-440	AMD-P	94-08-075	246-295-100	NEW-P	94-13-085
246-272-010	REP	94-09-025	246-290-480	AMD-P	94-08-075	246-295-110	NEW-P	94-13-085
246-272-01001	NEW	94-09-025	246-290-632	AMD-P	94-08-075	246-295-120	NEW-P	94-13-085
246-272-020	REP	94-09-025	246-290-654	AMD-P	94-08-075	246-295-130	NEW-P	94-13-085
246-272-02001	NEW	94-09-025	246-290-660	AMD-P	94-08-075	246-316-001	AMD-P	94-08-040
246-272-030	REP	94-09-025	246-290-662	AMD-P	94-08-075	246-316-001	AMD	94-13-180
246-272-03001	NEW	94-09-025	246-290-664	AMD-P	94-08-075	246-316-010	AMD-P	94-08-040
246-272-040	REP	94-09-025	246-290-666	AMD-P	94-08-075	246-316-010	AMD	94-13-180
246-272-04001	NEW	94-09-025	246-290-670	AMD-P	94-08-075	246-316-020	AMD-P	94-08-040
246-272-050	REP	94-09-025	246-290-686	AMD-P	94-08-075	246-316-020	AMD	94-13-180
246-272-05001	NEW	94-09-025	246-290-692	AMD-P	94-08-075	246-316-030	AMD-P	94-08-040
246-272-060	REP	94-09-025	246-290-694	AMD-P	94-08-075	246-316-030	AMD	94-13-180
246-272-070	REP	94-09-025	246-290-696	AMD-P	94-08-075	246-316-040	AMD-P	94-08-040
246-272-07001	NEW	94-09-025	246-291-001	NEW-P	94-06-008	246-316-040	AMD	94-13-180
246-272-080	REP	94-09-025	246-291-010	NEW-P	94-06-008	246-316-045	AMD-P	94-08-040
246-272-08001	NEW	94-09-025	246-291-020	NEW-P	94-06-008	246-316-045	AMD	94-13-180
246-272-090	REP	94-09-025	246-291-025	NEW-P	94-06-008	246-316-050	AMD-P	94-08-040
246-272-09001	NEW	94-09-025	246-291-030	NEW-P	94-06-008	246-316-050	AMD	94-13-180
246-272-09501	NEW	94-09-025	246-291-040	NEW-P	94-06-008	246-316-055	NEW-P	94-08-040
246-272-100	REP	94-09-025	246-291-050	NEW-P	94-06-008	246-316-055	NEW	94-13-180
246-272-110	REP	94-09-025	246-291-060	NEW-P	94-06-008	246-316-060	AMD-P	94-08-040
246-272-11001	NEW	94-09-025	246-291-100	NEW-P	94-06-008	246-316-060	AMD	94-13-180
246-272-11501	NEW	94-09-025	246-291-110	NEW-P	94-06-008	246-316-070	AMD-P	94-08-040
246-272-120	REP	94-09-025	246-291-120	NEW-P	94-06-008	246-316-070	AMD	94-13-180
246-272-12501	NEW	94-09-025	246-291-130	NEW-P	94-06-008	246-316-080	AMD-P	94-08-040
246-272-130	REP	94-09-025	246-291-140	NEW-P	94-06-008	246-316-080	AMD	94-13-180
246-272-13501	NEW	94-09-025	246-291-200	NEW-P	94-06-008	246-316-090	AMD-P	94-08-040
246-272-140	REP	94-09-025	246-291-210	NEW-P	94-06-008	246-316-090	AMD	94-13-180
246-272-14501	NEW	94-09-025	246-291-220	NEW-P	94-06-008	246-316-100	AMD-P	94-08-040
246-272-150	REP	94-09-025	246-291-230	NEW-P	94-06-008	246-316-100	AMD	94-13-180
246-272-15501	NEW	94-09-025	246-291-240	NEW-P	94-06-008	246-316-110	AMD-P	94-08-040
246-272-160	REP	94-09-025	246-291-250	NEW-P	94-06-008	246-316-110	AMD	94-13-180
246-272-16501	NEW	94-09-025	246-291-260	NEW-P	94-06-008	246-316-120	AMD-P	94-08-040
246-272-170	REP	94-09-025	246-291-270	NEW-P	94-06-008	246-316-120	AMD	94-13-180
246-272-17501	NEW	94-09-025	246-291-300	NEW-P	94-06-008	246-316-130	AMD-P	94-08-040
246-272-180	REP	94-09-025	246-291-310	NEW-P	94-06-008	246-316-130	AMD	94-13-180

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #	
246-316-140	AMD-P	94-08-040	246-327-990	AMD-P	94-10-047	
246-316-140	AMD	94-13-180	246-331-001	AMD-P	94-10-045	
246-316-150	AMD-P	94-08-040	246-331-010	AMD-P	94-10-045	
246-316-150	AMD	94-13-180	246-331-025	AMD-P	94-10-045	
246-316-160	AMD-P	94-08-040	246-331-030	NEW-P	94-10-045	
246-316-160	AMD	94-13-180	246-331-035	AMD-P	94-10-045	
246-316-170	AMD-P	94-08-040	246-331-045	REP-P	94-10-045	
246-316-170	AMD	94-13-180	246-331-055	REP-P	94-10-045	
246-316-180	AMD-P	94-08-040	246-331-065	AMD-P	94-10-045	
246-316-180	AMD	94-13-180	246-331-077	AMD-P	94-10-045	
246-316-190	AMD-P	94-08-040	246-331-085	AMD-P	94-10-045	
246-316-190	AMD	94-13-180	246-331-095	AMD-P	94-10-045	
246-316-200	AMD-P	94-08-040	246-331-100	AMD-P	94-10-045	
246-316-200	AMD	94-13-180	246-331-105	AMD-P	94-10-045	
246-316-210	AMD-P	94-08-040	246-331-115	AMD-P	94-10-045	
246-316-210	AMD	94-13-180	246-331-125	AMD-P	94-10-045	
246-316-220	AMD-P	94-08-040	246-331-135	AMD-P	94-10-045	
246-316-220	AMD	94-13-180	246-331-155	REP-P	94-10-045	
246-316-230	AMD-P	94-08-040	246-331-165	AMD-P	94-10-045	
246-316-230	AMD	94-13-180	246-331-175	REP-P	94-10-045	
246-316-240	AMD-P	94-08-040	246-331-185	AMD-P	94-10-045	
246-316-240	AMD	94-13-180	246-331-190	AMD-P	94-10-045	
246-316-250	AMD-P	94-08-040	246-336-001	AMD-P	94-10-046	
246-316-250	AMD	94-13-180	246-336-010	AMD-P	94-10-046	
246-316-260	AMD-P	94-08-040	246-336-025	AMD-P	94-10-046	
246-316-260	AMD	94-13-180	246-336-030	NEW-P	94-10-046	
246-316-265	NEW-P	94-08-040	246-336-035	AMD-P	94-10-046	
246-316-265	NEW	94-13-180	246-336-045	REP-P	94-10-046	
246-316-268	NEW-P	94-08-040	246-336-055	REP-P	94-10-046	
246-316-268	NEW	94-13-180	246-336-065	AMD-P	94-10-046	
246-316-270	REP-P	94-08-040	246-336-077	AMD-P	94-10-046	
246-316-270	REP	94-13-180	246-336-085	AMD-P	94-10-046	
246-316-280	AMD-P	94-08-040	246-336-095	AMD-P	94-10-046	
246-316-280	AMD	94-13-180	246-336-100	AMD-P	94-10-046	
246-316-290	AMD-P	94-08-040	246-336-105	AMD-P	94-10-046	
246-316-290	AMD	94-13-180	246-336-115	AMD-P	94-10-046	
246-316-300	AMD-P	94-08-040	246-336-125	AMD-P	94-10-046	
246-316-300	AMD	94-13-180	246-336-135	AMD-P	94-10-046	
246-316-310	AMD-P	94-08-040	246-336-165	AMD-P	94-10-046	
246-316-310	AMD	94-13-180	246-336-990	AMD-P	94-10-046	
246-316-320	AMD-P	94-08-040	246-338	PREP	94-11-012	
246-316-320	AMD	94-13-180	246-360	PREP	94-10-058	
246-316-330	AMD-P	94-08-040	246-390	PREP	94-13-004	
246-316-330	AMD	94-13-180	246-450-001	REP-P	94-09-026	
246-316-335	NEW-P	94-08-040	246-450-001	REP	94-12-089	
246-316-335	NEW	94-13-180	246-450-010	REP-P	94-09-026	
246-316-340	AMD-P	94-08-040	246-450-010	REP	94-12-089	
246-316-340	AMD	94-13-180	246-450-020	REP-P	94-09-026	
246-316-990	AMD-P	94-08-040	246-450-020	REP	94-12-089	
246-316-990	AMD	94-13-180	246-450-030	REP-P	94-09-026	
246-322	PREP	94-13-177	246-450-030	REP	94-12-089	
246-324	PREP	94-13-177	246-450-040	REP-P	94-09-026	
246-327-001	AMD-P	94-10-047	246-450-040	REP	94-12-089	
246-327-010	AMD-P	94-10-047	246-450-050	REP-P	94-09-026	
246-327-025	AMD-P	94-10-047	246-450-050	REP	94-12-089	
246-327-030	NEW-P	94-10-047	246-450-060	REP-P	94-09-026	
246-327-035	AMD-P	94-10-047	246-450-060	REP	94-12-089	
246-327-045	REP-P	94-10-047	246-450-070	REP-P	94-09-026	
246-327-055	REP-P	94-10-047	246-450-070	REP	94-12-089	
246-327-065	AMD-P	94-10-047	246-450-080	REP-P	94-09-026	
246-327-077	AMD-P	94-10-047	246-450-080	REP	94-12-089	
246-327-085	AMD-P	94-10-047	246-450-090	REP-P	94-09-026	
246-327-090	AMD-P	94-10-047	246-450-090	REP	94-12-089	
246-327-095	AMD-P	94-10-047	246-450-100	REP-P	94-09-026	
246-327-105	AMD-P	94-10-047	246-450-100	REP	94-12-089	
246-327-115	AMD-P	94-10-047	246-451-001	AMD-P	94-09-026	
246-327-125	AMD-P	94-10-047	246-451-001	AMD	94-12-089	
246-327-135	AMD-P	94-10-047	246-451-010	AMD-P	94-09-026	
246-327-145	AMD-P	94-10-047	246-451-010	AMD	94-12-089	
246-327-155	REP-P	94-10-047	246-451-020	AMD-P	94-09-026	
246-327-165	AMD-P	94-10-047	246-451-020	AMD	94-12-089	
246-327-175	REP-P	94-10-047	246-451-030	AMD-P	94-09-026	
246-327-185	AMD-P	94-10-047	246-451-030	AMD	94-12-089	
				246-451-040	AMD-P	94-09-026
				246-451-040	AMD	94-12-089
				246-451-050	AMD-P	94-09-026
				246-451-050	AMD	94-12-089
				246-451-060	AMD-P	94-09-026
				246-451-060	AMD	94-12-089
				246-452-001	REP-P	94-09-026
				246-452-001	REP	94-12-089
				246-452-010	REP-P	94-09-026
				246-452-010	REP	94-12-089
				246-452-020	REP-P	94-09-026
				246-452-020	REP	94-12-089
				246-452-030	REP-P	94-09-026
				246-452-030	REP	94-12-089
				246-452-040	REP-P	94-09-026
				246-452-040	REP	94-12-089
				246-452-050	REP-P	94-09-026
				246-452-050	REP	94-12-089
				246-452-060	REP-P	94-09-026
				246-452-060	REP	94-12-089
				246-452-070	REP-P	94-09-026
				246-452-070	REP	94-12-089
				246-452-080	REP-P	94-09-026
				246-452-080	REP	94-12-089
				246-453-001	AMD-P	94-09-026
				246-453-001	AMD	94-12-089
				246-453-010	AMD-P	94-09-026
				246-453-010	AMD	94-12-089
				246-453-050	AMD-P	94-09-026
				246-453-050	AMD	94-12-089
				246-453-070	AMD-P	94-09-026
				246-453-070	AMD	94-12-089
				246-453-090	AMD-P	94-09-026
				246-453-090	AMD	94-12-089
				246-454-001	AMD-P	94-09-026
				246-454-001	AMD	94-12-089
				246-454-010	AMD-P	94-09-026
				246-454-010	AMD	94-12-089
				246-454-020	AMD-P	94-09-026
				246-454-020	AMD	94-12-089
				246-454-030	AMD-P	94-09-026
				246-454-030	AMD	94-12-089
				246-454-040	REP-P	94-09-026
				246-454-040	REP	94-12-089
				246-454-050	AMD-P	94-09-026
				246-454-050	AMD	94-12-089
				246-454-060	REP-P	94-09-026
				246-454-060	REP	94-12-089
				246-454-070	AMD-P	94-09-026
				246-454-070	AMD	94-12-089
				246-454-080	AMD-P	94-09-026
				246-454-080	AMD	94-12-089
				246-454-090	AMD-P	94-09-026
				246-454-090	AMD	94-12-089
				246-454-100	REP-P	94-09-026
				246-454-100	REP	94-12-089
				246-454-110	AMD-P	94-09-026
				246-454-110	AMD	94-12-089
				246-454-120	AMD-P	94-09-026
				246-454-120	AMD	94-12-089
				246-455-001	AMD-P	94-09-007
				246-455-001	AMD	94-12-090
				246-455-010	AMD-P	94-09-007
				246-455-010	AMD	94-12-090
				246-455-020	AMD-P	94-09-007
				246-455-020	AMD	94-12-090
				246-455-040	AMD-P	94-09-007
				246-455-040	AMD	94-12-090
				246-455-050	AMD-P	94-09-007
				246-455-050	AMD	94-12-090
				246-455-060	AMD-P	94-09-007
				246-455-060	AMD	94-12-090
				246-455-070	AMD-P	94-09-007

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-455-070	AMD	94-12-090	246-830-465	NEW-P	94-05-080	246-863-030	AMD	94-08-099
246-455-080	AMD-P	94-09-007	246-830-465	NEW	94-13-181	246-865-060	AMD	94-02-077
246-455-080	AMD	94-12-090	246-830-470	NEW-P	94-05-080	246-869	PREP	94-11-090
246-455-090	AMD-P	94-09-007	246-830-470	NEW	94-13-181	246-875	PREP	94-11-091
246-455-090	AMD	94-12-090	246-830-475	NEW-P	94-05-080	246-878-010	NEW-P	94-02-079
246-455-100	AMD-P	94-09-007	246-830-475	NEW	94-13-181	246-878-010	NEW	94-08-101
246-455-100	AMD	94-12-090	246-830-480	NEW-P	94-05-080	246-878-020	NEW-P	94-02-079
246-490-100	NEW	94-04-083	246-830-480	NEW	94-13-181	246-878-020	NEW	94-08-101
246-490-110	NEW	94-04-083	246-830-485	NEW-P	94-05-080	246-878-030	NEW-P	94-02-079
246-520-001	REP	94-05-052	246-830-990	PREP	94-13-178	246-878-030	NEW	94-08-101
246-520-010	REP	94-05-052	246-838-040	AMD-P	94-05-033	246-878-040	NEW-P	94-02-079
246-520-020	REP	94-05-052	246-838-040	AMD	94-08-050	246-878-040	NEW	94-08-101
246-520-030	REP	94-05-052	246-838-070	AMD-P	94-05-033	246-878-050	NEW-P	94-02-079
246-520-040	REP	94-05-052	246-838-070	AMD	94-08-050	246-878-050	NEW	94-08-101
246-520-050	REP	94-05-052	246-838-080	AMD-P	94-05-033	246-878-060	NEW-P	94-02-079
246-520-060	REP	94-05-052	246-838-080	AMD	94-08-050	246-878-060	NEW	94-08-101
246-520-070	REP	94-05-052	246-838-090	AMD-P	94-05-033	246-878-070	NEW-P	94-02-079
246-807-115	NEW-P	94-03-053	246-838-090	AMD	94-08-050	246-878-070	NEW	94-08-101
246-807-115	NEW	94-08-053	246-838-110	AMD-P	94-05-033	246-878-080	NEW-P	94-02-079
246-807-125	NEW-P	94-11-080	246-838-110	AMD	94-08-050	246-878-080	NEW	94-08-101
246-807-135	NEW-P	94-11-080	246-838-180	AMD-P	94-05-033	246-878-090	NEW-P	94-02-079
246-807-173	AMD-P	94-11-080	246-838-180	AMD	94-08-050	246-878-090	NEW	94-08-101
246-807-300	AMD-P	94-11-080	246-838-990	AMD-P	94-05-035	246-878-100	NEW-P	94-02-079
246-815-030	AMD	94-05-053	246-838-990	AMD	94-08-102	246-878-100	NEW	94-08-101
246-815-300	NEW	94-04-005	246-839-020	AMD	94-07-012	246-878-110	NEW-P	94-02-079
246-815-990	AMD	94-02-059	246-839-020	PREP	94-10-057	246-878-110	NEW	94-08-101
246-816-015	NEW-P	94-03-045	246-839-030	AMD	94-07-012	246-878-120	NEW-P	94-02-079
246-816-015	NEW	94-12-038	246-839-040	AMD	94-07-012	246-878-120	NEW	94-08-101
246-818	PREP	94-13-005	246-839-050	AMD	94-07-012	246-883-030	AMD-P	94-02-078
246-818-015	NEW-P	94-03-044	246-839-060	AMD	94-07-012	246-883-030	AMD	94-08-100
246-818-015	NEW	94-08-011	246-839-070	AMD	94-07-012	246-886-030	AMD	94-02-060
246-818-020	AMD-P	94-06-046	246-839-080	AMD	94-07-012	246-887	AMD-C	94-02-089
246-818-020	AMD	94-11-088	246-839-090	AMD	94-07-012	246-887-100	AMD-P	94-04-111
246-818-990	REP	94-02-058	246-839-300	PREP	94-10-056	246-887-100	AMD	94-07-105
246-818-991	NEW	94-02-058	246-839-300	PREP	94-11-079	246-887-100	AMD	94-08-098
246-824	PREP	94-10-026	246-839-310	PREP	94-10-056	246-887-133	NEW	94-08-098
246-824-200	NEW-P	94-02-057	246-839-310	PREP	94-11-079	246-887-140	AMD-P	94-04-111
246-824-210	NEW-P	94-02-057	246-839-320	PREP	94-10-056	246-887-140	AMD	94-07-105
246-824-220	NEW-P	94-02-057	246-839-320	PREP	94-11-079	246-887-150	AMD-P	94-04-111
246-824-220	NEW	94-06-047	246-839-330	PREP	94-10-056	246-887-150	AMD	94-07-105
246-824-230	NEW-P	94-02-057	246-839-330	PREP	94-11-079	246-887-160	AMD	94-08-098
246-824-230	NEW	94-06-047	246-839-340	PREP	94-10-056	246-887-170	AMD	94-08-098
246-824-990	AMD-P	94-05-032	246-839-340	PREP	94-11-079	246-889-020	AMD-P	94-04-111
246-824-990	AMD	94-08-078	246-839-350	PREP	94-10-056	246-889-020	AMD	94-07-105
246-828-055	NEW-P	94-08-037	246-839-350	PREP	94-11-079	246-901-010	NEW-P	94-04-112
246-828-055	NEW	94-11-108	246-839-360	PREP	94-10-056	246-901-010	NEW	94-08-097
246-828-060	AMD-P	94-08-037	246-839-360	PREP	94-11-079	246-901-020	AMD-P	94-04-112
246-828-060	AMD	94-11-108	246-839-365	PREP	94-10-056	246-901-020	AMD	94-08-097
246-828-065	NEW-P	94-08-037	246-839-365	PREP	94-11-079	246-901-030	AMD-P	94-04-112
246-828-065	NEW	94-11-108	246-843-990	AMD-P	94-05-065	246-901-030	AMD	94-08-097
246-828-070	AMD-P	94-08-037	246-843-990	AMD	94-09-006	246-901-035	NEW-P	94-04-112
246-828-070	AMD	94-11-108	246-847-040	AMD-P	94-10-059	246-901-035	NEW	94-08-097
246-828-990	AMD	94-08-038	246-847-050	AMD-P	94-10-059	246-901-100	AMD-P	94-04-112
246-830	PREP	94-13-178	246-847-060	AMD-P	94-10-059	246-901-100	AMD	94-08-097
246-830-010	NEW-P	94-06-045	246-847-068	AMD-P	94-10-059	246-901-130	AMD-P	94-04-112
246-830-010	NEW	94-13-181	246-847-190	AMD-P	94-10-059	246-901-130	AMD	94-08-097
246-830-030	REP-P	94-05-080	246-851	PREP	94-10-026	246-907-020	AMD-P	94-08-096
246-830-030	REP	94-13-181	246-851-110	AMD	94-04-041	246-907-030	AMD	94-05-036
246-830-035	NEW-P	94-05-080	246-851-540	NEW-W	94-13-086	246-915-040	AMD	94-05-014
246-830-035	NEW	94-13-181	246-851-550	NEW	94-04-041	246-915-050	AMD	94-05-014
246-830-230	PREP	94-13-178	246-853-025	AMD-P	94-11-093	246-915-078	NEW	94-05-014
246-830-255	NEW-P	94-06-045	246-853-260	AMD-P	94-11-093	246-915-085	NEW	94-05-014
246-830-255	NEW	94-13-181	246-853-500	NEW-P	94-11-093	246-915-090	AMD	94-05-014
246-830-280	NEW-P	94-05-080	246-854-030	AMD-P	94-11-093	246-915-120	AMD	94-05-014
246-830-280	NEW	94-13-181	246-854-080	AMD-P	94-11-093	246-915-140	AMD	94-05-014
246-830-290	NEW-P	94-05-080	246-856-001	NEW-P	94-11-089	246-915-160	AMD	94-05-014
246-830-290	NEW	94-13-181	246-856-001	NEW-C	94-13-053	246-915-340	NEW	94-05-014
246-830-410	AMD-P	94-06-045	246-856-020	NEW-P	94-11-089	246-917-100	AMD-P	94-08-095
246-830-410	AMD	94-13-181	246-856-020	NEW-C	94-13-053	246-917-120	AMD-P	94-08-095
246-830-430	AMD-P	94-06-045	246-861	PREP	94-11-092	246-918-095	NEW-P	94-08-094
246-830-430	AMD	94-13-181	246-863-020	AMD-P	94-04-113	246-918-105	NEW-P	94-08-094
246-830-460	NEW-P	94-05-080	246-863-020	AMD	94-08-099	246-920-115	NEW-P	94-07-011
246-830-460	NEW	94-13-181	246-863-030	AMD-P	94-04-113	246-922-032	NEW	94-05-051

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-922-033	NEW	94-05-051	246-930-050	AMD	94-13-179	250-62-100	NEW-W	94-06-018
246-922-100	AMD	94-05-051	246-930-060	AMD-P	94-09-027	250-62-110	NEW-W	94-06-018
246-922-110	REP	94-05-051	246-930-060	AMD	94-13-179	250-62-120	NEW-W	94-06-018
246-922-120	AMD	94-05-051	246-930-070	AMD-P	94-09-027	250-62-130	NEW-W	94-06-018
246-922-220	REP	94-05-051	246-930-070	AMD	94-13-179	250-62-140	NEW-W	94-06-018
246-922-250	REP	94-05-051	246-930-075	AMD-P	94-09-027	250-62-150	NEW-W	94-06-018
246-922-260	AMD	94-05-051	246-930-075	AMD	94-13-179	250-62-160	NEW-W	94-06-018
246-922-300	AMD	94-05-051	246-930-200	AMD-P	94-09-027	250-62-170	NEW-W	94-06-018
246-922-310	AMD	94-05-051	246-930-200	AMD	94-13-179	250-62-180	NEW-W	94-06-018
246-922-400	NEW-P	94-08-079	246-930-210	AMD-P	94-09-027	250-62-190	NEW-W	94-06-018
246-922-405	NEW-P	94-08-079	246-930-210	AMD	94-13-179	250-62-200	NEW-W	94-06-018
246-922-410	NEW-P	94-08-079	246-930-220	AMD-P	94-09-027	250-62-210	NEW-W	94-06-018
246-922-415	NEW-P	94-08-079	246-930-220	AMD	94-13-179	250-66-030	AMD-P	94-09-060
246-922-500	NEW-P	94-05-081	246-930-300	AMD-P	94-09-027	250-78-010	AMD-P	94-09-061
246-922-500	NEW	94-09-008	246-930-300	AMD	94-13-179	250-78-020	AMD-P	94-09-061
246-924-020	AMD-P	94-08-039	246-930-301	AMD-P	94-09-027	250-78-030	AMD-P	94-09-061
246-924-020	AMD	94-12-039	246-930-301	AMD	94-13-179	250-78-040	AMD-P	94-09-061
246-924-040	AMD-P	94-08-039	246-930-310	AMD-P	94-09-027	250-78-050	AMD-P	94-09-061
246-924-040	AMD	94-12-039	246-930-310	AMD	94-13-179	250-78-060	AMD-P	94-09-061
246-924-050	AMD-P	94-08-039	246-930-320	AMD-P	94-09-027	250-79-010	NEW-C	94-04-093
246-924-050	AMD	94-12-039	246-930-320	AMD	94-13-179	251-04-040	AMD-P	94-12-059
246-924-080	AMD-P	94-08-039	246-930-330	AMD-P	94-09-027	251-04-105	AMD-P	94-12-057
246-924-080	AMD	94-12-039	246-930-330	AMD	94-13-179	251-06-020	AMD-P	94-12-058
246-924-095	NEW-P	94-08-039	246-930-340	AMD-P	94-09-027	251-08-112	AMD-P	94-12-058
246-924-095	NEW-E	94-09-024	246-930-340	AMD	94-13-179	251-23-010	REP-W	94-04-010
246-924-095	NEW	94-12-039	246-930-410	AMD-P	94-09-027	251-23-015	REP-W	94-04-010
246-924-110	AMD-P	94-08-039	246-930-410	AMD	94-13-179	251-23-020	REP-W	94-04-010
246-924-110	AMD	94-12-039	246-930-420	NEW-P	94-09-027	251-23-030	REP-W	94-04-010
246-924-120	AMD-P	94-08-039	246-930-420	NEW	94-13-179	251-23-040	REP-W	94-04-010
246-924-120	AMD	94-12-039	246-930-430	NEW-P	94-09-027	251-23-050	REP-W	94-04-010
246-924-130	AMD-P	94-08-039	246-930-430	NEW	94-13-179	251-23-060	REP-W	94-04-010
246-924-130	AMD	94-12-039	246-930-490	NEW-P	94-09-027	253-02-040	AMD-P	94-12-092
246-924-190	REP-P	94-08-039	246-930-490	NEW	94-13-179	253-16-090	AMD-P	94-12-092
246-924-190	REP	94-12-039	246-930-990	AMD-P	94-09-027	259-04-060	AMD-E	94-07-059
246-924-200	REP-P	94-08-039	246-930-990	AMD	94-13-179	259-04-060	AMD-P	94-07-096
246-924-200	REP	94-12-039	246-937-020	NEW-E	94-08-051	259-04-060	AMD	94-12-029
246-924-210	REP-P	94-08-039	246-937-020	NEW-P	94-08-052	260-12-010	AMD-W	94-09-003
246-924-210	REP	94-12-039	246-937-030	NEW-E	94-08-051	260-12-090	REP-W	94-09-003
246-924-220	REP-P	94-08-039	246-937-030	NEW-P	94-08-052	260-24-010	AMD-W	94-09-003
246-924-220	REP	94-12-039	246-937-040	NEW-E	94-08-051	260-24-080	AMD-W	94-09-003
246-924-230	AMD-P	94-08-039	246-937-040	NEW-P	94-08-052	260-24-110	AMD-W	94-09-003
246-924-230	AMD	94-12-039	246-937-070	NEW-E	94-08-051	260-24-120	AMD-W	94-09-003
246-924-240	AMD-P	94-08-039	246-937-070	NEW-P	94-08-052	260-24-140	AMD-W	94-09-003
246-924-240	AMD	94-12-039	246-937-080	NEW-E	94-08-051	260-24-150	AMD-W	94-09-003
246-924-250	AMD-P	94-08-039	246-937-080	NEW-P	94-08-052	260-24-170	AMD-W	94-09-003
246-924-250	AMD	94-12-039	246-937-090	NEW-E	94-08-051	260-24-180	AMD-W	94-09-003
246-924-260	REP-P	94-08-039	246-937-090	NEW-P	94-08-052	260-24-200	AMD-W	94-09-003
246-924-260	REP	94-12-039	246-937-990	NEW-P	94-08-076	260-24-210	AMD-W	94-09-003
246-924-270	REP-P	94-08-039	247-04-010	NEW-P	94-12-021	260-24-285	AMD-W	94-09-003
246-924-270	REP	94-12-039	247-04-020	NEW-P	94-12-021	260-24-290	AMD-W	94-09-003
246-924-280	REP-P	94-08-039	247-04-030	NEW-P	94-12-021	260-24-315	AMD-W	94-09-003
246-924-280	REP	94-12-039	247-04-040	NEW-P	94-12-021	260-24-440	AMD-W	94-09-003
246-924-290	AMD-P	94-08-039	247-04-040	NEW-P	94-12-021	260-24-460	AMD-W	94-09-003
246-924-290	AMD	94-12-039	247-06-010	NEW-P	94-12-022	260-24-470	AMD-W	94-09-003
246-924-300	AMD-P	94-08-039	247-06-020	NEW-P	94-12-022	260-24-500	AMD-W	94-09-003
246-924-300	AMD	94-12-039	247-06-030	NEW-P	94-12-022	260-24-510	AMD-W	94-09-003
246-924-310	REP-P	94-08-039	250-40	AMD-P	94-09-058	260-24-520	AMD-W	94-09-003
246-924-310	REP	94-12-039	250-40-020	AMD-P	94-09-058	260-34-030	AMD-W	94-09-003
246-924-320	AMD-P	94-08-039	250-40-040	AMD-P	94-09-058	260-36-080	AMD	94-04-002
246-924-320	AMD	94-12-039	250-40-050	AMD-P	94-09-058	260-48-322	AMD-P	94-05-077
246-924-460	REP-P	94-08-039	250-40-070	AMD-P	94-09-058	260-48-324	AMD-P	94-05-076
246-924-460	REP	94-12-039	250-44-050	AMD-P	94-10-001	260-48-328	AMD-P	94-05-075
246-924-490	NEW-P	94-08-039	250-44-110	AMD-P	94-10-001	260-70-010	AMD-W	94-09-003
246-924-490	NEW	94-12-039	250-44-130	AMD-P	94-10-001	260-70-040	AMD	94-04-002
246-930-010	AMD-P	94-09-027	250-62-010	NEW-W	94-06-018	260-72-020	AMD	94-04-003
246-930-010	AMD	94-13-179	250-62-020	NEW-W	94-06-018	275-16-030	AMD-P	94-13-051
246-930-020	AMD-P	94-09-027	250-62-030	NEW-W	94-06-018	275-27-220	AMD	94-04-092
246-930-020	AMD	94-13-179	250-62-040	NEW-W	94-06-018	275-27-221	NEW	94-04-092
246-930-030	AMD-P	94-09-027	250-62-050	NEW-W	94-06-018	275-27-223	AMD	94-04-092
246-930-030	AMD	94-13-179	250-62-060	NEW-W	94-06-018	275-30-020	AMD-P	94-12-026
246-930-040	AMD-P	94-09-027	250-62-070	NEW-W	94-06-018	275-35-030	AMD-P	94-08-007
246-930-040	AMD	94-13-179	250-62-080	NEW-W	94-06-018	275-35-030	AMD	94-11-065
246-930-050	AMD-P	94-09-027	250-62-090	NEW-W	94-06-018	275-35-060	AMD-P	94-08-007

**Table of WAC Sections Affected**

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
275-35-060	AMD	94-11-065	275-56-447	REP-P	94-12-005	275-57-430	NEW-P	94-12-005
275-35-070	AMD-P	94-08-007	275-56-465	REP-P	94-12-005	275-57-440	NEW-P	94-12-005
275-35-070	AMD	94-11-065	275-56-475	REP-P	94-12-005	275-57-450	NEW-P	94-12-005
275-35-080	AMD-P	94-08-007	275-56-485	REP-P	94-12-005	275-57-460	NEW-P	94-12-005
275-35-080	AMD	94-11-065	275-56-495	REP-P	94-12-005	275-57-470	NEW-P	94-12-005
275-47-010	NEW-P	94-12-066	275-56-505	REP-P	94-12-005	275-59-072	NEW-E	94-03-004
275-47-020	NEW-P	94-12-066	275-56-515	REP-P	94-12-005	275-59-072	NEW-P	94-03-005
275-47-030	NEW-P	94-12-066	275-56-600	NEW	94-07-020	275-59-072	NEW	94-06-025
275-47-040	NEW-P	94-12-066	275-56-600	REP-P	94-12-005	275-156-010	AMD-P	94-07-087
275-55-221	NEW-E	94-03-004	275-56-610	NEW	94-07-020	275-156-010	AMD	94-12-006
275-55-221	NEW-P	94-03-005	275-56-610	REP-P	94-12-005	275-156-015	AMD-P	94-07-087
275-55-221	NEW	94-06-025	275-56-630	NEW	94-07-020	275-156-015	AMD	94-12-006
275-56-005	REP-P	94-12-005	275-56-630	REP-P	94-12-005	275-156-020	AMD-P	94-07-087
275-56-010	REP-P	94-12-005	275-56-640	NEW	94-07-020	275-156-020	AMD	94-12-006
275-56-015	AMD	94-07-020	275-56-640	REP-P	94-12-005	275-156-025	AMD-P	94-07-087
275-56-015	REP-P	94-12-005	275-56-650	NEW	94-07-020	275-156-025	AMD	94-12-006
275-56-016	REP-P	94-12-005	275-56-650	REP-P	94-12-005	275-156-030	AMD-P	94-07-087
275-56-017	REP-P	94-12-005	275-56-660	NEW	94-07-020	275-156-030	AMD	94-12-006
275-56-020	REP-P	94-12-005	275-56-660	REP-P	94-12-005	284-07-060	AMD	94-04-045
275-56-025	REP-P	94-12-005	275-56-670	NEW	94-07-020	284-07-100	AMD	94-04-045
275-56-035	REP-P	94-12-005	275-56-670	REP-P	94-12-005	284-07-110	AMD	94-04-045
275-56-040	REP-P	94-12-005	275-56-680	NEW	94-07-020	284-07-130	AMD	94-04-045
275-56-042	REP-P	94-12-005	275-56-680	REP-P	94-12-005	284-07-140	AMD	94-04-045
275-56-043	REP-P	94-12-005	275-56-690	NEW	94-07-020	284-07-180	AMD	94-04-045
275-56-050	REP-P	94-12-005	275-56-690	REP-P	94-12-005	284-07-220	AMD	94-04-045
275-56-055	REP-P	94-12-005	275-56-700	NEW	94-07-020	284-10	NEW-C	94-02-065
275-56-060	REP-P	94-12-005	275-56-700	REP-P	94-12-005	284-10	NEW-C	94-03-048
275-56-065	REP-P	94-12-005	275-56-710	NEW	94-07-020	284-10	NEW-C	94-08-006
275-56-070	REP-P	94-12-005	275-56-710	REP-P	94-12-005	284-10-010	NEW-E	94-03-084
275-56-075	REP-P	94-12-005	275-56-720	NEW	94-07-020	284-10-010	NEW-W	94-03-085
275-56-080	REP-P	94-12-005	275-56-720	REP-P	94-12-005	284-10-010	NEW-P	94-04-126
275-56-085	REP-P	94-12-005	275-57-010	NEW-P	94-12-005	284-10-010	NEW	94-08-060
275-56-087	REP-P	94-12-005	275-57-020	NEW-P	94-12-005	284-10-015	NEW-E	94-03-084
275-56-088	REP-P	94-12-005	275-57-030	NEW-P	94-12-005	284-10-015	NEW-W	94-03-085
275-56-089	REP-P	94-12-005	275-57-040	NEW-P	94-12-005	284-10-015	NEW-P	94-04-126
275-56-090	REP-P	94-12-005	275-57-050	NEW-P	94-12-005	284-10-015	NEW	94-08-060
275-56-095	REP-P	94-12-005	275-57-060	NEW-P	94-12-005	284-10-020	NEW-E	94-03-084
275-56-100	REP-P	94-12-005	275-57-070	NEW-P	94-12-005	284-10-020	NEW-W	94-03-085
275-56-105	REP-P	94-12-005	275-57-080	NEW-P	94-12-005	284-10-020	NEW-P	94-04-126
275-56-110	REP-P	94-12-005	275-57-090	NEW-P	94-12-005	284-10-020	NEW	94-08-060
275-56-115	REP-P	94-12-005	275-57-100	NEW-P	94-12-005	284-10-030	NEW-E	94-03-084
275-56-135	REP-P	94-12-005	275-57-110	NEW-P	94-12-005	284-10-030	NEW-W	94-03-085
275-56-150	REP-P	94-12-005	275-57-120	NEW-P	94-12-005	284-10-030	NEW-P	94-04-126
275-56-170	REP-P	94-12-005	275-57-130	NEW-P	94-12-005	284-10-030	NEW	94-08-060
275-56-175	REP-P	94-12-005	275-57-140	NEW-P	94-12-005	284-10-050	NEW-P	94-04-125
275-56-180	REP-P	94-12-005	275-57-150	NEW-P	94-12-005	284-10-050	NEW	94-08-081
275-56-185	REP-P	94-12-005	275-57-160	NEW-P	94-12-005	284-10-050	AMD-P	94-11-082
275-56-195	REP-P	94-12-005	275-57-170	NEW-P	94-12-005	284-10-050	AMD	94-13-216
275-56-200	REP-P	94-12-005	275-57-180	NEW-P	94-12-005	284-10-060	NEW-E	94-03-084
275-56-205	REP-P	94-12-005	275-57-190	NEW-P	94-12-005	284-10-060	NEW-W	94-03-085
275-56-210	REP-P	94-12-005	275-57-200	NEW-P	94-12-005	284-10-060	NEW-P	94-04-126
275-56-215	REP-P	94-12-005	275-57-210	NEW-P	94-12-005	284-10-060	NEW	94-08-060
275-56-220	REP-P	94-12-005	275-57-220	NEW-P	94-12-005	284-10-070	NEW-E	94-03-084
275-56-225	REP-P	94-12-005	275-57-230	NEW-P	94-12-005	284-10-070	NEW-W	94-03-085
275-56-230	REP-P	94-12-005	275-57-240	NEW-P	94-12-005	284-10-070	NEW-P	94-04-126
275-56-235	REP-P	94-12-005	275-57-250	NEW-P	94-12-005	284-10-070	NEW	94-08-060
275-56-240	REP-P	94-12-005	275-57-260	NEW-P	94-12-005	284-10-080	NEW-W	94-03-085
275-56-245	REP-P	94-12-005	275-57-270	NEW-P	94-12-005	284-10-090	NEW-E	94-03-084
275-56-260	REP-P	94-12-005	275-57-280	NEW-P	94-12-005	284-10-090	NEW-W	94-03-085
275-56-275	REP-P	94-12-005	275-57-290	NEW-P	94-12-005	284-10-090	NEW-P	94-04-126
275-56-285	REP-P	94-12-005	275-57-300	NEW-P	94-12-005	284-10-090	NEW	94-08-060
275-56-290	REP-P	94-12-005	275-57-310	NEW-P	94-12-005	284-10-100	NEW-W	94-03-085
275-56-295	REP-P	94-12-005	275-57-320	NEW-P	94-12-005	284-10-110	NEW-W	94-03-085
275-56-300	REP-P	94-12-005	275-57-330	NEW-P	94-12-005	284-10-120	NEW-W	94-03-085
275-56-305	REP-P	94-12-005	275-57-340	NEW-P	94-12-005	284-10-130	NEW-W	94-03-085
275-56-335	REP-P	94-12-005	275-57-350	NEW-P	94-12-005	284-10-140	NEW-W	94-03-085
275-56-340	REP-P	94-12-005	275-57-360	NEW-P	94-12-005	284-10-150	NEW-W	94-03-085
275-56-355	REP-P	94-12-005	275-57-370	NEW-P	94-12-005	284-10-160	NEW-W	94-03-085
275-56-365	REP-P	94-12-005	275-57-380	NEW-P	94-12-005	284-10-170	NEW-W	94-03-085
275-56-385	REP-P	94-12-005	275-57-390	NEW-P	94-12-005	284-10-180	NEW-W	94-03-085
275-56-400	REP-P	94-12-005	275-57-400	NEW-P	94-12-005	284-10-190	NEW-W	94-03-085
275-56-425	REP-P	94-12-005	275-57-410	NEW-P	94-12-005	284-10-200	NEW-W	94-03-085
275-56-445	REP-P	94-12-005	275-57-420	NEW-P	94-12-005	284-12-090	AMD-P	94-11-100

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
284-12-270	AMD-P	94-11-100	284-54-200	NEW-P	94-09-050	286-26-055	REP-P	94-13-196
284-13-110	REP-P	94-05-089	284-54-200	NEW-S	94-11-096	286-26-060	REP-P	94-13-196
284-13-110	REP-C	94-08-013	284-54-210	NEW-P	94-09-050	286-26-070	REP-P	94-13-196
284-13-110	REP-C	94-10-024	284-54-210	NEW-S	94-11-096	286-26-080	NEW-P	94-13-196
284-13-110	REP	94-12-077	284-54-260	NEW-P	94-09-050	286-26-090	NEW-P	94-13-196
284-13-120	REP-P	94-05-089	284-54-260	NEW-S	94-11-096	286-26-100	NEW-P	94-13-196
284-13-120	REP-C	94-08-013	284-54-270	NEW-P	94-09-050	286-30-010	NEW-P	94-13-196
284-13-120	REP-C	94-10-024	284-54-270	NEW-S	94-11-096	286-30-020	NEW-P	94-13-196
284-13-120	REP	94-12-077	284-54-270	AMD-P	94-09-049	286-30-030	NEW-P	94-13-196
284-13-130	REP-P	94-05-089	284-87-040	AMD	94-13-006	286-30-040	NEW-P	94-13-196
284-13-130	REP-C	94-08-013	284-87-040	AMD-P	94-09-049	286-35-010	NEW-P	94-13-196
284-13-130	REP-C	94-10-024	284-87-090	AMD	94-13-006	286-35-020	NEW-P	94-13-196
284-13-130	REP	94-12-077	284-87-100	AMD-P	94-09-049	286-35-030	NEW-P	94-13-196
284-13-140	REP-P	94-05-089	284-87-100	AMD	94-13-006	286-35-040	NEW-P	94-13-196
284-13-140	REP-C	94-08-013	284-97-010	PREP	94-05-071	286-35-050	NEW-P	94-13-196
284-13-140	REP-C	94-10-024	284-97-020	PREP	94-05-071	286-35-060	NEW-P	94-13-196
284-13-140	REP	94-12-077	284-97-030	PREP	94-05-071	286-35-070	NEW-P	94-13-196
284-13-150	REP-P	94-05-089	284-97-040	PREP	94-05-071	286-35-080	NEW-P	94-13-196
284-13-150	REP-C	94-08-013	284-97-050	PREP	94-05-071	286-35-090	NEW-P	94-13-196
284-13-150	REP-C	94-10-024	284-97-060	PREP	94-05-071	286-40-010	NEW-P	94-13-196
284-13-150	REP	94-12-077	284-97-070	PREP	94-05-071	286-40-020	NEW-P	94-13-196
284-13-800	NEW-P	94-05-089	284-97-080	PREP	94-05-071	286-40-030	NEW-P	94-13-196
284-13-800	NEW-C	94-08-013	284-97-100	PREP	94-05-071	286-40-040	NEW-P	94-13-196
284-13-800	NEW-C	94-10-024	284-97-110	PREP	94-05-071	286-40-050	NEW-P	94-13-196
284-13-800	NEW-W	94-12-077	284-97-120	PREP	94-05-071	286-40-060	NEW-P	94-13-196
284-13-810	NEW-P	94-05-089	284-97-130	PREP	94-05-071	296-15-020	AMD-C	94-03-006
284-13-810	NEW-C	94-08-013	284-97-140	PREP	94-05-071	296-15-020	AMD	94-05-042
284-13-810	NEW-C	94-10-024	284-97-150	PREP	94-05-071	296-15-02601	AMD-P	94-12-096
284-13-810	NEW-W	94-12-077	284-97-160	PREP	94-05-071	296-15-02606	NEW-C	94-03-006
284-13-820	NEW-P	94-05-089	286-04-010	AMD-P	94-13-196	296-15-02606	NEW	94-05-042
284-13-820	NEW-C	94-08-013	286-04-015	NEW-P	94-13-196	296-15-030	AMD-C	94-03-006
284-13-820	NEW-C	94-10-024	286-04-020	AMD-P	94-13-196	296-15-030	AMD	94-05-042
284-13-820	NEW-W	94-12-077	286-04-030	AMD-P	94-13-196	296-15-060	AMD-P	94-12-096
284-13-830	NEW-P	94-05-089	286-04-050	AMD-P	94-13-196	296-15-070	AMD-P	94-12-096
284-13-830	NEW-C	94-08-013	286-04-060	AMD-P	94-13-196	296-15-072	AMD-P	94-12-096
284-13-830	NEW-C	94-10-024	286-04-065	NEW-P	94-13-196	296-15-160	AMD-P	94-12-096
284-13-830	NEW-W	94-12-077	286-04-070	AMD-P	94-13-196	296-15-170	AMD-C	94-03-006
284-17-120	AMD-P	94-11-100	286-04-085	NEW-P	94-13-196	296-15-170	AMD	94-05-042
284-17-121	AMD-P	94-11-100	286-04-090	NEW-P	94-13-196	296-17-350	AMD-P	94-07-127
284-17-220	AMD-P	94-11-100	286-06-010	REP-P	94-13-196	296-17-350	AMD	94-12-050
284-17-250	AMD-P	94-11-100	286-06-030	REP-P	94-13-196	296-17-45005	NEW-P	94-06-055
284-17-260	AMD-P	94-11-100	286-06-040	REP-P	94-13-196	296-17-45005	NEW	94-12-051
284-17-290	AMD-P	94-11-100	286-06-050	AMD-P	94-13-196	296-17-501	AMD-P	94-07-129
284-17-320	AMD-P	94-11-100	286-06-060	AMD-P	94-13-196	296-17-501	AMD	94-12-051
284-17-400	AMD-P	94-11-100	286-06-065	NEW-P	94-13-196	296-17-506	REP-P	94-07-129
284-17-410	AMD-P	94-11-100	286-06-070	AMD-P	94-13-196	296-17-506	REP	94-12-051
284-17-420	AMD-P	94-11-100	286-06-080	AMD-P	94-13-196	296-17-50602	AMD-P	94-07-128
284-30	PREP	94-05-056	286-06-090	AMD-P	94-13-196	296-17-50602	AMD	94-12-063
284-30-450	PREP	94-05-070	286-06-100	AMD-P	94-13-196	296-17-519	AMD-P	94-07-128
284-43-040	NEW-P	94-10-077	286-06-110	AMD-P	94-13-196	296-17-519	AMD	94-12-063
284-44	PREP	94-05-056	286-06-120	AMD-P	94-13-196	296-17-52104	AMD-P	94-07-128
284-46	PREP	94-05-056	286-06-130	REP-P	94-13-196	296-17-52104	AMD	94-12-063
284-51-010	AMD-P	94-11-122	286-06-140	REP-P	94-13-196	296-17-524	AMD-P	94-07-128
284-51-015	NEW-P	94-11-122	286-06-150	REP-P	94-13-196	296-17-524	AMD	94-12-063
284-51-020	AMD-P	94-11-122	286-06-990	REP-P	94-13-196	296-17-528	AMD-P	94-07-128
284-51-030	AMD-P	94-11-122	286-13-010	NEW-P	94-13-196	296-17-528	AMD	94-12-063
284-51-040	AMD-P	94-11-122	286-13-020	NEW-P	94-13-196	296-17-53504	AMD-P	94-07-128
284-51-045	NEW-P	94-11-122	286-13-030	NEW-P	94-13-196	296-17-53504	AMD	94-12-063
284-51-050	AMD-P	94-11-122	286-13-040	NEW-P	94-13-196	296-17-536	AMD-P	94-07-128
284-51-060	AMD-P	94-11-122	286-13-050	NEW-P	94-13-196	296-17-536	AMD	94-12-063
284-51-070	REP-P	94-11-122	286-13-060	NEW-P	94-13-196	296-17-558	REP-P	94-07-128
284-51-075	AMD-P	94-11-122	286-13-070	NEW-P	94-13-196	296-17-558	REP	94-12-063
284-51-120	AMD-P	94-11-122	286-13-080	NEW-P	94-13-196	296-17-56101	AMD-P	94-07-128
284-51-130	AMD-P	94-11-122	286-13-085	NEW-P	94-13-196	296-17-56101	AMD	94-12-063
284-51-140	AMD-P	94-11-122	286-13-090	NEW-P	94-13-196	296-17-650	AMD-P	94-07-128
284-51-150	AMD-P	94-11-122	286-13-100	NEW-P	94-13-196	296-17-650	AMD	94-12-063
284-51-160	REP-P	94-11-122	286-13-110	NEW-P	94-13-196	296-17-66003	NEW-P	94-06-055
284-51-170	AMD-P	94-11-122	286-13-115	NEW-P	94-13-196	296-17-66003	NEW	94-12-051
284-54	AMD-C	94-13-217	286-13-120	NEW-P	94-13-196	296-17-686	AMD-P	94-07-128
284-54-020	AMD-P	94-09-050	286-26-010	AMD-P	94-13-196	296-17-686	AMD	94-12-063
284-54-020	AMD-S	94-11-096	286-26-020	AMD-P	94-13-196	296-17-704	AMD-P	94-07-128
284-54-150	AMD-P	94-09-050	286-26-030	AMD-P	94-13-196	296-17-704	AMD	94-12-063
284-54-150	AMD-S	94-11-096	286-26-040	REP-P	94-13-196	296-17-706	AMD-P	94-07-128

TABLE



Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
296-62-07347	AMD-P	94-10-010	296-155-400	AMD-P	94-10-010	296-306-110	AMD	94-06-068
296-62-07441	AMD-P	94-10-010	296-155-405	AMD-P	94-10-010	296-306-115	AMD	94-06-068
296-62-07533	AMD-P	94-10-010	296-155-428	AMD-P	94-10-010	296-306-120	AMD	94-06-068
296-62-07540	AMD-P	94-10-010	296-155-429	AMD-P	94-10-010	296-306-125	REP-W	94-10-007
296-62-07542	AMD-P	94-10-010	296-155-462	AMD-P	94-10-010	296-306-130	REP-W	94-10-007
296-62-07706	AMD-P	94-11-124	296-155-480	AMD-P	94-10-010	296-306-135	REP-W	94-10-007
296-62-07717	AMD-P	94-10-010	296-155-485	AMD-P	94-10-010	296-306-140	REP-W	94-10-007
296-62-07749	AMD-P	94-10-010	296-155-48523	AMD-P	94-10-010	296-306-145	AMD-E	94-06-044
296-62-07751	AMD-P	94-10-010	296-155-48531	AMD-P	94-10-010	296-306-145	REP-W	94-10-007
296-62-12000	NEW	94-07-086	296-155-48533	AMD-P	94-10-010	296-306-145	AMD-P	94-12-095
296-62-12001	NEW-W	94-07-085	296-155-505	AMD-P	94-10-010	296-306-14501	NEW-E	94-06-044
296-62-12003	NEW	94-07-086	296-155-50505	AMD-P	94-10-010	296-306-14501	NEW-P	94-12-095
296-62-12005	NEW	94-07-086	296-155-530	AMD-P	94-10-010	296-306-14503	NEW-E	94-06-044
296-62-12007	NEW	94-07-086	296-155-545	AMD-P	94-10-010	296-306-14503	NEW-P	94-12-095
296-62-12009	NEW	94-07-086	296-155-565	AMD-P	94-10-010	296-306-14505	NEW-E	94-06-044
296-62-12011	NEW-W	94-07-085	296-155-575	AMD-P	94-10-010	296-306-14505	NEW-P	94-12-095
296-62-12013	NEW-W	94-07-085	296-155-615	AMD-P	94-10-010	296-306-14507	NEW-E	94-06-044
296-62-12015	NEW-W	94-07-085	296-155-61705	AMD-P	94-10-010	296-306-14507	NEW-P	94-12-095
296-62-12017	NEW-W	94-07-085	296-155-61711	AMD-P	94-10-010	296-306-14509	NEW-E	94-06-044
296-62-12019	NEW-W	94-07-085	296-155-61713	AMD-P	94-10-010	296-306-14509	NEW-P	94-12-095
296-62-12021	NEW-W	94-07-085	296-155-620	AMD-P	94-10-010	296-306-14511	NEW-E	94-06-044
296-62-12023	NEW-W	94-07-085	296-155-625	AMD-P	94-10-010	296-306-14511	NEW-P	94-12-095
296-62-300	AMD-P	94-10-010	296-155-630	AMD-P	94-10-010	296-306-14513	NEW-P	94-12-095
296-62-3020	AMD-P	94-11-124	296-155-650	AMD-P	94-10-010	296-306-14515	NEW-P	94-12-095
296-62-3060	AMD-P	94-10-010	296-155-675	AMD-P	94-10-010	296-306-160	AMD	94-06-068
296-62-3120	AMD-P	94-10-010	296-155-680	AMD-P	94-10-010	296-306-165	AMD-E	94-06-044
296-62-3140	AMD-P	94-11-124	296-155-682	AMD-P	94-10-010	296-306-165	AMD-W	94-10-007
296-62-40015	AMD-P	94-10-010	296-155-684	AMD-P	94-10-010	296-306-165	AMD-P	94-12-095
296-62-40025	AMD-P	94-10-010	296-155-691	AMD-P	94-10-010	296-306-170	AMD-E	94-06-044
296-104-281	NEW-E	94-04-006	296-155-699	AMD-P	94-10-010	296-306-170	AMD-P	94-12-095
296-104-281	NEW-P	94-05-072	296-155-700	AMD-P	94-10-010	296-306-175	AMD-E	94-06-044
296-116-185	RESCIND	94-05-005	296-155-715	AMD-P	94-10-010	296-306-175	AMD-W	94-10-007
296-116-185	AMD	94-05-006	296-155-730	AMD-P	94-10-010	296-306-175	AMD-P	94-12-095
296-116-300	AMD-P	94-08-056	296-155-745	AMD-P	94-10-010	296-306-180	AMD-E	94-06-044
296-116-300	AMD	94-12-044	296-155-74501	AMD-P	94-10-010	296-306-180	AMD-P	94-12-095
296-116-500	NEW-P	94-04-119	296-155-775	AMD-P	94-10-010	296-306-200	AMD	94-06-068
296-116-500	NEW	94-07-079	296-155-785	AMD-P	94-10-010	296-306-25007	AMD	94-06-068
296-155-001	AMD-P	94-10-010	296-155-800	AMD-P	94-10-010	296-306-260	AMD	94-06-068
296-155-006	AMD-P	94-10-010	296-155-955	AMD-P	94-10-010	296-306-265	AMD	94-06-068
296-155-010	AMD-P	94-10-010	296-305-025	AMD-P	94-11-124	296-306-300	AMD-W	94-10-007
296-155-012	AMD-P	94-10-010	296-306-003	AMD-W	94-10-007	296-306-400	AMD	94-06-068
296-155-015	AMD-P	94-10-010	296-306-010	AMD	94-06-068	296-350-010	AMD-P	94-10-010
296-155-040	AMD-P	94-10-010	296-306-012	AMD	94-06-068	296-350-030	AMD-P	94-10-010
296-155-100	AMD-P	94-10-010	296-306-015	AMD	94-06-068	296-350-040	AMD-P	94-10-010
296-155-110	AMD-P	94-10-010	296-306-020	AMD	94-06-068	296-350-050	AMD-P	94-10-010
296-155-120	AMD-P	94-10-010	296-306-025	REP-W	94-10-007	296-350-070	AMD-P	94-10-010
296-155-125	AMD-P	94-10-010	296-306-030	AMD-W	94-10-007	296-350-200	AMD-P	94-10-010
296-155-140	AMD-P	94-10-010	296-306-045	REP-W	94-10-007	296-350-210	AMD-P	94-10-010
296-155-150	AMD-P	94-10-010	296-306-050	REP-W	94-10-007	296-350-230	AMD-P	94-10-010
296-155-160	AMD-P	94-10-010	296-306-055	REP-W	94-10-007	296-350-240	AMD-P	94-10-010
296-155-174	AMD-P	94-10-010	296-306-057	AMD	94-06-068	296-350-250	AMD-P	94-10-010
296-155-180	AMD-P	94-11-124	296-306-060	AMD-W	94-10-007	296-350-255	AMD-P	94-10-010
296-155-200	AMD-P	94-10-010	296-306-061	AMD-E	94-06-044	296-350-260	AMD-P	94-10-010
296-155-203	AMD-P	94-10-010	296-306-061	REP-W	94-10-007	296-350-280	AMD-P	94-10-010
296-155-20301	AMD-P	94-10-010	296-306-061	AMD-P	94-12-095	296-350-350	AMD-P	94-10-010
296-155-20307	AMD-P	94-10-010	296-306-06101	NEW-P	94-12-095	296-350-35010	AMD-P	94-10-010
296-155-212	AMD-P	94-10-010	296-306-06103	NEW-P	94-12-095	296-350-35055	AMD-P	94-10-010
296-155-215	AMD-P	94-10-010	296-306-06105	NEW-P	94-12-095	296-350-400	AMD-P	94-10-010
296-155-235	AMD-P	94-10-010	296-306-06107	NEW-P	94-12-095	296-350-450	AMD-P	94-10-010
296-155-24510	AMD-P	94-10-010	296-306-06109	NEW-P	94-12-095	296-350-460	AMD-P	94-10-010
296-155-260	AMD-P	94-10-010	296-306-065	REP-W	94-10-007	296-350-470	AMD-P	94-10-010
296-155-280	AMD-P	94-10-010	296-306-070	REP-W	94-10-007	296-350-500	AMD-P	94-10-010
296-155-315	AMD-P	94-10-010	296-306-075	REP-W	94-10-007	296-360-005	AMD-P	94-10-010
296-155-325	AMD-P	94-10-010	296-306-075	AMD-P	94-12-095	296-360-040	AMD-P	94-10-010
296-155-330	AMD-P	94-10-010	296-306-07501	NEW-P	94-12-095	296-360-050	AMD-P	94-10-010
296-155-34920	AMD-P	94-10-010	296-306-07503	NEW-P	94-12-095	296-360-080	AMD-P	94-10-010
296-155-360	AMD-P	94-10-010	296-306-080	REP-W	94-10-007	296-360-090	AMD-P	94-10-010
296-155-36305	AMD-P	94-10-010	296-306-080	AMD-P	94-12-095	296-360-140	AMD-P	94-10-010
296-155-36319	AMD-P	94-10-010	296-306-084	REP-W	94-10-007	304-12-030	AMD	94-11-023
296-155-36321	AMD-P	94-10-010	296-306-085	REP-W	94-10-007	308-13-150	AMD	94-04-044
296-155-365	AMD-P	94-10-010	296-306-090	REP-W	94-10-007	308-13-160	AMD	94-04-044
296-155-375	AMD-P	94-10-010	296-306-095	REP-W	94-10-007	308-18-150	AMD-P	94-09-018
296-155-380	NEW-P	94-10-010	296-306-100	REP-W	94-10-007	308-18-150	AMD-W	94-11-026

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
308-56A-160	AMD-P	94-13-123	314-12-190	NEW-W	94-13-125	315-11A-124	NEW-P	94-07-116
308-56A-322	NEW-W	94-08-057	314-16-010	REP-P	94-07-125	315-11A-124	NEW	94-11-027
308-56A-323	NEW-W	94-08-057	314-16-010	REP	94-10-035	315-11A-125	NEW-P	94-07-116
308-62-010	REP-P	94-04-017	314-16-050	AMD-P	94-05-096	315-11A-125	NEW	94-11-027
308-62-010	REP	94-08-025	314-16-050	AMD	94-08-031	315-11A-126	NEW-P	94-07-116
308-62-020	REP-P	94-04-017	314-16-111	NEW-P	94-10-067	315-11A-126	NEW	94-11-027
308-62-020	REP	94-08-025	314-16-111	NEW	94-13-128	315-11A-127	NEW-P	94-12-082
308-62-030	REP-P	94-04-017	314-16-150	AMD-P	94-05-093	315-11A-128	NEW-P	94-12-082
308-62-030	REP	94-08-025	314-16-150	AMD	94-08-030	315-11A-129	NEW-P	94-12-082
308-65-040	AMD-P	94-07-037	314-16-199	NEW-P	94-10-004	315-11A-130	NEW-P	94-12-082
308-65-040	AMD	94-12-052	314-16-199	NEW	94-13-127	315-30-030	AMD	94-03-020
308-65-070	AMD-P	94-07-037	314-24-230	AMD-P	94-07-124	315-34-040	AMD-P	94-03-099
308-65-070	AMD	94-12-052	314-24-230	AMD	94-10-034	315-34-040	AMD	94-07-029
308-65-160	AMD-P	94-07-037	314-25-010	NEW-P	94-05-095	317-20	PREP	94-12-025
308-65-160	AMD	94-12-052	314-25-010	NEW	94-08-032	317-40-010	NEW-P	94-12-093
308-72-543	NEW-P	94-02-076	314-25-020	NEW-P	94-05-095	317-40-020	NEW-P	94-12-093
308-72-543	NEW	94-11-055	314-25-020	NEW	94-08-032	317-40-030	NEW-P	94-12-093
308-72-660	AMD-P	94-02-076	314-25-030	NEW-P	94-05-095	317-40-040	NEW-P	94-12-093
308-72-660	AMD	94-11-055	314-25-030	NEW	94-08-032	317-40-050	NEW-P	94-12-093
308-72-665	NEW-P	94-02-076	314-25-040	NEW-P	94-05-095	317-40-060	NEW-P	94-12-093
308-72-665	NEW	94-11-055	314-25-040	NEW	94-08-032	317-40-065	NEW-P	94-12-093
308-72-690	AMD-P	94-02-076	314-25-050	NEW-P	94-10-003	317-40-070	NEW-P	94-12-093
308-72-690	AMD	94-11-055	314-25-050	NEW	94-13-126	317-40-080	NEW-P	94-12-093
308-77-010	AMD-P	94-02-075	314-44-015	NEW-P	94-11-087	317-40-085	NEW-P	94-12-093
308-77-010	AMD	94-11-029	314-52-115	AMD	94-06-022	317-40-090	NEW-P	94-12-093
308-77-060	AMD-P	94-02-075	314-60-010	AMD	94-03-060	317-40-100	NEW-P	94-12-093
308-77-060	AMD	94-11-029	314-60-020	AMD	94-03-060	317-40-110	NEW-P	94-12-093
308-77-095	AMD-P	94-02-075	314-60-030	AMD	94-03-060	317-40-120	NEW-P	94-12-093
308-77-095	AMD	94-11-029	314-60-080	AMD	94-03-060	317-40-130	NEW-P	94-12-093
308-77-155	NEW-P	94-02-075	314-60-105	AMD	94-03-060	317-40-140	NEW-P	94-12-093
308-77-155	NEW	94-11-029	314-60-110	AMD	94-03-060	317-40-150	NEW-P	94-12-093
308-77-250	AMD-P	94-02-075	314-64-060	REP-P	94-11-085	317-40-900	NEW-P	94-12-093
308-77-250	AMD	94-11-029	314-64-080	AMD-P	94-11-086	317-40-910	NEW-P	94-12-093
308-91-030	AMD	94-13-012	315-02-120	REP	94-03-020	326-02-030	AMD-P	94-08-107
308-91-040	AMD	94-13-012	315-04-180	AMD	94-03-020	326-02-030	AMD	94-11-116
308-91-050	AMD	94-13-012	315-04-180	AMD-P	94-07-116	326-02-034	NEW	94-11-113
308-91-060	AMD	94-13-012	315-04-180	AMD	94-11-027	326-02-050	AMD-P	94-08-107
308-91-070	REP	94-13-012	315-04-210	AMD	94-03-020	326-02-050	AMD	94-11-117
308-91-090	AMD	94-13-012	315-04-210	AMD-P	94-07-116	326-20-120	AMD-P	94-08-108
308-91-150	AMD	94-13-012	315-04-210	AMD	94-11-027	326-20-120	AMD	94-11-114
308-93-073	AMD-W	94-03-018	315-06-035	AMD	94-03-020	326-20-125	AMD-P	94-08-108
308-93-280	AMD-W	94-03-018	315-06-120	AMD-P	94-12-082	326-20-125	AMD	94-11-115
308-93-330	AMD-W	94-03-018	315-06-130	AMD-P	94-12-082	326-30-041	AMD	94-03-068
308-93-630	REP-W	94-03-018	315-06-140	REP	94-03-020	326-30-051	AMD	94-07-064
308-96A-005	AMD-P	94-13-123	315-06-150	REP	94-03-020	326-40-030	AMD-P	94-08-109
308-96A-027	NEW-P	94-13-028	315-06-160	REP	94-03-020	326-40-030	AMD	94-11-118
308-96A-175	AMD-P	94-13-123	315-06-170	AMD	94-03-020	326-40-040	AMD-S	94-08-110
308-97-010	REP-P	94-13-028	315-06-180	REP	94-03-020	326-40-040	AMD	94-11-119
308-97-060	REP-P	94-13-028	315-06-190	AMD	94-03-020	326-40-060	AMD	94-07-064
308-97-090	REP-P	94-13-028	315-10-030	AMD	94-03-020	332-18	AMD-P	94-09-062
308-97-125	REP-P	94-13-028	315-10-060	AMD	94-03-020	332-18-010	AMD-P	94-09-062
308-97-175	REP-P	94-13-028	315-10-080	AMD	94-03-020	332-18-01001	NEW-P	94-09-062
308-97-205	REP-P	94-13-028	315-11A-114	NEW	94-03-019	332-18-01002	NEW-P	94-09-062
308-97-230	REP-P	94-13-028	315-11A-115	NEW	94-03-019	332-18-01003	NEW-P	94-09-062
308-125-075	NEW-P	94-12-041	315-11A-116	NEW	94-03-019	332-18-01004	NEW-P	94-09-062
308-128A-020	AMD	94-04-050	315-11A-117	NEW	94-03-019	332-18-01005	NEW-P	94-09-062
308-128A-030	AMD	94-04-050	315-11A-117	AMD-P	94-07-116	332-18-015	REP-P	94-09-062
308-128A-040	AMD	94-04-050	315-11A-117	AMD	94-11-027	332-18-020	REP-P	94-09-062
308-128C-040	AMD	94-04-050	315-11A-118	NEW-P	94-03-099	332-18-030	REP-P	94-09-062
308-128C-050	AMD	94-04-050	315-11A-118	NEW	94-07-029	332-18-040	REP-P	94-09-062
308-128D-010	AMD	94-04-050	315-11A-118	AMD-P	94-12-082	332-18-050	AMD-P	94-09-062
308-128D-030	AMD	94-04-050	315-11A-119	NEW-P	94-03-099	332-18-05001	NEW-P	94-09-062
308-128D-040	AMD	94-04-050	315-11A-119	NEW	94-07-029	332-18-05002	NEW-P	94-09-062
308-128D-070	AMD	94-04-050	315-11A-119	AMD-P	94-12-082	332-18-05003	NEW-P	94-09-062
308-128E-011	AMD	94-04-050	315-11A-120	NEW-P	94-03-099	332-18-05004	NEW-P	94-09-062
308-128F-020	AMD	94-04-050	315-11A-120	NEW	94-07-029	332-18-05005	NEW-P	94-09-062
308-330-418	NEW-W	94-09-002	315-11A-120	AMD-P	94-12-082	332-18-05006	NEW-P	94-09-062
314-10-070	NEW-W	94-08-010	315-11A-121	NEW-P	94-03-099	332-18-05007	NEW-P	94-09-062
314-10-070	NEW-W	94-08-023	315-11A-121	NEW	94-07-029	332-18-05008	NEW-P	94-09-062
314-12-142	NEW-W	94-06-021	315-11A-122	NEW-P	94-07-116	332-18-05009	NEW-P	94-09-062
314-12-185	NEW-P	94-05-094	315-11A-122	NEW	94-11-027	332-18-060	REP-P	94-09-062
314-12-185	NEW-W	94-08-029	315-11A-123	NEW-P	94-07-116	332-18-070	REP-P	94-09-062
314-12-190	NEW-P	94-10-066	315-11A-123	NEW	94-11-027	332-18-080	REP-P	94-09-062

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
332-18-090	REP-P	94-09-062	352-76-010	NEW-P	94-10-070	356-56-230	AMD	94-09-012
332-18-100	REP-P	94-09-062	352-76-010	NEW	94-13-082	356-56-240	NEW-P	94-11-071
332-18-110	REP-P	94-09-062	352-76-020	NEW-P	94-10-070	356-56-250	NEW-P	94-11-071
332-18-120	AMD-P	94-09-062	352-76-020	NEW	94-13-082	356-56-275	NEW-P	94-11-071
332-18-130	AMD-P	94-09-062	352-76-030	NEW-P	94-10-070	356-56-300	NEW-P	94-11-071
332-18-140	NEW-P	94-09-062	352-76-030	NEW	94-13-082	356-56-550	AMD-P	94-09-065
332-18-150	NEW-P	94-09-062	352-76-040	NEW-P	94-10-070	356-56-550	AMD	94-12-055
332-24-221	AMD-P	94-08-093	352-76-040	NEW	94-13-082	359-09-010	AMD	94-06-063
332-26-040	NEW-E	94-13-095	352-76-050	NEW-P	94-10-070	359-09-012	AMD	94-06-063
332-26-050	NEW-E	94-13-095	352-76-050	NEW	94-13-082	359-09-015	AMD	94-06-063
332-26-060	NEW-E	94-13-095	352-76-060	NEW-P	94-10-070	359-09-020	AMD	94-06-063
332-26-080	NEW-E	94-09-020	352-76-060	NEW	94-13-082	359-09-030	AMD	94-06-063
332-30-166	AMD-E	94-13-056	352-76-076	NEW-P	94-10-070	359-09-040	AMD	94-06-063
332-120-010	AMD	94-06-034	352-76-070	NEW	94-13-082	359-09-050	AMD	94-06-063
332-120-020	AMD	94-06-034	352-76-080	NEW-P	94-10-070	359-09-070	NEW-W	94-13-090
332-120-030	AMD	94-06-034	352-76-080	NEW	94-13-082	359-39	NEW-C	94-10-009
332-120-040	AMD	94-06-034	356-05-477	NEW	94-04-011	359-39-010	NEW-P	94-06-065
332-120-050	AMD	94-06-034	356-05-479	NEW	94-04-011	359-39-010	NEW	94-13-091
332-120-060	NEW	94-06-034	356-06-045	NEW	94-04-011	359-39-020	NEW-P	94-06-065
332-120-070	NEW	94-06-034	356-09	NEW-C	94-04-086	359-39-020	NEW	94-13-091
352-28	AMD-P	94-06-049	356-09-010	REP-W	94-04-010	359-39-030	NEW-P	94-06-065
352-28	AMD	94-10-012	356-09-020	REP-W	94-04-010	359-39-030	NEW	94-13-091
352-28-005	AMD-P	94-06-049	356-09-030	REP-W	94-04-010	359-39-040	NEW-P	94-06-065
352-28-005	AMD	94-10-012	356-09-040	REP-W	94-04-010	359-39-040	NEW	94-13-091
352-28-010	AMD-P	94-06-049	356-09-050	REP-W	94-04-010	359-39-050	NEW-P	94-06-065
352-28-010	AMD	94-10-012	356-10-020	AMD-P	94-12-060	359-39-050	NEW	94-13-091
352-32-010	AMD-P	94-03-097	356-10-040	AMD-P	94-12-060	359-39-090	NEW-P	94-06-065
352-32-010	AMD-C	94-06-010	356-10-045	AMD-P	94-12-060	359-39-090	NEW	94-13-091
352-32-010	AMD	94-08-036	356-10-050	AMD-P	94-12-060	359-39-140	NEW-P	94-06-065
352-32-045	AMD-P	94-03-097	356-26-030	AMD-E	94-04-085	359-39-140	NEW	94-13-091
352-32-045	AMD-C	94-06-010	356-26-030	AMD-P	94-06-066	365-140-030	AMD-P	94-13-022
352-32-045	AMD	94-08-036	356-26-030	AMD	94-10-008	365-140-030	AMD-E	94-13-072
352-32-195	AMD-P	94-12-064	356-26-070	AMD-E	94-04-085	365-140-045	NEW-P	94-13-022
352-32-210	AMD-P	94-10-069	356-26-070	AMD-P	94-06-066	365-140-045	NEW-E	94-13-072
352-32-210	AMD	94-13-081	356-26-070	AMD	94-10-008	365-140-050	AMD-P	94-13-022
352-32-250	AMD-P	94-03-097	356-30-285	NEW	94-04-011	365-140-050	AMD-E	94-13-072
352-32-250	AMD-C	94-06-010	356-30-315	NEW	94-04-011	371-08-010	AMD-E	94-07-061
352-32-250	AMD	94-08-036	356-30-328	NEW-W	94-04-009	371-08-010	AMD-P	94-07-098
352-32-250	AMD-E	94-09-009	356-30-331	REP-P	94-12-056	371-08-010	AMD	94-12-027
352-32-250	AMD-P	94-10-048	356-37-080	AMD-P	94-04-084	371-08-061	NEW-E	94-07-061
352-32-250	AMD	94-13-080	356-37-080	AMD	94-08-024	371-08-061	NEW-P	94-07-098
352-32-25001	AMD	94-04-075	356-37-090	AMD-P	94-04-084	371-08-061	NEW	94-12-027
352-32-252	AMD-P	94-03-097	356-37-090	AMD	94-08-024	371-08-147	AMD-E	94-07-061
352-32-252	AMD-C	94-06-010	356-56-015	AMD-E	94-03-069	371-08-147	AMD-P	94-07-098
352-32-252	AMD	94-08-036	356-56-015	AMD-P	94-06-064	371-08-147	AMD	94-12-027
352-32-255	AMD-P	94-03-097	356-56-015	AMD	94-09-012	371-08-162	AMD-E	94-07-061
352-32-255	AMD-C	94-06-010	356-56-015	AMD-P	94-09-065	371-08-162	AMD-P	94-07-098
352-32-255	AMD	94-08-036	356-56-015	AMD	94-12-055	371-08-162	AMD	94-12-027
352-32-320	NEW-P	94-03-097	356-56-021	AMD-P	94-09-065	371-08-165	AMD-E	94-07-061
352-32-320	NEW-C	94-06-010	356-56-021	AMD	94-12-055	371-08-165	AMD-P	94-07-098
352-32-320	NEW	94-08-036	356-56-030	AMD-P	94-06-064	371-08-165	AMD	94-12-027
352-60	AMD-P	94-12-065	356-56-030	AMD	94-09-012	371-08-167	NEW-E	94-07-061
352-60-010	AMD-P	94-12-065	356-56-035	AMD-P	94-09-065	371-08-167	NEW-P	94-07-098
352-60-020	AMD-P	94-12-065	356-56-035	AMD	94-12-055	371-08-167	NEW	94-12-027
352-60-030	AMD-P	94-12-065	356-56-050	AMD-P	94-09-065	371-08-197	NEW-E	94-07-061
352-60-040	AMD-P	94-12-065	356-56-050	AMD	94-12-055	371-08-197	NEW-P	94-07-098
352-60-050	AMD-P	94-12-065	356-56-105	AMD-P	94-09-065	371-08-197	NEW	94-12-027
352-60-060	AMD-P	94-12-065	356-56-105	AMD	94-12-055	388-11-065	AMD-P	94-07-081
352-60-065	NEW-P	94-12-065	356-56-110	NEW-W	94-11-071	388-11-065	AMD	94-10-033
352-60-066	NEW-P	94-12-065	356-56-115	AMD-P	94-06-064	388-11-067	NEW-P	94-07-081
352-60-070	AMD-P	94-12-065	356-56-115	AMD	94-09-012	388-11-067	NEW	94-10-033
352-60-080	AMD-P	94-12-065	356-56-115	AMD-P	94-09-065	388-11-205	AMD-P	94-07-041
352-60-090	AMD-P	94-12-065	356-56-115	AMD	94-12-055	388-11-205	AMD-E	94-07-042
352-60-120	NEW-P	94-12-065	356-56-120	AMD-P	94-09-065	388-11-205	AMD	94-10-064
352-60-130	NEW-P	94-12-065	356-56-120	AMD	94-12-055	388-14-205	AMD-P	94-11-112
352-65-010	AMD	94-04-076	356-56-205	AMD-P	94-09-065	388-14-300	AMD-P	94-11-112
352-65-020	AMD	94-04-076	356-56-205	AMD	94-12-055	388-14-310	AMD-P	94-11-112
352-65-030	AMD	94-04-076	356-56-210	AMD-P	94-09-065	388-14-385	AMD-P	94-11-110
352-65-040	AMD	94-04-076	356-56-210	AMD	94-12-055	388-14-390	AMD-P	94-11-112
352-65-060	AMD	94-04-076	356-56-220	AMD-P	94-09-065	388-15-214	AMD-P	94-07-082
352-74-040	AMD-P	94-03-089	356-56-220	AMD	94-12-055	388-15-214	AMD	94-10-025
352-74-040	AMD-C	94-06-020	356-56-230	AMD-E	94-03-069	388-20-010	REP-P	94-07-114
352-74-040	AMD	94-08-005	356-56-230	AMD-P	94-06-064	388-20-010	REP	94-10-065

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-22-030	AMD-P	94-04-042	388-24-254	REP-P	94-03-051	388-28-439	AMD-P	94-03-055
388-22-030	AMD	94-08-022	388-24-254	REP	94-06-026	388-28-439	AMD	94-06-024
388-24	AMD-P	94-12-008	388-24-255	REP-P	94-03-051	388-28-439	REP-P	94-07-114
388-24	AMD-E	94-12-009	388-24-255	REP	94-06-026	388-28-439	REP	94-10-065
388-24-040	REP-P	94-07-114	388-24-260	REP-P	94-03-051	388-28-440	REP-P	94-07-114
388-24-040	REP	94-10-065	388-24-260	REP	94-06-026	388-28-440	REP	94-10-065
388-24-042	REP-P	94-07-114	388-24-265	REP-P	94-03-051	388-28-450	REP-P	94-07-114
388-24-042	REP	94-10-065	388-24-265	REP	94-06-026	388-28-450	REP	94-10-065
388-24-044	AMD-P	94-05-017	388-24-265	REP-P	94-07-114	388-28-457	REP	94-04-043
388-24-044	REP-P	94-07-114	388-24-550	REP	94-10-065	388-28-458	REP	94-04-043
388-24-044	AMD	94-08-017	388-26-025	REP-P	94-07-114	388-28-459	REP	94-04-043
388-24-044	REP	94-10-065	338-26-025	REP	94-10-065	388-28-460	REP	94-04-043
388-24-050	REP-P	94-07-114	388-26-040	REP-P	94-07-114	388-28-461	REP	94-04-043
388-24-050	REP	94-10-065	338-26-040	REP	94-10-065	388-28-462	REP	94-04-043
388-24-052	REP-P	94-07-114	388-26-050	REP-P	94-07-114	388-28-463	REP	94-04-043
388-24-052	REP	94-10-065	338-26-050	REP	94-10-065	388-28-464	REP	94-04-043
388-24-055	REP-P	94-07-114	388-26-055	REP-P	94-07-114	388-28-465	REP	94-04-043
388-24-055	REP	94-10-065	338-26-055	REP	94-10-065	388-28-470	REP	94-04-043
388-24-060	REP-P	94-07-114	388-26-060	REP-P	94-07-114	388-28-471	REP	94-04-043
388-24-060	REP	94-10-065	338-26-060	REP	94-10-065	388-28-472	REP	94-04-043
388-24-065	REP-P	94-07-114	388-26-065	REP-P	94-07-114	388-28-473	REP	94-04-043
388-24-065	REP	94-10-065	338-26-065	REP	94-10-065	388-28-474	AMD-P	94-05-018
388-24-070	REP-P	94-07-114	388-26-070	REP-P	94-07-114	388-28-474	REP-P	94-07-114
388-24-070	REP	94-10-065	338-26-070	REP	94-10-065	388-28-474	AMD	94-08-018
388-24-074	REP-P	94-07-114	388-26-080	REP-P	94-07-114	388-28-474	REP	94-10-065
388-24-074	REP	94-10-065	338-26-080	REP	94-10-065	388-28-475	REP-P	94-07-114
388-24-090	REP-P	94-07-114	388-26-105	REP-P	94-07-114	388-28-475	REP	94-10-065
388-24-090	REP	94-10-065	338-26-105	REP	94-10-065	388-28-480	REP-P	94-07-114
388-24-108	REP-P	94-07-114	388-26-120	REP-P	94-07-114	388-28-480	REP	94-10-065
388-24-108	REP	94-10-065	338-26-120	REP	94-10-065	388-28-481	REP-P	94-07-114
388-24-109	REP-P	94-07-114	388-26-145	REP-P	94-07-114	388-28-481	REP	94-10-065
388-24-109	REP	94-10-065	338-26-145	REP	94-10-065	388-28-482	REP-P	94-07-114
388-24-111	AMD	94-04-034	388-26-149	REP-P	94-07-114	388-28-482	REP	94-10-065
388-24-111	REP-P	94-07-114	338-26-149	REP	94-10-065	388-28-483	REP-P	94-07-114
388-24-111	REP	94-10-065	388-28-005	REP-P	94-07-114	388-28-483	REP	94-10-065
388-24-125	REP-P	94-07-114	388-28-005	REP	94-10-065	388-28-484	AMD-P	94-05-029
388-24-125	REP	94-10-065	388-28-300	REP-P	94-07-114	388-28-484	REP-P	94-07-114
388-24-200	REP-P	94-07-114	388-28-300	REP	94-10-065	388-28-484	AMD	94-08-020
388-24-200	REP	94-10-065	388-28-350	REP-P	94-07-114	388-28-484	REP	94-10-065
388-24-207	REP-P	94-07-114	388-28-350	REP	94-10-065	388-28-485	REP-P	94-07-114
388-24-207	REP	94-10-065	388-28-355	REP-P	94-07-114	388-28-485	REP	94-10-065
388-24-2070	NEW-P	94-13-008	388-28-355	REP	94-10-065	388-28-500	REP-P	94-07-114
388-24-2070	NEW-E	94-12-009	388-28-360	REP-P	94-07-114	388-28-500	REP	94-10-065
388-24-210	REP-P	94-07-114	388-28-360	REP	94-10-065	388-28-515	REP-P	94-07-114
388-24-210	REP	94-10-065	388-28-365	REP-P	94-07-114	388-28-515	REP	94-10-065
388-24-2100	NEW-P	94-13-008	388-28-365	REP	94-10-065	388-28-520	REP-P	94-07-114
388-24-2100	NEW-E	94-12-009	388-28-370	REP	94-04-043	388-28-520	REP	94-10-065
388-24-215	REP-P	94-07-114	388-28-370	REP-P	94-07-114	388-28-530	AMD-P	94-05-016
388-24-215	REP	94-10-065	388-28-370	REP	94-10-065	388-28-530	REP-P	94-07-114
388-24-2150	NEW-P	94-13-008	388-28-380	REP-P	94-07-114	388-28-530	AMD	94-08-016
388-24-2150	NEW-E	94-12-009	388-28-380	REP	94-10-065	388-28-530	REP	94-10-065
388-24-220	REP-P	94-07-114	388-28-385	REP-P	94-07-114	388-28-532	REP-P	94-07-114
388-24-220	REP	94-10-065	388-28-385	REP	94-10-065	388-28-532	REP	94-10-065
388-24-2200	NEW-P	94-13-008	388-28-390	AMD-P	94-05-069	388-28-535	REP-P	94-07-114
388-24-2200	NEW-E	94-12-009	388-28-390	REP-P	94-07-114	388-28-535	REP	94-10-065
388-24-225	REP-P	94-07-114	388-28-390	AMD	94-08-015	388-28-555	REP-P	94-07-114
388-24-225	REP	94-10-065	388-28-390	REP	94-10-065	388-28-555	REP	94-10-065
388-24-2250	NEW-P	94-13-008	388-28-392	REP-P	94-07-114	388-28-560	AMD-P	94-05-019
388-24-2250	NEW-E	94-12-009	388-28-392	REP	94-10-065	388-28-560	REP-P	94-07-114
388-24-235	REP-P	94-07-114	388-28-400	REP-P	94-07-114	388-28-560	AMD	94-08-019
388-24-235	REP	94-10-065	388-28-400	REP	94-10-065	388-28-560	REP	94-10-065
388-24-2350	NEW-P	94-13-008	388-28-410	REP-P	94-07-114	388-28-570	REP-P	94-07-114
388-24-2350	NEW-E	94-12-009	388-28-410	REP	94-10-065	388-28-570	REP	94-10-065
388-24-243	REP-P	94-07-114	388-28-415	REP-P	94-07-114	388-28-575	AMD-P	94-05-054
388-24-243	REP	94-10-065	388-28-415	REP	94-10-065	388-28-575	REP-P	94-07-114
388-24-2430	NEW-P	94-13-008	388-28-420	REP-P	94-07-114	388-28-575	AMD	94-08-021
388-24-2430	NEW-E	94-12-009	388-28-420	REP	94-10-065	388-28-575	REP	94-10-065
388-24-250	REP-P	94-03-051	388-28-425	REP-P	94-07-114	388-28-578	REP-P	94-07-114
388-24-250	REP	94-06-026	388-28-425	REP	94-10-065	388-28-578	REP	94-10-065
388-24-252	REP-P	94-03-051	388-28-435	REP-P	94-07-114	388-28-580	REP-P	94-07-114
388-24-252	REP	94-06-026	388-28-435	REP	94-10-065	388-28-580	REP	94-10-065
388-24-253	REP-P	94-03-051	388-28-438	REP-P	94-07-114	388-28-590	REP-P	94-07-114
388-24-253	REP	94-06-026	388-28-438	REP	94-10-065	388-28-590	REP	94-10-065

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-28-600	AMD-P	94-04-042	388-33-125	REP-P	94-07-114	388-33-459	REP	94-10-065
388-28-600	REP-P	94-07-114	388-33-125	REP	94-10-065	388-33-460	REP-P	94-07-114
388-28-600	AMD	94-08-022	388-33-135	REP-P	94-07-114	388-33-460	REP	94-10-065
388-28-600	REP	94-10-065	388-33-135	REP	94-10-065	388-33-525	REP-P	94-07-114
388-28-650	REP-P	94-07-114	388-33-140	REP-P	94-07-114	388-33-525	REP	94-10-065
388-28-650	REP	94-10-065	388-33-140	REP	94-10-065	388-33-535	REP-P	94-07-114
388-29-001	REP-P	94-06-035	388-33-165	REP-P	94-07-114	388-33-535	REP	94-10-065
388-29-001	REP	94-09-001	388-33-165	REP	94-10-065	388-33-545	REP-P	94-07-114
388-29-005	REP-P	94-06-035	388-33-170	REP-P	94-07-114	388-33-545	REP	94-10-065
388-29-005	REP	94-09-001	388-33-170	REP	94-10-065	388-33-550	REP-P	94-07-114
388-29-010	REP-P	94-06-035	388-33-190	REP-P	94-07-114	388-33-550	REP	94-10-065
388-29-010	REP	94-09-001	388-33-190	REP	94-10-065	388-33-576	REP-P	94-07-114
388-29-020	REP-P	94-06-035	388-33-195	REP-P	94-07-114	388-33-576	REP	94-10-065
388-29-020	REP	94-09-001	388-33-195	REP	94-10-065	388-33-579	REP-P	94-07-114
388-29-080	REP-P	94-06-035	388-33-230	REP-P	94-07-114	388-33-579	REP	94-10-065
388-29-080	REP	94-09-001	388-33-230	REP	94-10-065	388-33-585	REP-P	94-07-114
388-29-100	REP-P	94-06-035	388-33-235	REP-P	94-07-114	388-33-585	REP	94-10-065
388-29-100	REP	94-09-001	388-33-235	REP	94-10-065	388-33-595	REP-P	94-07-114
388-29-110	REP-P	94-06-035	388-33-240	REP-P	94-07-114	388-33-595	REP	94-10-065
388-29-110	REP	94-09-001	388-33-240	REP	94-10-065	388-33-605	REP-P	94-07-114
388-29-112	REP-P	94-06-035	388-33-335	REP-P	94-07-114	388-33-605	REP	94-10-065
388-29-112	REP	94-09-001	388-33-335	REP	94-10-065	388-38-010	REP-P	94-07-114
388-29-125	REP-P	94-06-035	388-33-355	REP-P	94-07-114	388-38-010	REP	94-10-065
388-29-125	REP	94-09-001	388-33-355	REP	94-10-065	388-38-030	REP-P	94-07-114
388-29-130	REP-P	94-06-035	388-33-365	REP-P	94-07-114	388-38-030	REP	94-10-065
388-29-130	REP	94-09-001	388-33-365	REP	94-10-065	388-38-040	REP-P	94-07-114
388-29-150	REP-P	94-06-035	388-33-375	REP-P	94-07-114	388-38-040	REP	94-10-065
388-29-150	REP	94-09-001	388-33-375	REP	94-10-065	388-38-045	REP-P	94-07-114
388-29-160	REP-P	94-06-035	388-33-376	REP-P	94-07-114	388-38-045	REP	94-10-065
388-29-160	REP	94-09-001	388-33-376	REP	94-10-065	388-38-050	REP-P	94-07-114
388-29-180	REP-P	94-06-035	388-33-377	REP-P	94-07-114	388-38-050	REP	94-10-065
388-29-180	REP	94-09-001	388-33-377	REP	94-10-065	388-38-08501	REP-P	94-07-114
388-29-200	REP-P	94-06-035	388-33-382	REP-P	94-07-114	388-38-08501	REP	94-10-065
388-29-200	REP	94-09-001	388-33-382	REP	94-10-065	388-38-110	REP-P	94-07-114
388-29-210	REP-P	94-06-035	388-33-385	REP-P	94-07-114	388-38-110	REP	94-10-065
388-29-210	REP	94-09-001	388-33-385	REP	94-10-065	388-38-120	REP-P	94-07-114
388-29-220	REP-P	94-06-035	388-33-387	REP-P	94-07-114	388-38-120	REP	94-10-065
388-29-220	REP	94-09-001	388-33-387	REP	94-10-065	388-38-150	REP-P	94-07-114
388-29-230	REP-P	94-06-035	388-33-389	REP-P	94-07-114	388-38-150	REP	94-10-065
388-29-230	REP	94-09-001	388-33-389	REP	94-10-065	388-38-172	REP-P	94-07-114
388-29-270	REP-P	94-06-035	388-33-400	REP-P	94-07-114	388-38-172	REP	94-10-065
388-29-270	REP	94-09-001	388-33-400	REP	94-10-065	388-38-200	REP-P	94-07-114
388-29-280	REP-P	94-06-035	388-33-420	REP-P	94-07-114	388-38-200	REP	94-10-065
388-29-280	REP	94-09-001	388-33-420	REP	94-10-065	388-38-220	REP-P	94-07-114
388-29-295	AMD	94-04-035	388-33-425	REP-P	94-07-114	388-38-220	REP	94-10-065
388-29-295	REP-P	94-06-035	388-33-425	REP	94-10-065	388-38-225	REP-P	94-07-114
388-29-295	REP	94-09-001	388-33-430	REP-P	94-07-114	388-38-225	REP	94-10-065
388-33-015	REP-P	94-07-114	388-33-430	REP	94-10-065	388-38-230	REP-P	94-07-114
388-33-015	REP	94-10-065	388-33-440	REP-P	94-07-114	388-38-230	REP	94-10-065
388-33-020	REP-P	94-07-114	388-33-440	REP	94-10-065	388-38-250	REP-P	94-07-114
388-33-020	REP	94-10-065	388-33-442	REP-P	94-07-114	388-38-250	REP	94-10-065
388-33-025	REP-P	94-07-114	388-33-442	REP	94-10-065	388-38-255	REP-P	94-07-114
388-33-025	REP	94-10-065	388-33-444	REP-P	94-07-114	388-38-255	REP	94-10-065
388-33-045	REP-P	94-07-114	388-33-444	REP	94-10-065	388-38-260	REP-P	94-07-114
388-33-045	REP	94-10-065	388-33-446	REP-P	94-07-114	388-38-260	REP	94-10-065
388-33-050	REP-P	94-07-114	388-33-446	REP	94-10-065	388-38-265	REP-P	94-07-114
388-33-050	REP	94-10-065	388-33-447	REP-P	94-07-114	388-38-265	REP	94-10-065
388-33-051	REP-P	94-07-114	388-33-447	REP	94-10-065	388-38-270	REP-P	94-07-114
388-33-051	REP	94-10-065	388-33-448	REP-P	94-07-114	388-38-270	REP	94-10-065
388-33-055	REP-P	94-07-114	388-33-448	REP	94-10-065	388-38-280	REP-P	94-07-114
388-33-055	REP	94-10-065	388-33-449	REP-P	94-07-114	388-38-280	REP	94-10-065
388-33-080	REP-P	94-07-114	388-33-449	REP	94-10-065	388-38-285	REP-P	94-07-114
388-33-080	REP	94-10-065	388-33-450	REP-P	94-07-114	388-38-285	REP	94-10-065
388-33-085	REP-P	94-07-114	388-33-450	REP	94-10-065	388-38-290	REP-P	94-07-114
388-33-085	REP	94-10-065	388-33-453	REP-P	94-07-114	388-38-290	REP	94-10-065
388-33-090	REP-P	94-07-114	388-33-453	REP	94-10-065	388-38-295	REP-P	94-07-114
388-33-090	REP	94-10-065	388-33-455	REP-P	94-07-114	388-38-295	REP	94-10-065
388-33-095	REP-P	94-07-114	388-33-455	REP	94-10-065	388-43-120	NEW-E	94-04-032
388-33-095	REP	94-10-065	388-33-457	REP-P	94-07-114	388-43-120	NEW	94-04-037
388-33-115	REP-P	94-07-114	388-33-457	REP	94-10-065	388-44-010	REP	94-05-045
388-33-115	REP	94-10-065	388-33-458	REP-P	94-07-114	388-44-020	REP	94-05-045
388-33-120	REP-P	94-07-114	388-33-458	REP	94-10-065	388-44-035	REP	94-05-045
388-33-120	REP	94-10-065	388-33-459	REP-P	94-07-114	388-44-046	REP	94-05-045

TABLE



Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-86-090	AMD-P	94-04-022	388-95-320	REP	94-10-065	388-96-745	AMD-P	94-07-109
388-86-090	AMD-E	94-04-023	388-95-335	REP-P	94-07-114	388-96-745	AMD	94-12-043
388-86-090	AMD	94-07-030	388-95-335	REP	94-10-065	388-96-753	NEW-P	94-07-109
388-86-098	AMD-P	94-04-022	388-95-337	AMD-P	94-05-025	388-96-753	NEW	94-12-043
388-86-098	AMD-E	94-04-023	388-95-337	REP-P	94-07-114	388-96-754	AMD-P	94-07-109
388-86-098	AMD	94-07-030	388-95-337	AMD	94-07-130	388-96-754	AMD	94-12-043
388-87-300	REP-E	94-08-045	388-95-337	REP	94-10-065	388-96-763	AMD-P	94-07-109
388-87-300	REP-P	94-08-046	388-95-340	REP-P	94-07-114	388-96-763	AMD	94-12-043
388-87-300	REP	94-11-057	388-95-340	AMD-E	94-08-041	388-96-774	AMD-P	94-07-109
388-92-005	REP-P	94-07-114	388-95-340	AMD-P	94-08-042	388-96-774	AMD	94-12-043
388-92-005	REP	94-10-065	388-95-340	REP	94-10-065	388-96-776	NEW-P	94-07-109
388-92-015	REP-P	94-07-114	388-95-340	AMD-W	94-11-060	388-96-776	NEW	94-12-043
388-92-015	REP	94-10-065	388-95-340	RESCIND	94-11-062	388-96-777	NEW-P	94-07-109
388-92-025	REP-P	94-07-114	388-95-360	REP-P	94-07-114	388-96-777	NEW	94-12-043
388-92-025	REP	94-10-065	388-95-360	AMD-E	94-08-043	388-96-904	AMD-P	94-07-109
388-92-027	REP-P	94-07-114	388-95-360	AMD-P	94-08-044	388-96-904	AMD	94-12-043
388-92-027	REP	94-10-065	388-95-360	REP	94-10-065	388-97-005	NEW-P	94-13-052
388-92-030	REP-P	94-07-114	388-95-360	AMD-W	94-11-059	388-97-010	NEW-P	94-13-052
388-92-030	REP	94-10-065	388-95-360	RESCIND	94-11-063	388-97-015	NEW-P	94-13-052
388-92-034	REP-P	94-07-114	388-95-380	REP-P	94-07-114	388-97-020	NEW-P	94-13-052
388-92-034	REP	94-10-065	388-95-380	REP	94-10-065	388-97-025	NEW-P	94-13-052
388-92-036	REP-P	94-07-114	388-95-390	REP-P	94-07-114	388-97-030	NEW-P	94-13-052
388-92-036	AMD-E	94-08-041	388-95-390	REP	94-10-065	388-97-035	NEW-P	94-13-052
388-92-036	AMD-P	94-08-042	388-95-395	REP-P	94-07-114	388-97-040	NEW-P	94-13-052
388-92-036	REP	94-10-065	388-95-395	REP	94-10-065	388-97-045	NEW-P	94-13-052
388-92-036	AMD-W	94-11-060	388-95-400	REP-P	94-11-064	388-97-050	NEW-P	94-13-052
388-92-036	RESCIND	94-11-062	388-95-400	REP	94-10-065	388-97-055	NEW-P	94-13-052
388-92-040	REP-P	94-07-114	388-96-010	AMD-P	94-07-109	388-97-060	NEW-P	94-13-052
388-92-040	REP	94-10-065	388-96-010	AMD	94-12-043	388-97-065	NEW-P	94-13-052
388-92-041	AMD-E	94-05-027	388-96-113	AMD-P	94-07-109	388-97-070	NEW-P	94-13-052
388-92-041	AMD-P	94-05-028	388-96-113	AMD	94-12-043	388-97-075	NEW-P	94-13-052
388-92-041	REP-P	94-07-114	388-96-134	AMD-P	94-07-109	388-97-080	NEW-P	94-13-052
388-92-041	AMD	94-07-131	388-96-134	AMD	94-12-043	388-97-085	NEW-P	94-13-052
388-92-041	REP	94-10-065	388-96-217	AMD-P	94-07-109	388-97-090	NEW-P	94-13-052
388-92-045	REP-P	94-07-114	388-96-217	AMD	94-12-043	388-97-095	NEW-P	94-13-052
388-92-045	REP	94-10-065	388-96-221	AMD-P	94-07-109	388-97-100	NEW-P	94-13-052
388-92-050	REP-P	94-07-114	388-96-221	AMD	94-12-043	388-97-105	NEW-P	94-13-052
388-92-050	REP	94-10-065	388-96-226	AMD-P	94-07-109	388-97-110	NEW-P	94-13-052
388-93-005	REP-P	94-07-114	388-96-226	AMD	94-12-043	388-97-115	NEW-P	94-13-052
388-93-005	REP	94-10-065	388-96-228	AMD-P	94-07-109	388-97-120	NEW-P	94-13-052
388-93-010	REP-P	94-07-114	388-96-228	AMD	94-12-043	388-97-125	NEW-P	94-13-052
388-93-010	REP	94-10-065	388-96-525	AMD-P	94-07-109	388-97-130	NEW-P	94-13-052
388-93-015	REP-P	94-07-114	388-96-525	AMD	94-12-043	388-97-135	NEW-P	94-13-052
388-93-015	REP	94-10-065	388-96-533	AMD-P	94-07-109	388-97-140	NEW-P	94-13-052
388-93-020	REP-P	94-07-114	388-96-533	AMD	94-12-043	388-97-145	NEW-P	94-13-052
388-93-020	REP	94-10-065	388-96-534	AMD-P	94-07-109	388-97-150	NEW-P	94-13-052
388-93-025	REP-P	94-07-114	388-96-534	AMD	94-12-043	388-97-155	NEW-P	94-13-052
388-93-025	REP	94-10-065	388-96-559	AMD-P	94-07-109	388-97-160	NEW-P	94-13-052
388-93-030	REP-P	94-07-114	388-96-559	AMD	94-12-043	388-97-165	NEW-P	94-13-052
388-93-030	REP	94-10-065	388-96-565	AMD-P	94-07-109	388-97-170	NEW-P	94-13-052
388-93-035	REP-P	94-07-114	388-96-565	AMD	94-12-043	388-97-175	NEW-P	94-13-052
388-93-035	REP	94-10-065	388-96-585	AMD-P	94-07-109	388-97-180	NEW-P	94-13-052
388-93-040	REP-P	94-07-114	388-96-585	AMD	94-12-043	388-97-185	NEW-P	94-13-052
388-93-040	REP	94-10-065	388-96-704	AMD-P	94-07-109	388-97-190	NEW-P	94-13-052
388-93-045	REP-P	94-07-114	388-96-704	AMD	94-12-043	388-97-195	NEW-P	94-13-052
388-93-045	REP	94-10-065	388-96-707	REP-P	94-07-109	388-97-205	NEW-P	94-13-052
388-93-050	REP-P	94-07-114	388-96-707	REP	94-12-043	388-97-210	NEW-P	94-13-052
388-93-050	REP	94-10-065	388-96-709	AMD-P	94-07-109	388-97-220	NEW-P	94-13-052
388-93-055	REP-P	94-07-114	388-96-709	AMD	94-12-043	388-97-225	NEW-P	94-13-052
388-93-055	REP	94-10-065	388-96-710	AMD-P	94-07-109	388-97-230	NEW-P	94-13-052
388-93-060	REP-P	94-07-114	388-96-710	AMD	94-12-043	388-97-235	NEW-P	94-13-052
388-93-060	REP	94-10-065	388-96-719	AMD-P	94-07-109	388-97-240	NEW-P	94-13-052
388-93-065	REP-P	94-07-114	388-96-719	AMD	94-12-043	388-97-245	NEW-P	94-13-052
388-93-065	REP	94-10-065	388-96-721	REP-P	94-07-109	388-97-250	NEW-P	94-13-052
388-93-075	REP-P	94-07-114	388-96-721	REP	94-12-043	388-97-255	NEW-P	94-13-052
388-93-075	REP	94-10-065	388-96-722	AMD-P	94-07-109	388-97-260	NEW-P	94-13-052
388-93-080	REP-P	94-07-114	388-96-722	AMD	94-12-043	388-97-265	NEW-P	94-13-052
388-93-080	REP	94-10-065	388-96-727	AMD-P	94-07-109	388-97-270	NEW-P	94-13-052
388-95-300	REP-P	94-07-114	388-96-727	AMD	94-12-043	388-97-275	NEW-P	94-13-052
388-95-300	REP	94-10-065	388-96-735	AMD-P	94-07-109	388-97-280	NEW-P	94-13-052
388-95-310	REP-P	94-07-114	388-96-735	AMD	94-12-043	388-97-285	NEW-P	94-13-052
388-95-310	REP	94-10-065	388-96-737	AMD-P	94-07-109	388-97-290	NEW-P	94-13-052
388-95-320	REP-P	94-07-114	388-96-737	AMD	94-12-043	388-97-295	NEW-P	94-13-052

TABLE





Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-219-1000	NEW	94-10-065	388-245-1170	NEW-P	94-07-114	388-250-1550	NEW	94-09-001
388-219-1100	NEW-P	94-07-114	388-245-1170	NEW	94-10-065	388-250-1600	NEW-P	94-06-035
388-219-1100	NEW	94-10-065	388-245-1210	NEW-P	94-07-114	388-250-1600	NEW	94-09-001
388-219-1500	NEW-P	94-07-114	388-245-1210	NEW	94-10-065	388-250-1650	NEW-P	94-06-035
388-219-1500	NEW	94-10-065	388-245-1300	NEW-P	94-07-114	388-250-1650	NEW	94-09-001
388-219-1600	NEW-P	94-07-114	388-245-1300	NEW	94-10-065	388-250-1700	NEW-P	94-06-035
388-219-1600	NEW	94-10-065	388-245-1310	NEW-P	94-07-114	388-250-1700	NEW	94-09-001
388-219-1700	NEW-P	94-07-114	388-245-1310	NEW	94-10-065	388-250-1700	AMD-P	94-12-004
388-219-1700	NEW	94-10-065	388-245-1315	NEW-P	94-07-114	388-250-1750	NEW-P	94-06-035
388-219-2000	NEW-P	94-07-114	388-245-1315	NEW	94-10-065	388-250-1750	NEW	94-09-001
388-219-2000	NEW	94-10-065	388-245-1320	NEW-P	94-07-114	388-255-1020	NEW-P	94-06-035
388-219-2000	AMD-P	94-10-086	388-245-1320	NEW	94-10-065	388-255-1020	NEW	94-09-001
388-219-2000	AMD	94-13-050	388-245-1350	NEW-P	94-07-114	388-255-1050	NEW-P	94-06-035
388-219-2500	NEW-P	94-07-114	388-245-1350	NEW	94-10-065	388-255-1050	NEW	94-09-001
388-219-2500	NEW	94-10-065	388-245-1400	NEW-P	94-07-114	388-255-1100	NEW-P	94-06-035
388-219-2600	NEW-P	94-07-114	388-245-1400	NEW	94-10-065	388-255-1100	NEW	94-09-001
388-219-2600	NEW	94-10-065	388-245-1410	NEW-P	94-07-114	388-255-1150	NEW-P	94-06-035
388-219-3000	NEW-P	94-07-114	388-245-1410	NEW	94-10-065	388-255-1150	NEW	94-09-001
388-219-3000	NEW	94-10-065	388-245-1500	NEW-P	94-07-114	388-255-1200	NEW-P	94-06-035
388-219-3500	NEW-P	94-07-114	388-245-1500	NEW	94-10-065	388-255-1200	NEW	94-09-001
388-219-3500	NEW	94-10-065	388-245-1510	NEW-P	94-07-114	388-255-1250	NEW-P	94-06-035
388-225-0010	NEW-P	94-03-051	388-245-1510	NEW	94-10-065	388-255-1250	NEW	94-09-001
388-225-0010	NEW	94-06-026	388-245-1520	NEW-P	94-07-114	388-255-1300	NEW-P	94-06-035
388-225-0020	NEW-P	94-03-051	388-245-1520	NEW	94-10-065	388-255-1300	NEW	94-09-001
388-225-0020	NEW	94-06-026	388-245-1600	NEW-P	94-07-114	388-255-1350	NEW-P	94-06-035
388-225-0050	NEW-P	94-03-051	388-245-1600	NEW	94-10-065	388-255-1350	NEW	94-09-001
388-225-0050	NEW	94-06-026	388-245-1610	NEW-P	94-07-114	388-255-1400	NEW-P	94-06-035
388-225-0060	NEW-P	94-03-051	388-245-1610	NEW	94-10-065	388-255-1400	NEW	94-09-001
388-225-0060	NEW	94-06-026	388-245-1700	NEW-P	94-07-114	388-265-1010	NEW-P	94-07-114
388-225-0070	NEW-P	94-03-051	388-245-1700	NEW	94-10-065	388-265-1010	NEW	94-10-065
388-225-0070	NEW	94-06-026	388-245-1710	NEW-P	94-07-114	388-265-1050	NEW-P	94-07-114
388-225-0080	NEW-P	94-03-051	388-245-1710	NEW	94-10-065	388-265-1050	NEW	94-10-065
388-225-0080	NEW	94-06-026	388-245-1715	NEW-P	94-07-114	388-265-1100	NEW-P	94-07-114
388-225-0090	NEW-P	94-03-051	388-245-1715	NEW	94-10-065	388-265-1110	NEW	94-10-065
388-225-0090	NEW	94-06-026	388-245-1720	NEW-P	94-07-114	388-265-1150	NEW-P	94-07-114
388-225-0100	NEW-P	94-03-051	388-245-1720	NEW	94-10-065	388-265-1150	NEW	94-10-065
388-225-0100	NEW	94-06-026	388-245-1730	NEW-P	94-07-114	388-265-1200	NEW-P	94-07-114
388-225-0120	NEW-P	94-03-051	388-245-1730	NEW	94-10-065	388-265-1200	NEW	94-10-065
388-225-0120	NEW	94-06-026	388-245-1740	NEW-P	94-07-114	388-265-1250	NEW-P	94-07-114
388-225-0150	NEW-P	94-03-051	388-245-1740	NEW	94-10-065	388-265-1250	NEW	94-10-065
388-225-0150	NEW	94-06-026	388-245-2010	NEW-P	94-07-114	388-265-1300	NEW-P	94-07-114
388-225-0160	NEW-P	94-03-051	388-245-2010	NEW	94-10-065	388-265-1300	NEW	94-10-065
388-225-0160	NEW	94-06-026	388-245-2020	NEW-P	94-07-114	388-265-1350	NEW-P	94-07-114
388-225-0170	NEW-P	94-03-051	388-245-2020	NEW	94-10-065	388-265-1350	NEW	94-10-065
388-225-0170	NEW	94-06-026	388-245-2030	NEW-P	94-07-114	388-265-1400	NEW-P	94-07-114
388-225-0180	NEW-P	94-03-051	388-245-2030	NEW	94-10-065	388-265-1400	NEW	94-10-065
388-225-0180	NEW	94-06-026	388-245-2040	NEW-P	94-07-114	388-265-1450	NEW-P	94-07-114
388-225-0190	NEW-P	94-03-051	388-245-2040	NEW	94-10-065	388-265-1450	NEW	94-10-065
388-225-0190	NEW	94-06-026	388-245-2050	NEW-P	94-07-114	388-265-1500	NEW-P	94-07-114
388-225-0300	NEW-P	94-03-051	388-245-2050	NEW	94-10-065	388-265-1500	NEW	94-10-065
388-225-0300	NEW	94-06-026	388-250-1010	NEW-P	94-06-035	388-265-1550	NEW-P	94-07-114
388-230-0090	AMD-P	94-13-008	388-250-1010	NEW	94-09-001	388-265-1550	NEW	94-10-065
388-230-0090	AMD-E	94-13-009	388-250-1050	NEW-P	94-06-035	388-265-1600	NEW-P	94-07-114
388-233-0060	AMD-P	94-13-008	388-250-1050	NEW	94-09-001	388-265-1600	NEW	94-10-065
388-233-0060	AMD-E	94-13-009	388-250-1100	NEW-P	94-06-035	388-265-1650	NEW-P	94-07-114
388-233-0070	AMD-P	94-13-008	388-250-1100	NEW	94-09-001	388-265-1650	NEW	94-10-065
388-233-0070	AMD-E	94-13-009	388-250-1150	NEW-P	94-06-035	388-265-1700	NEW-P	94-07-114
388-235-0070	AMD-P	94-13-008	388-250-1150	NEW	94-09-001	388-265-1700	NEW	94-10-065
388-235-0070	AMD-E	94-13-009	388-250-1200	NEW-P	94-06-035	388-265-1750	NEW-P	94-07-114
388-235-2000	AMD-P	94-13-008	388-250-1200	NEW	94-09-001	388-265-1750	NEW	94-10-065
388-235-2000	AMD-E	94-13-009	388-250-1250	NEW-P	94-06-035	388-265-1800	NEW-P	94-07-114
388-235-3000	AMD-P	94-13-008	388-250-1250	NEW	94-09-001	388-265-1800	NEW	94-10-065
388-235-3000	AMD-E	94-13-009	388-250-1300	NEW-P	94-06-035	388-265-1850	NEW-P	94-07-114
388-235-7300	AMD-P	94-11-024	388-250-1300	NEW	94-09-001	388-265-1850	NEW	94-10-065
388-235-7300	AMD	94-13-202	388-250-1350	NEW-P	94-06-035	388-265-1900	NEW-P	94-07-114
388-235-7400	NEW-P	94-11-024	388-250-1350	NEW	94-09-001	388-265-1900	NEW	94-10-065
388-235-7400	NEW	94-13-202	388-250-1400	NEW-P	94-06-035	388-265-1950	NEW-P	94-07-114
388-245-1000	NEW-P	94-07-114	388-250-1400	NEW	94-09-001	388-265-1950	NEW	94-10-065
388-245-1000	NEW	94-10-065	388-250-1450	NEW-P	94-06-035	388-265-2000	NEW-P	94-07-114
388-245-1150	NEW-P	94-07-114	388-250-1450	NEW	94-09-001	388-265-2000	NEW	94-10-065
388-245-1150	NEW	94-10-065	388-250-1500	NEW-P	94-06-035	388-270-1005	NEW	94-05-045
388-245-1160	NEW-P	94-07-114	388-250-1500	NEW	94-09-001	388-270-1010	NEW	94-05-045
388-245-1160	NEW	94-10-065	388-250-1550	NEW-P	94-06-035	388-270-1025	NEW	94-05-045



Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-513-1330	NEW	94-10-065	388-521-2170	NEW-P	94-07-114	390-16-310	AMD-P	94-07-035
388-513-1340	NEW-P	94-07-114	388-521-2170	NEW	94-10-065	390-16-310	AMD-P	94-07-088
388-513-1340	NEW	94-10-065	388-522-2205	NEW-P	94-07-114	390-16-310	AMD-W	94-07-089
388-513-1345	NEW-P	94-07-114	388-522-2205	NEW	94-10-065	390-16-310	AMD	94-11-016
388-513-1345	NEW	94-10-065	388-522-2210	NEW-P	94-07-114	390-16-311	NEW-P	94-07-142
388-513-1350	NEW-P	94-07-114	388-522-2210	NEW	94-10-065	390-16-311	NEW	94-11-017
388-513-1350	NEW	94-10-065	388-522-2230	NEW-P	94-07-114	390-16-315	AMD-P	94-05-097
388-513-1360	NEW-P	94-07-114	388-522-2230	NEW	94-10-065	390-16-324	NEW-P	94-03-087
388-513-1360	NEW	94-10-065	388-523-2305	NEW-P	94-07-114	390-16-324	NEW-W	94-04-121
388-513-1365	NEW-P	94-07-114	388-523-2305	NEW	94-10-065	390-17-071	NEW	94-05-010
388-513-1365	NEW	94-10-065	388-523-2320	NEW-P	94-07-114	390-17-300	AMD-P	94-03-087
388-513-1380	NEW-P	94-07-114	388-523-2320	NEW	94-10-065	390-17-300	AMD-W	94-04-121
388-513-1380	NEW	94-10-065	388-524-2405	NEW-P	94-07-114	390-17-300	AMD	94-07-141
388-513-1395	NEW-P	94-07-114	388-524-2405	NEW	94-10-065	390-17-300	AMD-P	94-03-087
388-513-1395	NEW	94-10-065	388-524-2420	NEW-P	94-07-114	390-17-315	AMD-P	94-03-087
388-513-1396	NEW-P	94-07-114	388-524-2420	NEW	94-10-065	390-17-315	AMD-W	94-04-121
388-513-1396	NEW	94-10-065	388-524-2420	NEW	94-10-065	390-17-315	AMD	94-07-141
388-515-1505	NEW-P	94-07-114	388-525-2505	NEW-P	94-07-114	390-17-320	NEW-P	94-07-035
388-515-1505	NEW	94-10-065	388-525-2505	NEW	94-10-065	390-17-320	NEW	94-11-016
388-515-1510	NEW-P	94-07-114	388-525-2520	NEW-P	94-07-114	390-17-405	NEW-P	94-07-142
388-515-1510	NEW	94-10-065	388-525-2520	NEW	94-10-065	390-17-405	NEW	94-11-017
388-515-1530	NEW-P	94-07-114	388-525-2570	NEW-P	94-07-114	390-20-148	NEW-P	94-07-035
388-515-1530	NEW	94-10-065	388-525-2570	NEW	94-10-065	390-20-148	NEW	94-11-016
388-517-1710	NEW-P	94-07-114	388-526-2610	NEW-P	94-07-114	390-20-052	AMD-P	94-07-035
388-517-1710	NEW	94-10-065	388-526-2610	NEW	94-10-065	390-20-052	AMD	94-11-016
388-517-1715	NEW-P	94-07-114	388-527-2710	NEW-P	94-07-114	390-24-030	REP	94-05-010
388-517-1715	NEW	94-10-065	388-527-2710	NEW	94-10-065	390-24-031	REP	94-05-010
388-517-1715	NEW	94-10-065	388-527-2710	PREP	94-13-104	390-24-160	AMD	94-05-010
388-517-1720	NEW-P	94-07-114	388-527-2720	NEW-P	94-07-114	390-37-070	AMD	94-05-010
388-517-1720	NEW	94-10-065	388-527-2720	NEW	94-10-065	390-37-105	AMD	94-05-010
388-517-1730	NEW-P	94-07-114	388-528-2810	NEW-P	94-07-114	390-37-142	AMD	94-05-010
388-517-1730	NEW	94-10-065	388-528-2810	NEW	94-10-065	392-121-187	NEW-P	94-13-107
388-517-1740	NEW-P	94-07-114	388-529-2910	NEW-P	94-07-114	392-127-700	REP	94-04-096
388-517-1740	NEW	94-10-065	388-529-2910	NEW	94-10-065	392-127-703	REP	94-04-096
388-517-1750	NEW-P	94-07-114	388-529-2920	NEW-P	94-07-114	392-127-703	REP	94-04-096
388-517-1750	NEW	94-10-065	388-529-2920	NEW	94-10-065	392-127-705	REP	94-04-096
388-517-1760	NEW-P	94-07-114	388-529-2930	NEW-P	94-07-114	392-127-715	REP	94-04-096
388-517-1760	NEW	94-10-065	388-529-2930	NEW	94-10-065	392-127-715	REP	94-04-096
388-518-1805	NEW-P	94-07-114	388-529-2940	NEW-P	94-07-114	392-127-720	REP	94-04-096
388-518-1805	NEW	94-10-065	388-529-2940	NEW	94-10-065	392-127-725	REP	94-04-096
388-518-1810	NEW-P	94-07-114	388-529-2940	NEW	94-10-065	392-127-730	REP	94-04-096
388-518-1810	NEW	94-10-065	388-529-2950	NEW-P	94-07-114	392-127-735	REP	94-04-096
388-518-1820	NEW-P	94-07-114	388-529-2950	NEW	94-10-065	392-127-740	REP	94-04-096
388-518-1820	NEW	94-10-065	388-529-2960	NEW-P	94-07-114	392-127-745	REP	94-04-096
388-518-1830	NEW-P	94-07-114	388-529-2960	NEW	94-10-065	392-127-750	REP	94-04-096
388-518-1830	NEW	94-10-065	388-538-110	AMD	94-04-038	392-127-755	REP	94-04-096
388-518-1840	NEW-P	94-07-114	390-05-235	AMD-P	94-07-088	392-127-760	REP	94-04-096
388-518-1840	NEW	94-10-065	390-05-235	AMD	94-11-014	392-127-765	REP	94-04-096
388-518-1850	NEW-P	94-07-114	390-12-010	AMD	94-05-010	392-127-770	REP	94-04-096
388-518-1850	NEW	94-10-065	390-14-040	AMD	94-05-010	392-127-775	REP	94-04-096
388-519-1905	NEW-P	94-07-114	390-16-011	AMD	94-05-011	392-127-780	REP	94-04-096
388-519-1905	NEW	94-10-065	390-16-012	AMD	94-05-011	392-127-785	REP	94-04-096
388-519-1910	NEW-P	94-07-114	390-16-031	AMD	94-05-011	392-127-790	REP	94-04-096
388-519-1910	NEW	94-10-065	390-16-032	AMD	94-05-011	392-127-795	REP	94-04-096
388-519-1930	NEW-P	94-07-114	390-16-033	AMD	94-05-011	392-127-800	REP	94-04-096
388-519-1930	NEW	94-10-065	390-16-041	AMD	94-05-011	392-127-805	REP	94-04-096
388-519-1950	NEW-P	94-07-114	390-16-050	AMD	94-05-011	392-127-815	REP	94-04-096
388-519-1950	NEW	94-10-065	390-16-071	NEW-E	94-07-001	392-127-820	REP	94-04-096
388-521-2105	NEW-P	94-07-114	390-16-071	NEW-P	94-07-035	392-127-825	REP	94-04-096
388-521-2105	NEW	94-10-065	390-16-071	NEW	94-11-016	392-127-830	REP	94-04-096
388-521-2110	NEW-P	94-07-114	390-16-207	AMD-P	94-07-035	392-140-190	REP-P	94-11-066
388-521-2110	NEW	94-10-065	390-16-207	AMD	94-11-016	392-140-191	REP-P	94-11-066
388-521-2120	NEW-P	94-07-114	390-16-238	NEW-P	94-05-097	392-140-192	REP-P	94-11-066
388-521-2120	NEW	94-10-065	390-16-238	NEW	94-07-141	392-140-193	REP-P	94-11-066
388-521-2130	NEW-P	94-07-114	390-16-245	NEW-P	94-05-097	392-140-194	REP-P	94-11-066
388-521-2130	NEW	94-10-065	390-16-245	NEW	94-07-141	392-140-195	REP-P	94-11-066
388-521-2140	NEW-P	94-07-114	390-16-300	AMD-P	94-05-097	392-140-196	REP-P	94-11-066
388-521-2140	NEW	94-10-065	390-16-308	AMD-P	94-07-035	392-140-197	REP-P	94-11-066
388-521-2150	NEW-P	94-07-114	390-16-308	AMD-P	94-07-088	392-140-198	REP-P	94-11-066
388-521-2150	NEW	94-10-065	390-16-308	AMD-W	94-07-089	392-140-199	REP-P	94-11-066
388-521-2155	NEW-P	94-07-114	390-16-308	AMD	94-11-016	392-140-200	REP-P	94-11-066
388-521-2155	NEW	94-10-065	390-16-309	NEW-E	94-07-001	392-140-201	REP-P	94-11-066
388-521-2160	NEW-P	94-07-114	390-16-309	NEW-P	94-07-035	392-140-202	REP-P	94-11-066
388-521-2160	NEW	94-10-065	390-16-309	NEW-W	94-08-080	392-140-500	NEW-P	94-04-122
			390-16-309	NEW	94-11-016	392-140-500	NEW	94-12-002

TABLE

### Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
392-140-501	NEW-P	94-04-122	392-157-105	NEW	94-04-097	392-196-089	NEW-P	94-11-120
392-140-501	NEW	94-12-002	392-157-110	NEW	94-04-097	392-196-095	REP-P	94-11-120
392-140-503	NEW-P	94-04-122	392-157-115	NEW	94-04-097	392-196-100	AMD-P	94-11-120
392-140-503	NEW	94-12-002	392-157-120	NEW	94-04-097	392-196-105	REP-P	94-11-120
392-140-504	NEW-P	94-04-122	392-157-125	NEW	94-04-097	392-320-005	NEW-P	94-04-025
392-140-504	NEW	94-12-002	392-157-130	NEW	94-04-097	392-320-005	NEW	94-07-102
392-140-505	NEW-P	94-04-122	392-157-135	NEW	94-04-097	392-320-010	NEW-P	94-04-025
392-140-505	NEW	94-12-002	392-157-140	NEW	94-04-097	392-320-010	NEW	94-07-102
392-140-506	NEW-P	94-04-122	392-157-145	NEW	94-04-097	392-320-015	NEW-P	94-04-025
392-140-506	NEW	94-12-002	392-157-150	NEW	94-04-097	392-320-015	NEW	94-07-102
392-140-507	NEW-P	94-04-122	392-157-155	NEW	94-04-097	392-320-020	NEW-P	94-04-025
392-140-507	NEW	94-12-002	392-157-160	NEW	94-04-097	392-320-020	NEW	94-07-102
392-140-508	NEW-P	94-04-122	392-157-165	NEW	94-04-097	392-320-025	NEW-P	94-04-025
392-140-508	NEW	94-12-002	392-157-170	NEW	94-04-097	392-320-025	NEW	94-07-102
392-140-509	NEW-P	94-04-122	392-157-175	NEW	94-04-097	392-320-030	NEW-P	94-04-025
392-140-509	NEW	94-12-002	392-157-180	NEW	94-04-097	392-320-030	NEW	94-07-102
392-140-510	NEW-P	94-04-122	392-163-400	AMD-P	94-04-094	392-320-035	NEW-P	94-04-025
392-140-510	NEW	94-12-002	392-163-400	AMD	94-07-103	392-320-035	NEW	94-07-102
392-140-511	NEW-P	94-04-122	392-163-405	AMD-P	94-04-094	392-320-040	NEW-P	94-04-025
392-140-511	NEW	94-12-002	392-163-405	AMD	94-07-103	392-320-040	NEW	94-07-102
392-140-512	NEW-P	94-04-122	392-163-440	AMD-P	94-04-094	392-320-045	NEW-P	94-04-025
392-140-512	NEW	94-12-002	392-163-440	AMD	94-07-103	392-320-045	NEW	94-07-102
392-140-516	NEW-P	94-04-122	392-163-445	AMD-P	94-04-094	392-320-050	NEW-P	94-04-025
392-140-516	NEW	94-12-002	392-163-445	AMD	94-07-103	392-320-050	NEW	94-07-102
392-140-517	NEW-P	94-04-122	392-163-530	AMD-P	94-04-094	392-320-055	NEW-P	94-04-025
392-140-517	NEW	94-12-002	392-163-530	AMD	94-07-103	392-320-055	NEW	94-07-102
392-140-518	NEW-P	94-04-122	392-163-580	AMD-P	94-04-094	392-320-060	NEW-P	94-04-025
392-140-518	NEW	94-12-002	392-163-580	AMD	94-07-103	392-320-060	NEW	94-07-102
392-140-519	NEW-P	94-04-122	392-169-005	NEW	94-04-095	392-330-010	NEW-P	94-08-074
392-140-519	NEW	94-12-002	392-169-010	NEW	94-04-095	392-330-010	NEW	94-12-019
392-140-525	NEW-P	94-11-066	392-169-015	NEW	94-04-095	392-330-020	NEW-P	94-08-074
392-140-527	NEW-P	94-11-066	392-169-020	NEW	94-04-095	392-330-020	NEW	94-12-019
392-140-529	NEW-P	94-11-066	392-169-022	NEW	94-04-095	392-330-030	NEW-P	94-08-074
392-140-530	NEW-P	94-11-066	392-169-023	NEW	94-04-095	392-330-030	NEW	94-12-019
392-140-531	NEW-P	94-11-066	392-169-025	NEW	94-04-095	392-330-040	NEW-P	94-08-074
392-140-533	NEW-P	94-11-066	392-169-030	NEW	94-04-095	392-330-040	NEW	94-12-019
392-140-535	NEW-P	94-11-066	392-169-035	NEW	94-04-095	392-330-050	NEW-P	94-08-074
392-140-536	NEW-P	94-11-066	392-169-040	NEW	94-04-095	392-330-050	NEW	94-12-019
392-140-537	NEW-P	94-11-066	392-169-045	NEW	94-04-095	392-330-060	NEW-P	94-08-074
392-140-538	NEW-P	94-11-066	392-169-050	NEW	94-04-095	392-330-060	NEW	94-12-019
392-140-540	NEW-P	94-13-210	392-169-055	NEW	94-04-095	392-330-070	NEW-P	94-08-074
392-140-542	NEW-P	94-13-210	392-169-057	NEW	94-04-095	392-330-070	NEW	94-12-019
392-140-543	NEW-P	94-13-210	392-169-060	NEW	94-04-095	392-330-080	NEW-P	94-08-074
392-140-544	NEW-P	94-13-210	392-169-065	NEW	94-04-095	392-330-080	NEW	94-12-019
392-140-545	NEW-P	94-13-210	392-169-070	NEW	94-04-095	415-02-030	AMD-P	94-05-012
392-140-548	NEW-P	94-13-210	392-169-075	NEW	94-04-095	415-02-030	AMD	94-09-039
392-140-549	NEW-P	94-13-210	392-169-080	NEW	94-04-095	415-02-110	NEW-P	94-05-012
392-140-551	NEW-P	94-13-210	392-169-085	NEW	94-04-095	415-02-110	NEW	94-09-039
392-140-552	NEW-P	94-13-210	392-169-090	NEW	94-04-095	415-100-190	NEW-P	94-07-143
392-140-553	NEW-P	94-13-210	392-169-095	NEW	94-04-095	415-100-190	NEW	94-11-008
392-140-555	NEW-P	94-13-210	392-169-100	NEW	94-04-095	415-104-111	NEW-P	94-05-013
392-140-557	NEW-P	94-13-210	392-169-105	NEW	94-04-095	415-104-111	NEW	94-09-040
392-140-559	NEW-P	94-13-210	392-169-110	NEW	94-04-095	415-108-010	AMD-P	94-07-144
392-157-005	NEW	94-04-097	392-169-115	NEW	94-04-095	415-108-010	AMD	94-11-009
392-157-010	NEW	94-04-097	392-169-120	NEW	94-04-095	415-108-461	NEW-P	94-13-048
392-157-015	NEW	94-04-097	392-169-125	NEW	94-04-095	415-108-461	NEW-S	94-13-197
392-157-020	NEW	94-04-097	392-196-011	AMD-P	94-11-120	415-108-462	NEW-P	94-13-048
392-157-025	NEW	94-04-097	392-196-015	REP-P	94-11-120	415-108-462	NEW-S	94-13-197
392-157-030	NEW	94-04-097	392-196-020	AMD-P	94-11-120	415-108-510	AMD-P	94-07-144
392-157-035	NEW	94-04-097	392-196-025	REP-P	94-11-120	415-108-510	AMD	94-11-009
392-157-040	NEW	94-04-097	392-196-030	REP-P	94-11-120	415-108-530	NEW-P	94-07-144
392-157-045	NEW	94-04-097	392-196-035	REP-P	94-11-120	415-108-530	NEW	94-11-009
392-157-050	NEW	94-04-097	392-196-037	REP-P	94-11-120	415-108-540	NEW-P	94-07-144
392-157-055	NEW	94-04-097	392-196-040	REP-P	94-11-120	415-108-540	NEW	94-11-009
392-157-060	NEW	94-04-097	392-196-045	REP-P	94-11-120	415-108-550	NEW-P	94-08-087
392-157-065	NEW	94-04-097	392-196-050	REP-P	94-11-120	415-108-550	NEW	94-12-014
392-157-070	NEW	94-04-097	392-196-055	AMD-P	94-11-120	415-108-560	NEW-P	94-08-087
392-157-075	NEW	94-04-097	392-196-060	AMD-P	94-11-120	415-108-560	NEW	94-12-014
392-157-080	NEW	94-04-097	392-196-066	REP-P	94-11-120	415-108-570	NEW-P	94-08-087
392-157-085	NEW	94-04-097	392-196-077	NEW-P	94-11-120	415-108-570	NEW	94-12-014
392-157-090	NEW	94-04-097	392-196-080	REP-P	94-11-120	415-108-580	NEW-P	94-05-013
392-157-095	NEW	94-04-097	392-196-085	REP-P	94-11-120	415-108-580	NEW	94-09-040
392-157-100	NEW	94-04-097	392-196-086	NEW-P	94-11-120	415-112-015	AMD-P	94-07-144

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
415-112-015	AMD	94-11-009	434-663-460	NEW	94-04-102	458-19-065	NEW	94-07-066
415-112-409	NEW-P	94-13-048	434-663-470	NEW	94-04-102	458-19-070	NEW	94-07-066
415-112-415	AMD-P	94-07-144	434-663-480	NEW	94-04-102	458-19-075	NEW	94-07-066
415-112-415	AMD	94-11-009	434-663-490	NEW	94-04-102	458-19-080	NEW	94-07-066
415-112-840	NEW-P	94-05-013	434-663-500	NEW	94-04-102	458-20-102	AMD-E	94-05-083
415-112-840	NEW-P	94-07-144	434-663-510	NEW	94-04-102	458-20-102	AMD-P	94-06-004
415-112-840	NEW	94-09-040	434-663-520	NEW	94-04-102	458-20-102	AMD-E	94-13-030
415-112-840	NEW	94-11-009	434-663-530	NEW	94-04-102	458-20-102	AMD	94-13-031
419-70-010	AMD-P	94-13-043	434-663-600	NEW	94-04-102	458-20-121	AMD	94-13-033
419-70-020	AMD-P	94-13-043	434-663-610	NEW	94-04-102	458-20-122	AMD-P	94-03-035
419-70-040	AMD-P	94-13-043	434-663-620	NEW	94-04-102	458-20-122	AMD	94-07-049
419-72-010	AMD-P	94-13-044	434-663-630	NEW	94-04-102	458-20-125	REP-P	94-03-037
419-72-015	AMD-P	94-13-044	440-22-205	NEW-W	94-07-072	458-20-125	REP	94-07-051
419-72-020	AMD-P	94-13-044	446-65	AMD-P	94-05-023	458-20-165	AMD	94-09-016
419-72-025	AMD-P	94-13-044	446-65	AMD	94-08-004	458-20-166	AMD	94-05-001
419-72-030	AMD-P	94-13-044	446-65-005	AMD-P	94-05-023	458-20-167	AMD-P	94-03-047
419-72-035	AMD-P	94-13-044	446-65-005	AMD	94-08-004	458-20-167	AMD	94-07-047
419-72-040	AMD-P	94-13-044	448-13-080	AMD-W	94-07-073	458-20-168	AMD-E	94-05-084
419-72-045	AMD-P	94-13-044	448-13-210	AMD-W	94-07-073	458-20-168	AMD	94-11-097
419-72-050	AMD-P	94-13-044	456-09-010	AMD-P	94-03-056	458-20-174	AMD-P	94-07-023
419-72-055	AMD-P	94-13-044	456-09-010	AMD	94-07-044	458-20-17401	NEW-P	94-07-024
419-72-060	AMD-P	94-13-044	456-09-325	AMD-P	94-03-056	458-20-179	AMD	94-13-034
419-72-065	AMD-P	94-13-044	456-09-325	AMD	94-07-044	458-20-185	AMD-P	94-07-025
419-72-068	NEW-P	94-13-044	456-09-365	AMD-P	94-03-056	458-20-185	AMD	94-10-061
419-72-070	AMD-P	94-13-044	456-09-365	AMD	94-07-044	458-20-186	AMD-P	94-07-026
419-72-075	AMD-P	94-13-044	456-10-010	AMD-P	94-03-057	458-20-186	AMD	94-10-062
419-72-080	AMD-P	94-13-044	456-10-010	AMD	94-07-043	458-20-209	AMD-P	94-03-036
419-72-090	REP-P	94-13-044	456-10-325	AMD-P	94-03-057	458-20-209	AMD	94-07-050
419-72-095	REP-P	94-13-044	456-10-325	AMD	94-07-043	458-20-210	AMD-P	94-03-034
434-55	PREP	94-12-085	456-10-360	AMD-P	94-03-057	458-20-210	AMD	94-07-048
434-60-210	NEW	94-07-018	456-10-360	AMD	94-07-043	458-20-226	AMD-P	94-10-013
434-60-215	NEW	94-07-018	458-16-100	AMD	94-07-008	458-20-238	PREP	94-03-046
434-60-220	NEW	94-07-018	458-16-110	AMD	94-07-008	458-20-258	AMD-E	94-05-086
434-60-230	NEW	94-07-018	458-16-111	AMD	94-07-008	458-20-258	AMD-E	94-13-029
434-60-240	NEW	94-07-018	458-16-130	AMD	94-07-008	458-20-261	NEW-P	94-07-027
434-60-250	NEW	94-07-018	458-16-150	AMD	94-07-008	458-20-901	NEW-E	94-05-085
434-60-260	NEW	94-07-018	458-16-165	NEW	94-07-008	458-20-901	NEW-E	94-13-032
434-60-270	NEW	94-07-018	458-16-180	AMD	94-07-008	458-30-200	PREP	94-13-096
434-60-280	NEW	94-07-018	458-16-190	AMD	94-07-008	458-30-205	PREP	94-13-096
434-60-290	NEW	94-07-018	458-16-200	AMD	94-07-008	458-30-210	PREP	94-13-096
434-60-300	NEW	94-07-018	458-16-210	AMD	94-07-008	458-30-215	PREP	94-13-096
434-60-310	NEW	94-07-018	458-16-215	PREP	94-07-123	458-30-220	PREP	94-13-096
434-60-320	NEW	94-07-018	458-16-215	NEW-P	94-11-099	458-30-225	PREP	94-13-096
434-60-330	NEW	94-07-018	458-16-220	AMD	94-07-008	458-30-230	PREP	94-13-096
434-60-340	NEW	94-07-018	458-16-230	AMD	94-07-008	458-30-232	PREP	94-13-096
434-60-350	NEW	94-07-018	458-16-240	AMD	94-07-008	458-30-235	PREP	94-13-096
434-110-070	AMD-E	94-12-086	458-16-245	NEW	94-07-008	458-30-240	PREP	94-13-096
434-110-075	AMD-E	94-12-086	458-16-260	AMD	94-07-008	458-30-242	PREP	94-13-096
434-120-120	NEW-W	94-10-054	458-16-270	AMD	94-07-008	458-30-245	PREP	94-13-096
434-663-001	NEW-W	94-03-081	458-16-280	AMD	94-07-008	458-30-250	PREP	94-13-096
434-663-005	NEW-W	94-03-081	458-16-282	AMD	94-07-008	458-30-255	PREP	94-13-096
434-663-020	NEW-W	94-03-081	458-16-284	NEW	94-07-008	458-30-260	PREP	94-13-096
434-663-030	NEW-W	94-03-081	458-16-286	NEW	94-07-008	458-30-262	AMD	94-05-062
434-663-050	NEW-W	94-03-081	458-16-290	AMD	94-07-008	458-30-265	PREP	94-13-096
434-663-060	NEW-W	94-03-081	458-16-300	AMD	94-07-008	458-30-267	PREP	94-13-096
434-663-070	NEW-W	94-03-081	458-16-310	AMD	94-07-008	458-30-270	PREP	94-13-096
434-663-100	NEW	94-04-102	458-16-320	NEW	94-07-008	458-30-275	PREP	94-13-096
434-663-200	NEW	94-04-102	458-16-330	NEW	94-07-008	458-30-280	PREP	94-13-096
434-663-210	NEW	94-04-102	458-16A-010	PREP	94-10-060	458-30-285	PREP	94-13-096
434-663-220	NEW	94-04-102	458-16A-020	PREP	94-10-060	458-30-290	PREP	94-13-096
434-663-230	NEW	94-04-102	458-18-220	AMD	94-05-063	458-30-295	PREP	94-13-096
434-663-240	NEW	94-04-102	458-19-005	NEW	94-07-066	458-30-300	PREP	94-13-096
434-663-250	NEW	94-04-102	458-19-010	NEW	94-07-066	458-30-305	PREP	94-13-096
434-663-260	NEW	94-04-102	458-19-015	NEW	94-07-066	458-30-310	PREP	94-13-096
434-663-300	NEW	94-04-102	458-19-020	NEW	94-07-066	458-30-315	PREP	94-13-096
434-663-310	NEW	94-04-102	458-19-025	NEW	94-07-066	458-30-317	PREP	94-13-096
434-663-320	NEW	94-04-102	458-19-030	NEW	94-07-066	458-30-320	PREP	94-13-096
434-663-400	NEW	94-04-102	458-19-035	NEW	94-07-066	458-30-325	PREP	94-13-096
434-663-410	NEW	94-04-102	458-19-040	NEW	94-07-066	458-30-330	PREP	94-13-096
434-663-420	NEW	94-04-102	458-19-045	NEW	94-07-066	458-30-335	PREP	94-13-096
434-663-430	NEW	94-04-102	458-19-050	NEW	94-07-066	458-30-340	PREP	94-13-096
434-663-440	NEW	94-04-102	458-19-055	NEW	94-07-066	458-30-345	PREP	94-13-096
434-663-450	NEW	94-04-102	458-19-060	NEW	94-07-066	458-30-350	PREP	94-13-096

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
458-30-355	PREP	94-13-096	458-61-520	AMD	94-04-088	468-10-130	REP-P	94-12-070
458-30-500	PREP	94-13-096	458-61-530	REP	94-04-088	468-10-140	REP-P	94-12-070
458-30-510	PREP	94-13-096	458-61-540	AMD	94-04-088	468-10-150	REP-P	94-12-070
458-30-520	PREP	94-13-096	458-61-545	AMD	94-04-088	468-10-160	REP-P	94-12-070
458-30-530	PREP	94-13-096	458-61-548	NEW-W	94-13-089	468-10-170	REP-P	94-12-070
458-30-540	PREP	94-13-096	458-61-550	AMD	94-04-088	468-10-180	REP-P	94-12-070
458-30-550	PREP	94-13-096	458-61-553	NEW	94-04-088	468-10-190	REP-P	94-12-070
458-30-560	PREP	94-13-096	458-61-555	AMD	94-04-088	468-10-200	REP-P	94-12-070
458-30-570	PREP	94-13-096	458-61-560	REP	94-04-088	468-10-210	REP-P	94-12-070
458-30-580	PREP	94-13-096	458-61-570	REP	94-04-088	468-10-220	REP-P	94-12-070
458-30-590	AMD-P	94-08-082	458-61-590	AMD	94-04-088	468-10-230	REP-P	94-12-070
458-30-590	AMD	94-11-098	458-61-600	AMD	94-04-088	468-10-232	REP-P	94-12-070
458-40-650	AMD-P	94-10-063	458-61-610	AMD	94-04-088	468-10-234	REP-P	94-12-070
458-40-660	AMD-P	94-10-063	458-61-620	REP	94-04-088	468-10-240	REP-P	94-12-070
458-40-670	AMD-P	94-10-063	458-61-630	REP	94-04-088	468-10-250	REP-P	94-12-070
458-53-160	AMD	94-05-064	458-61-640	AMD	94-04-088	468-10-260	REP-P	94-12-070
458-61-010	REP	94-04-088	458-61-650	AMD	94-04-088	468-10-270	REP-P	94-12-070
458-61-015	NEW	94-04-088	458-61-660	AMD	94-04-088	468-10-280	REP-P	94-12-070
458-61-020	REP	94-04-088	458-61-670	AMD	94-04-088	468-10-290	REP-P	94-12-070
458-61-025	NEW	94-04-088	458-61-680	REP	94-04-088	468-10-300	REP-P	94-12-070
458-61-030	AMD	94-04-088	458-61-690	REP	94-04-088	468-10-310	REP-P	94-12-070
458-61-040	REP	94-04-088	460-44A-500	AMD	94-03-061	468-10-320	REP-P	94-12-070
458-61-050	AMD	94-04-088	460-44A-501	AMD	94-03-061	468-10-400	NEW-P	94-12-070
458-61-060	AMD	94-04-088	460-44A-502	AMD	94-03-061	468-10-410	NEW-P	94-12-070
458-61-070	AMD	94-04-088	460-44A-504	AMD	94-03-061	468-10-420	NEW-P	94-12-070
458-61-080	AMD	94-04-088	460-44A-505	AMD	94-03-061	468-10-430	NEW-P	94-12-070
458-61-090	AMD	94-04-088	460-44A-506	AMD	94-03-061	468-10-440	NEW-P	94-12-070
458-61-100	AMD	94-04-088	461-08-001	NEW-E	94-07-060	468-10-450	NEW-P	94-12-070
458-61-110	REP	94-04-088	461-08-001	NEW-P	94-07-095	468-10-460	NEW-P	94-12-070
458-61-120	AMD	94-04-088	461-08-001	NEW	94-12-028	468-10-470	NEW-P	94-12-070
458-61-130	AMD	94-04-088	461-08-047	NEW-E	94-07-060	468-10-480	NEW-P	94-12-070
458-61-140	REP	94-04-088	461-08-047	NEW-P	94-07-095	468-10-490	NEW-P	94-12-070
458-61-150	AMD	94-04-088	461-08-047	NEW	94-12-028	468-10-500	NEW-P	94-12-070
458-61-200	AMD	94-04-088	461-08-144	NEW-E	94-07-060	468-10-510	NEW-P	94-12-070
458-61-210	AMD	94-04-088	461-08-144	NEW-P	94-07-095	468-10-520	NEW-P	94-12-070
458-61-220	AMD	94-04-088	461-08-144	NEW	94-12-028	468-10-530	NEW-P	94-12-070
458-61-225	NEW	94-04-088	461-08-156	NEW-E	94-07-060	468-16-090	AMD	94-05-004
458-61-230	AMD	94-04-088	461-08-156	NEW-P	94-07-095	468-16-110	AMD	94-05-004
458-61-235	NEW	94-04-088	461-08-156	NEW	94-12-028	468-16-120	AMD	94-05-004
458-61-240	REP	94-04-088	461-08-160	AMD-E	94-07-060	468-16-130	AMD	94-05-004
458-61-250	AMD	94-04-088	461-08-160	AMD-P	94-07-095	468-16-150	AMD	94-05-004
458-61-255	NEW	94-04-088	461-08-160	AMD	94-12-028	468-16-160	AMD	94-05-004
458-61-270	REP	94-04-088	461-08-165	REP-E	94-07-060	468-16-180	AMD	94-05-004
458-61-280	REP	94-04-088	461-08-165	REP-P	94-07-095	468-16-210	AMD	94-05-004
458-61-290	AMD	94-04-088	461-08-165	REP	94-12-028	468-38-020	AMD-P	94-03-042
458-61-300	AMD	94-04-088	461-08-167	NEW-E	94-07-060	468-38-020	AMD	94-07-054
458-61-310	REP	94-04-088	461-08-167	NEW-P	94-07-095	468-38-030	AMD-P	94-03-042
458-61-320	REP	94-04-088	461-08-167	NEW	94-12-028	468-38-030	AMD	94-07-054
458-61-330	AMD	94-04-088	461-08-237	NEW-E	94-07-060	468-38-075	AMD-E	94-02-064
458-61-335	AMD	94-04-088	461-08-237	NEW-P	94-07-095	468-38-075	AMD-P	94-03-043
458-61-340	AMD	94-04-088	461-08-237	NEW	94-12-028	468-38-075	AMD	94-07-055
458-61-360	REP	94-04-088	463-39-005	AMD-P	94-12-036	468-48-010	NEW-P	94-08-054
458-61-370	AMD	94-04-088	463-39-070	NEW-P	94-12-036	468-48-020	NEW-P	94-08-054
458-61-374	NEW	94-04-088	463-39-090	NEW-P	94-12-036	468-66-010	AMD-P	94-09-031
458-61-375	NEW	94-04-088	463-39-115	AMD-P	94-12-036	468-66-010	AMD	94-12-049
458-61-376	NEW	94-04-088	463-39-230	NEW-P	94-12-036	468-66-050	AMD-P	94-09-031
458-61-380	REP	94-04-088	463-54-020	AMD-P	94-12-036	468-66-050	AMD	94-12-049
458-61-390	REP	94-04-088	463-54-040	AMD-P	94-12-036	468-66-055	NEW-P	94-09-031
458-61-400	AMD	94-04-088	463-54-050	AMD-P	94-12-036	468-66-055	NEW	94-12-049
458-61-410	AMD	94-04-088	463-54-060	AMD-P	94-12-036	468-66-060	AMD-P	94-09-031
458-61-411	NEW	94-04-088	463-54-070	AMD-P	94-12-036	468-66-060	AMD	94-12-049
458-61-412	NEW	94-04-088	468-10-010	REP-P	94-12-070	468-66-080	AMD-P	94-09-031
458-61-420	AMD	94-04-088	468-10-020	REP-P	94-12-070	468-66-080	AMD	94-12-049
458-61-425	AMD	94-04-088	468-10-030	REP-P	94-12-070	468-66-130	AMD-P	94-09-031
458-61-430	AMD	94-04-088	468-10-040	REP-P	94-12-070	468-66-130	AMD	94-12-049
458-61-440	REP	94-04-088	468-10-050	REP-P	94-12-070	468-66-175	REP-P	94-09-031
458-61-450	REP-W	94-13-089	468-10-060	REP-P	94-12-070	468-66-175	REP	94-12-049
458-61-460	REP	94-04-088	468-10-070	REP-P	94-12-070	468-100-010	AMD-P	94-12-071
458-61-470	AMD	94-04-088	468-10-080	REP-P	94-12-070	468-300-010	AMD-P	94-04-077
458-61-480	AMD	94-04-088	468-10-090	REP-P	94-12-070	468-300-010	AMD	94-07-104
458-61-490	REP	94-04-088	468-10-100	REP-P	94-12-070	468-300-020	AMD-P	94-04-077
458-61-500	REP	94-04-088	468-10-110	REP-P	94-12-070	468-300-020	AMD	94-07-104
458-61-510	AMD	94-04-088	468-10-120	REP-P	94-12-070	468-300-040	AMD-P	94-04-077

TABLE

**Table of WAC Sections Affected**

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
468-300-040	AMD	94-07-104	484-20-020	AMD-P	94-09-043
480-04-030	AMD-P	94-07-139	484-20-023	AMD-P	94-09-043
480-04-030	AMD	94-11-002	484-20-024	NEW-P	94-09-043
480-12-045	AMD-P	94-07-135	484-20-025	AMD-P	94-09-043
480-12-045	AMD	94-11-022	484-20-030	AMD-P	94-09-043
480-12-050	AMD-P	94-07-135	484-20-035	AMD-P	94-09-043
480-12-050	AMD	94-11-022	484-20-040	AMD-P	94-09-043
480-12-083	AMD-P	94-11-103	484-20-045	AMD-P	94-09-043
480-12-137	NEW-P	94-07-134	484-20-050	AMD-P	94-09-043
480-12-137	NEW	94-11-001	484-20-055	AMD-P	94-09-043
480-12-180	AMD-P	94-07-135	484-20-060	AMD-P	94-09-043
480-12-180	AMD-W	94-11-019	484-20-061	NEW-P	94-09-043
480-12-180	AMD-P	94-11-104	484-20-062	NEW-P	94-09-043
480-12-190	AMD-P	94-07-135	484-20-063	NEW-P	94-09-043
480-12-190	AMD	94-11-022	484-20-065	AMD	94-04-001
480-12-260	AMD	94-03-002	484-20-068	AMD-P	94-09-043
480-12-321	AMD	94-03-001	484-20-070	AMD-P	94-09-043
480-12-455	AMD-P	94-07-134	484-20-075	REP-P	94-09-043
480-12-455	AMD	94-11-001	484-20-080	AMD-P	94-09-043
480-12-990	AMD-P	94-07-135	484-20-085	AMD-P	94-09-043
480-12-990	AMD	94-11-022	484-20-087	AMD-P	94-09-043
480-30-015	AMD-P	94-11-103	484-20-089	AMD-P	94-09-043
480-30-032	AMD-P	94-07-137	484-20-090	AMD-P	94-09-043
480-30-032	AMD	94-11-021	484-20-095	AMD-P	94-09-043
480-30-050	AMD-P	94-07-137	484-20-100	AMD-P	94-09-043
480-30-050	AMD	94-11-021	484-20-103	NEW-P	94-09-043
480-30-095	AMD-P	94-07-137	484-20-105	AMD-P	94-09-043
480-30-095	AMD	94-11-021	484-20-110	REP-P	94-09-043
480-30-100	AMD-P	94-07-137	484-20-111	NEW-P	94-09-043
480-30-100	AMD-W	94-11-020	484-20-115	AMD-P	94-09-043
480-30-100	AMD-P	94-11-104	484-20-116	NEW-P	94-09-043
480-35-040	AMD-P	94-10-071	484-20-117	NEW-P	94-09-043
480-35-080	AMD-P	94-10-071	484-20-120	AMD-P	94-09-043
480-35-090	AMD-P	94-10-071	484-20-135	AMD-P	94-09-043
480-35-100	AMD-P	94-10-071	484-20-140	AMD-P	94-09-043
480-35-110	AMD-P	94-10-071	484-20-145	AMD-P	94-09-043
480-35-120	AMD-P	94-10-071	484-20-150	AMD-P	94-09-043
480-40-015	AMD-P	94-11-103	504-25	PREP	94-13-141
480-40-070	AMD-P	94-10-072	504-25	PREP	94-13-142
480-40-075	AMD-P	94-10-072	516-26-010	AMD-P	94-07-117
480-40-110	AMD-P	94-10-072	516-26-020	AMD-P	94-07-117
480-40-120	AMD-P	94-10-072	516-26-030	AMD-P	94-07-117
480-40-130	AMD-P	94-10-072	516-26-035	AMD-P	94-07-117
480-40-140	REP-P	94-10-072	516-26-040	AMD-P	94-07-117
480-50-010	AMD	94-03-003	516-26-045	AMD-P	94-07-117
480-50-040	AMD	94-03-003	516-26-050	AMD-P	94-07-117
480-60-990	AMD-P	94-07-138	516-26-055	AMD-P	94-07-117
480-60-990	AMD	94-11-003	516-26-060	AMD-P	94-07-117
480-62-085	AMD-P	94-07-138	516-26-070	AMD-P	94-07-117
480-62-085	AMD	94-11-003	516-26-080	AMD-P	94-07-117
480-62-090	AMD-P	94-07-138	516-26-085	AMD-P	94-07-117
480-62-090	AMD	94-11-003	516-26-090	AMD-P	94-07-117
480-70-055	AMD-P	94-11-102	516-26-095	AMD-P	94-07-117
480-70-250	AMD-P	94-07-136	516-26-100	AMD-P	94-07-117
480-70-250	AMD	94-11-004			
480-70-400	AMD-P	94-11-102			
480-107-020	AMD	94-07-045			
480-107-050	AMD	94-07-045			
480-107-060	AMD	94-07-045			
480-107-070	AMD	94-07-045			
480-107-080	AMD	94-07-045			
480-107-100	AMD	94-07-045			
480-107-120	AMD	94-07-045			
480-120-056	AMD-P	94-13-027			
480-120-061	AMD-P	94-13-027			
480-120-081	AMD-P	94-13-027			
480-120-101	AMD-P	94-13-027			
480-120-138	AMD-P	94-13-027			
480-120-141	AMD-P	94-13-027			
480-149-120	AMD-P	94-11-101			
484-20	AMD-P	94-09-043			
484-20-010	AMD-P	94-09-043			
484-20-015	AMD-P	94-09-043			



**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

**ACCOUNTANCY, BOARD OF**

CPA certificates		
continuing professional education	PERM	94-02-070
	PERM	94-02-072
education requirements	PERM	94-02-070
	PERM	94-02-072
reciprocity	PERM	94-10-039
Definitions	<b>PROP</b>	<b>94-13-059</b>
	<b>PROP</b>	<b>94-13-060</b>
Enforcement procedures	PERM	94-02-070
	<b>PROP</b>	<b>94-13-060</b>
Fees	<b>PROP</b>	<b>94-13-060</b>
	<b>PROP</b>	<b>94-13-062</b>
Hearings	PERM	94-02-069
Operations and procedures	PERM	94-02-068
Program standards	PERM	94-02-070
Prohibited acts	<b>PROP</b>	<b>94-13-060</b>
	<b>PROP</b>	<b>94-13-061</b>
Quality assurance review program	PERM	94-02-070
	PERM	94-02-071

**AGRICULTURE, DEPARTMENT OF**

Animal health		
laboratory fees	PROP	94-09-072
	PERM	94-12-053
Apiaries		
pollination service fee	PROP	94-09-052
registration fees, schedule	PROP	94-01-162
	PERM	94-05-049
	PERM	94-12-045
Apple commission		
meetings	MISC	94-02-063
Apples		
assessments		
apple pest certification	EMER	94-04-091
gift grade, standards	PERM	94-03-021
inspection fees	<b>PROP</b>	<b>94-13-041</b>
watercore in Fuji variety	EMER	94-01-165
	PROP	94-05-050
	PERM	94-07-133
Asparagus commission		
meetings	MISC	94-01-130
	MISC	94-07-070
Barley commission		
meetings	MISC	94-03-080
	MISC	94-07-032
Beef commission		
meetings	MISC	94-03-074
	MISC	94-07-093
Brand inspection		
criteria	PROP	94-10-075
	<b>PERM</b>	<b>94-13-070</b>
fees	PROP	94-10-074
	PROP	94-10-075
	<b>PERM</b>	<b>94-13-069</b>
	<b>PERM</b>	<b>94-13-070</b>
livestock markets	PROP	94-10-074
	<b>PERM</b>	<b>94-13-069</b>
Brucellosis, tuberculosis, and scrapie control	PROP	94-01-177
	PERM	94-05-008
Certified feed lots		
fees	PROP	94-10-076
	<b>PERM</b>	<b>94-13-068</b>
Cherries		
sweet cherry containers, marking requirements	PERM	94-03-022
Egg commission		
assessments	PROP	94-05-074
	PROP	94-07-038
commodity board membership	PROP	94-05-073
	PERM	94-08-091

Farmed salmon commission		
assessments and collections	PROP	94-05-066
	PERM	94-08-090
meetings	MISC	94-03-075
Feed		
commercial feed inspection fees	PROP	94-05-060
	PERM	94-08-034
Feed lots		
fees	PROP	94-10-076
	<b>PERM</b>	<b>94-13-068</b>
Fees	PROP	94-06-058
	PROP	94-09-052
	PROP	94-09-054
	PROP	94-09-055
	PROP	94-09-072
	PERM	94-10-002
	PROP	94-10-074
	PROP	94-10-076
	PERM	94-12-034
	PERM	94-12-035
	PERM	94-12-045
	PERM	94-12-046
	PERM	94-12-053
	<b>PERM</b>	<b>94-13-068</b>
	<b>PERM</b>	<b>94-13-069</b>
	PERM	94-03-026
Holly, cut spray standards		
Hop commission		
meetings	MISC	94-01-008
Horsemeat decharacterization	PROP	94-01-176
	PERM	94-05-009
Inspection fees	PROP	94-06-058
	PERM	94-10-002
	<b>PROP</b>	<b>94-13-041</b>
Licenses		
commission merchants, dealers, brokers, and agents, fees	PROP	94-09-055
	PERM	94-12-034
Livestock markets		
brand inspections	PROP	94-10-074
facilities	PROP	94-10-074
fees	PROP	94-10-074
	<b>PERM</b>	<b>94-13-069</b>
Milk		
processing plants		
licenses	EMER	<b>94-13-074</b>
processor assessments	PROP	94-01-151
	PERM	94-05-040
Noxious weed control board		
meetings	MISC	<b>94-13-209</b>
Noxious weeds		
noxious weed list	MISC	94-01-076
Nursery stock		
standards	PERM	94-03-025
Pea cyst nematode quarantine	PROP	94-01-163
	PROP	94-06-003
	PROP	94-06-051
Pesticides		
DDT and DDD, registration, distribution, and use	PERM	94-03-023
endrin	PROP	94-09-017
	<b>PERM</b>	<b>94-13-195</b>
ethyl parathion, use restrictions	PROP	94-05-061
	PERM	94-08-035
lindane products, registration and distribution	PERM	94-03-024
phosdrin, use restrictions	PROP	94-05-092
	PROP	94-08-033
	PERM	94-09-028
Plant services		
holly, cut spray standards	PERM	94-03-026
Possums		
phalangeridae, import and possession restrictions	EMER	94-09-004
Potato commission		
meetings	MISC	94-02-086

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Red raspberry commission meetings	MISC	94-02-049	tuberculosis, authority of local health officer to control spread (1993, No. 20)	MISC	94-02-061
	MISC	94-07-014		PROP	94-06-050
Scrapie, brucellosis, and tuberculosis control	PROP	94-01-177	Organization and operation	<b>PERM</b>	<b>94-13-039</b>
	PERM	94-05-008	Public records, availability	PROP	94-06-050
Seed potatoes permit issuance	PROP	94-07-111		<b>PERM</b>	<b>94-13-039</b>
	PERM	94-11-069	<b>BATES TECHNICAL COLLEGE</b>		
winter test tolerance	PROP	94-07-110	Meetings	MISC	94-01-045
	PERM	94-11-070			
Seeds certification procedures and fees	PROP	94-09-046	<b>BELLEVUE COMMUNITY COLLEGE</b>		
	PERM	94-12-046	Admission	PROP	94-01-091
sampling and testing	PROP	94-09-046	Meetings	PERM	94-04-098
	PERM	94-12-046	Refund policy	MISC	94-03-011
Strawberry commission meetings	MISC	94-03-067	Registration	PROP	94-01-091
Tuberculosis brushtail possums (phalangeridae), import and possession restrictions	EMER	94-09-004	Residency classification	PERM	94-04-098
	PROP	94-01-177		PROP	94-01-091
Tuberculosis, brucellosis, and scrapie control	PERM	94-05-008		PERM	94-04-098
Weeds noxious weed list	MISC	94-01-076	<b>BELLINGHAM TECHNICAL COLLEGE</b>		
Weights and measures calibration services, fees	PROP	94-09-054	Meetings	MISC	94-03-013
	PERM	94-12-035		MISC	94-03-033
Wheat commission meetings	MISC	94-01-020		MISC	94-05-030
	MISC	<b>94-13-037</b>		MISC	94-07-006
Wine commission meetings	MISC	94-02-088		MISC	94-08-086
				MISC	94-10-087
<b>ARTS COMMISSION</b>				MISC	<b>94-13-010</b>
Rules coordinator	MISC	94-01-099	<b>BENTON FRANKLIN WALLA COUNTIES</b>		
<b>ATTORNEY GENERAL'S OFFICE</b>			<b>CLEAN AIR AUTHORITY</b>		
Lemon law administration	PROP	94-06-050	Air operating permits	<b>PROP</b>	<b>94-13-135</b>
	<b>PERM</b>	<b>94-13-039</b>			
Opinion, notice of request for	MISC	94-01-189	<b>BIG BEND COMMUNITY COLLEGE</b>		
	MISC	94-05-090	Public records, availability	PROP	94-01-049
	MISC	94-06-067		PERM	94-07-019
	MISC	94-09-064	Rules coordinator	MISC	94-07-005
	MISC	94-11-121			
	MISC	94-12-094	<b>BLIND, DEPARTMENT OF SERVICES FOR THE</b>		
Opinions			Definitions	PROP	94-07-067
district courts, judges pro tempore (1994, No. 4)	MISC	94-08-059	Vendors	PERM	94-11-054
elected officials' salaries (1994, No. 8)	MISC	94-11-015	department responsibility to maintain facilities	PROP	94-07-067
firearms in school facilities (1994, No. 1)	MISC	94-04-029		PROP	94-11-053
higher education institutions, fundraising and gifts (1993, No. 18)	MISC	94-01-144		PROP	94-12-072
judicial branch, travel and expense reimbursement policies (1994, No. 7)	MISC	94-10-032	<b>BOILER RULES, BOARD OF</b>		
higher education institutions, public works contracts (1993, No. 19)	MISC	94-01-145	(See <b>LABOR AND INDUSTRIES, DEPARTMENT OF</b> )		
marine safety, office's authority to establish emergency response system and tugboat (1994, No. 2)	MISC	94-07-004	<b>BUILDING CODE COUNCIL</b>		
port districts, pilotage service (1994, No. 3)	MISC	94-08-058	Amendments to state building code policies and procedures	PERM	94-05-058
salaries of elected officials (1994, No. 8)	MISC	94-11-015	window thermal efficiency standards	PROP	94-05-102
school buses, bonds issuance for acquisition (1994, No. 6)	MISC	94-10-018	Energy code	EMER	94-05-007
telephone records of legislature (1994, No. 5)	MISC	94-08-083	log and solid timber homes	PERM	94-05-059
			Meetings	PROP	94-12-017
			Residences, consideration of local government amendments	MISC	94-06-011
			Ventilation and indoor air quality code	<b>MISC</b>	<b>94-13-038</b>
				PROP	94-12-015
			<b>CENTRAL WASHINGTON UNIVERSITY</b>	PROP	94-12-016
			Meetings	MISC	<b>94-13-199</b>
			Parking and traffic	PROP	94-07-090
				EMER	94-07-091
				PERM	94-10-049
			Rules coordinator	MISC	94-01-105

## Subject/Agency Index

(Citation in bold type refer to material in this issue)

<b>CENTRALIA COLLEGE</b>			<b>CORRECTIONS, DEPARTMENT OF</b>		
Meetings	MISC	94-03-014	Community residential programs	MISC	94-07-065
			Work/training release	MISC	94-07-065
<b>CLARK COLLEGE</b>			<b>COUNTY ROAD ADMINISTRATION BOARD</b>		
Meetings	MISC	94-02-022	Land area ratio, computation	PERM	94-01-115
			Meetings	MISC	94-01-007
<b>CLOVER PARK TECHNICAL COLLEGE</b>				MISC	94-06-056
Rules coordinator	MISC	94-01-043		MISC	94-10-088
				MISC	<b>94-13-002</b>
<b>CODE REVISER'S OFFICE</b>			Payment of vouchers	PROP	94-06-031
Preproposal statement of intent	PROP	94-09-045		PERM	94-10-021
	PERM	94-12-075	Projects		
<b>COLUMBIA BASIN COLLEGE</b>			contracts, execution	<b>PROP</b>	<b>94-13-185</b>
Meetings	MISC	94-12-037	funds allocation	PROP	94-06-028
				PROP	94-06-030
<b>COLUMBIA RIVER GORGE COMMISSION</b>				PERM	94-10-022
Appeals from county ordinances	MISC	94-07-034		PERM	94-10-023
				<b>PROP</b>	<b>94-13-182</b>
Economic development	MISC	94-11-013		<b>PROP</b>	<b>94-13-183</b>
certification process	MISC	94-11-014	prioritization	<b>PROP</b>	<b>94-13-184</b>
				PROP	94-06-028
<b>COMBINED FUND DRIVE, STATE EMPLOYEE</b>				PROP	94-06-029
(See GOVERNOR, OFFICE OF THE)				PERM	94-10-020
				PERM	94-10-022
<b>COMMUNITY AND TECHNICAL COLLEGES,</b>			submittal and selection	<b>PROP</b>	<b>94-13-182</b>
<b>STATE BOARD FOR</b>			withdrawals, early termination,		
Adult education advisory council			and lapsing	<b>PROP</b>	<b>94-13-183</b>
meetings	MISC	94-12-023	Rural arterials	PERM	94-01-116
Rules coordinator	MISC	94-01-023		PROP	94-11-123
Running start program	PROP	94-01-096			
	PROP	94-01-113	<b>DEAF, WASHINGTON SCHOOL FOR THE</b>		
	PERM	94-04-120	Rules coordinator	MISC	94-08-063
			Student conduct code	PROP	94-08-066
<b>COMMUNITY DEVELOPMENT, DEPARTMENT OF</b>				PERM	<b>94-13-058</b>
(See also COMMUNITY, TRADE AND ECONOMIC			<b>DEFERRED COMPENSATION, COMMITTEE FOR</b>		
DEVELOPMENT, DEPARTMENT OF)			Rules coordinator	MISC	94-03-058
Affordable housing advisory board			<b>EASTERN WASHINGTON UNIVERSITY</b>		
meetings	MISC	94-03-062	Meetings	MISC	94-04-014
Fire protection services division				MISC	94-06-019
meetings	MISC	94-01-017		MISC	94-07-015
				MISC	94-09-038
				MISC	<b>94-13-036</b>
Public works board	MISC	94-01-135	Rules coordinator	MISC	94-01-031
meetings	MISC	94-06-007			
<b>COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT,</b>			<b>ECOLOGY, DEPARTMENT OF</b>		
<b>DEPARTMENT OF</b>			Air quality		
(See also COMMUNITY DEVELOPMENT,			fees	PROP	94-04-105
DEPARTMENT OF and TRADE AND ECONOMIC				PROP	94-04-106
DEVELOPMENT, DEPARTMENT OF)				PROP	94-08-072
Affordable housing advisory board			gasoline vapor control, compliance	PERM	94-10-042
meetings	MISC	94-08-026	schedules	PROP	94-10-079
Emergency food assistance program			insignificant emission units	PERM	94-07-040
pilot project	PROP	<b>94-13-022</b>		PROP	94-04-104
	EMER	<b>94-13-072</b>	motor vehicle emission inspection	PERM	94-08-073
Fire protection policy board			operating permits	PERM	94-11-105
meetings	MISC	94-09-015	oxygenated gasoline program	PERM	94-05-039
Hardwoods commission			particulate matter standard	PERM	94-02-041
meetings	MISC	94-11-025	for Seattle, Duwamish Valley and	PERM	94-07-040
	MISC	<b>94-13-045</b>	Tacoma tideflats		
Low-income home energy assistance program			Puget Sound carbon monoxide state	MISC	94-03-065
public hearing	MISC	<b>94-13-084</b>	implementation plan	MISC	94-12-084
Public works board			registration program		
meetings	MISC	<b>94-13-011</b>	interim fee	PROP	94-04-105
				PERM	94-10-042
<b>CONVENTION AND TRADE CENTER</b>			toxic air pollutants, control		
Meetings	MISC	94-01-068	of sources	PERM	94-03-072
	MISC	94-03-040	woodstoves	MISC	94-01-026
	MISC	94-06-005	Annual rule plan	MISC	94-01-170
	MISC	94-08-062			
	MISC	94-09-032			
	MISC	94-11-067			
	MISC	<b>94-13-067</b>			

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Aquaculture		Seattle, city of	<b>PREP</b>	<b>94-13-156</b>
floating net pens sediment criteria	<b>PREP</b>	Shelton, city of	<b>PREP</b>	<b>94-13-155</b>
Beverage containers	PROP	Snohomish County	PERM	94-03-095
	PERM	Tacoma, city of	<b>PREP</b>	<b>94-13-157</b>
	PERM	Tumwater, city of	PROP	94-03-094
Centennial clean water	PERM		PERM	94-10-080
Clean Air Act		Tire recycling and removal	PROP	94-03-071
civil sanctions	PROP		PERM	94-07-078
excluded categories of waste	PROP	Wastewater		
	PROP	dairy waste general discharge permit	MISC	94-10-028
	PROP	discharge permit program		
facilities, requirements	PROP	fees	PROP	94-02-080
toxic air pollutants, control of sources	PERM		PROP	94-05-082
	PERM	Water quality	PERM	94-10-027
tracking system	PERM	centennial clean water		
Dairy waste general discharge permit	PROP	sand and gravel operations permit program	PERM	94-04-030
Dangerous waste designation	MISC		MISC	<b>94-13-164</b>
Environmental Policy Act exemptions from detailed statement requirements	PROP	Water resources		
	PERM	Columbia River Basin water rights	<b>PREP</b>	<b>94-13-162</b>
Forest practices	PERM		<b>MISC</b>	<b>94-13-212</b>
forested bogs and fens protection	EMER	Woodstoves		
	PROP	buy back program	MISC	94-01-026
	EMER	sales ban on uncertified woodstoves	MISC	94-01-026
Fresh fruit packing industry water discharge permit	MISC			
Gravel mining and quarrying industry water discharge permit program	MISC	<b>EDMONDS COMMUNITY COLLEGE</b>		
Growth Management Act integration with State Environmental Policy Act (SEPA)	EMER	Meetings	MISC	94-01-086
Marine finfish rearing facilities sediment criteria	<b>PREP</b>		MISC	94-02-023
Model Toxics Control Act responsiveness summary	MISC		MISC	94-03-076
Motor vehicles emission inspection	PERM		MISC	94-05-068
Noise control watercraft noise levels	PROP	Students' rights and responsibilities disciplinary actions	MISC	94-07-056
	PERM		MISC	94-09-036
Oil handling facilities operations and design standards	PROP		MISC	94-11-084
	PROP			
	PROP			
	PERM			
	PERM			
Puget Sound regional council joint public hearing	MISC	<b>EDUCATION, STATE BOARD OF</b>		
	MISC	Administrator internship program	PROP	94-05-034
Resource damage assessment committee meetings	MISC		PERM	94-08-055
	MISC	American Indian language and culture, instruction	PERM	94-03-104
Sand and gravel operations water and discharge permit	MISC	Certification requirements	PERM	94-01-101
Shoreline master programs		Continuing education definition	PERM	94-01-104
Asotin County	PROP	Corporal punishment conditions and prohibitions	PERM	94-03-102
Chelan County	PROP	Credit for high school graduation, definition	PERM	94-03-100
Gig Harbor, city of	PROP	Educational center, "educational clinic" changed to "educational center"	PERM	94-03-103
	PROP	Educational staff associates assignment	PERM	94-01-103
Olympia, city of	PROP	Exit examination	PERM	94-01-102
	<b>PERM</b>	General educational development (GED) test eligibility, authority to regulate	PERM	94-03-101
Orting, city of	<b>PREP</b>	High school credit, definition	PERM	94-03-100
Port Angeles, city of	<b>PREP</b>		PROP	94-08-067
Port Orchard, city of	PROP	Meetings	<b>PERM</b>	<b>94-13-017</b>
	PERM	Regional committees election of members	MISC	94-01-029
Port Townsend, city of	PROP			
	PROP	School construction contracts, awarding of documents, approval	PERM	94-01-013
	PROP	growth impact fees and mitigation payments	PERM	94-01-014
	PROP	payments, sequence	PERM	94-01-030
Raymond, city of	PROP		<b>PERM</b>	<b>94-13-019</b>
	PERM	retainage process	PROP	94-05-088
Renton, city of	<b>PREP</b>		PROP	94-08-068
San Juan County	PROP	site acceptance criteria	PERM	94-01-014
	PROP			

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

School facilities			salmon		
modernization, eligibility for financial assistance	PROP	94-08-105	Columbia River above Bonneville	EMER	94-11-106
	PERM	<b>94-13-020</b>	Columbia River below Bonneville	EMER	94-07-009
Teachers			Columbia River tributaries		
certification requirements	PERM	94-01-101	areas and seasons	EMER	94-09-022
Teaching internship certificates	PROP	94-08-106		<b>EMER</b>	<b>94-13-016</b>
	PERM	<b>94-13-021</b>	Grays Harbor		
			areas and seasons	EMER	94-09-070
				<b>PERM</b>	<b>94-13-014</b>
<b>EMPLOYMENT SECURITY DEPARTMENT</b>			Puget Sound		
Overpayments			areas and seasons	PROP	94-09-071
interest charges	EMER	94-02-028	Willapa Bay		
	PROP	94-04-124	area and seasons	PROP	94-09-070
	PERM	94-10-044		<b>PERM</b>	<b>94-13-013</b>
Temporary total disability			sea cucumbers		
definitions	EMER	94-02-029	areas and seasons	EMER	94-10-037
	PERM	94-07-115		<b>EMER</b>	<b>94-13-040</b>
exclusions	EMER	94-02-029		<b>EMER</b>	<b>94-13-136</b>
	PERM	94-07-115	shad		
failure to apply in timely manner	EMER	94-02-029	Columbia River	EMER	94-11-107
	PERM	94-07-115		<b>EMER</b>	<b>94-13-121</b>
injuries, additional	EMER	94-02-029	shellfish		
	PERM	94-07-115	rules and definitions	PROP	94-12-007
				PERM	94-12-009
				MISC	94-12-061
<b>ENERGY FACILITY SITE EVALUATION COUNCIL</b>			shrimp fishery		
Radioactive emissions from facilities	PROP	94-12-036	Puget Sound	PERM	94-07-092
				EMER	94-11-072
<b>ENERGY OFFICE</b>			spawn on kelp		
Electric energy curtailment plan	PROP	94-08-070	licenses	EMER	94-07-063
	PROP	94-11-128		EMER	94-07-077
<b>EVERETT COMMUNITY COLLEGE</b>			vessels		
Rules coordinator	MISC	94-01-071	licenses	PROP	94-11-005
				EMER	94-11-006
<b>EVERGREEN STATE COLLEGE, THE</b>			Northern squawfish sport-reward		
Meetings	MISC	94-01-092	fishery	PERM	94-09-019
Rules coordinator	MISC	94-01-072	<u>Fishing, personal use</u>		
<b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b>			bottomfish		
Credit unions			areas and seasons	EMER	94-10-043
common bond, definition	PROP	<b>94-13-043</b>	definitions	EMER	94-10-043
field of membership expansion	PROP	<b>94-13-044</b>	food fish		
Mortgage brokers and loan originators			areas and seasons	EMER	94-10-043
licensing	PERM	94-03-009	free fishing days	<b>EMER</b>	<b>94-13-049</b>
Transactions, registration exemptions	PERM	94-03-061	game fish seasons and catch limits, 1994-95		
			Baker Lake	PERM	94-09-066
				EMER	94-11-068
			Big Twin Lake	<b>PREP</b>	<b>94-13-215</b>
<b>FINANCIAL MANAGEMENT, OFFICE OF</b>			Caliche Lakes	PROP	94-11-125
1995 state paydates	PROP	94-10-055	Cascade River	PROP	94-09-069
	PERM	<b>94-13-097</b>	Cedar River	PROP	94-09-069
				PERM	94-12-067
Financial institutions, department of			Columbia River	PERM	94-09-068
loans to department director and employees	PERM	94-09-010	Coweeman River	PROP	94-09-069
by financial institutions			Cowlitz River	PROP	94-09-069
Rules coordinator	MISC	94-06-057	Dabblers Lake	PROP	94-11-125
			Dungeness River	PROP	94-09-069
<b>FISH AND WILDLIFE, DEPARTMENT OF</b>			Duwamish River	<b>EMER</b>	<b>94-13-003</b>
(See also FISHERIES, DEPARTMENT OF, and WILDLIFE, COMMISSION AND DEPARTMENT)			Ellen Lake	PROP	94-11-125
<u>Fishing, commercial</u>			Elochoman River	PROP	94-09-069
baitfish			Grande Ronde River	PERM	94-09-067
areas and seasons	EMER	94-09-021	Grays River	PROP	94-09-069
coastal bottomfish			Green River	PROP	94-09-069
catch limits	PROP	94-10-073		<b>EMER</b>	<b>94-13-003</b>
	PERM	<b>94-13-077</b>	Hampton Lakes	PROP	94-11-125
	EMER	94-11-073	Hen Lake	PROP	94-11-125
sablefish	EMER	<b>94-13-015</b>	Homestead Lake	PROP	94-11-125
	PERM	<b>94-13-077</b>	Horsethief Lake	<b>PREP</b>	<b>94-13-213</b>
	EMER	94-11-074	Kalama River	PROP	94-09-069
whiting	PROP	94-11-005	Katey Lake	PROP	94-11-125
licenses	EMER	94-11-006	Lake Washington	PROP	94-09-069
Puget Sound bottomfish				PERM	94-12-067
trawl fishing	PROP	<b>94-13-064</b>	Lake Wenatchee	EMER	94-09-005
marine fish			Lewis River	PROP	94-09-069
rule and definitions	PROP	94-12-007	Maggie Lake	PROP	94-11-125
	PERM	94-12-009	Marie Lake	PROP	94-11-125
	MISC	94-12-061			

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Nooksack River	PROP 94-09-069	PERM 94-11-041
	PERM 94-12-067	PERM 94-11-042
Quilcene River	PROP 94-09-069	PERM 94-11-043
Quillayute River	<b>EMER 94-13-071</b>	PERM 94-11-044
Salmon Creek	PROP 94-09-069	PERM 94-11-045
Sauk River	PERM 94-09-067	<b>PREP 94-13-188</b>
	PROP 94-09-069	
Shannon Lake	PERM 94-09-066	PERM 94-11-046
Shannon Reservoir	EMER 94-11-068	PERM 94-11-051
Skagit River	PROP 94-09-069	<b>PREP 94-13-187</b>
	PERM 94-12-067	PERM 94-11-048
Skamokawa Creek	PROP 94-09-069	EMER 94-11-078
Skokomish River	PROP 94-09-069	<b>PREP 94-13-186</b>
Sol Duc River	<b>EMER 94-13-071</b>	<b>PREP 94-13-189</b>
Spada Lake	EMER 94-09-005	
Suiattle River	PROP 94-09-069	PERM 94-11-047
Toutle River	PROP 94-09-069	<b>PREP 94-13-191</b>
Tucannon River	PERM 94-09-067	
Wannacut Lake	PROP 94-11-125	PERM 94-11-049
Washougal River	PROP 94-09-069	EMER 94-12-068
general provisions		EMER 94-12-069
lakes	EMER 94-11-068	
halibut		
areas and seasons	EMER 94-10-043	PERM 94-11-030
	EMER 94-12-062	PERM 94-11-050
	<b>EMER 94-13-063</b>	
licenses	PROP 94-11-005	PROP 94-11-126
	EMER 94-11-006	
salmon		
areas and seasons	EMER 94-08-014	PERM 94-11-030
	EMER 94-08-049	
	EMER 94-10-036	
	EMER 94-10-043	
	EMER 94-10-068	
	EMER 94-11-075	
	EMER 94-11-127	
	<b>PREP 94-13-214</b>	
	EMER 94-12-012	
nonanadromous salmon		
shad		
areas and seasons	EMER 94-10-043	EMER 94-02-039
shellfish		EMER 94-05-003
areas and seasons		PERM 94-01-001
abalone	EMER 94-10-043	EMER 94-02-040
native clams	EMER 94-07-052	
	EMER 94-07-076	PROP 94-03-106
	EMER 94-10-043	
	EMER 94-12-033	
oysters	EMER 94-07-052	EMER 94-04-048
	EMER 94-07-076	EMER 94-04-101
	EMER 94-10-043	EMER 94-06-042
	EMER 94-12-033	
razor clams	EMER 94-07-003	EMER 94-01-109
	EMER 94-08-009	EMER 94-01-152
	EMER 94-09-023	EMER 94-03-063
	EMER 94-10-038	EMER 94-05-055
unlawful acts	EMER 94-10-043	
shrimp	EMER 94-11-072	PROP 94-03-106
	EMER 94-12-008	
	<b>EMER 94-13-076</b>	
sturgeon		
areas and seasons	EMER 94-10-043	PROP 94-03-098
vessels		
licenses	PROP 94-11-005	EMER 94-02-010
	EMER 94-11-006	EMER 94-02-040
Game management units		PERM 94-01-001
boundary descriptions	PERM 94-11-031	
	PERM 94-11-032	
	PERM 94-11-033	PROP 94-03-105
	PERM 94-11-034	PERM 94-01-001
	PERM 94-11-035	EMER 94-02-040
	PERM 94-11-036	
	PERM 94-11-037	
	PERM 94-11-038	EMER 94-01-012
	PERM 94-11-039	
	PERM 94-11-040	PROP 94-03-105
		Shellfish
		pots, setting requirements
		EMER 94-05-002
		Hunting seasons
		deer and bear, 1994-97
		deer and elk, 1994-95
		elk, 1994-97
		lynx
		hunting hours and small
		game seasons, 1994-97
		migratory waterfowl, 1994-95
		special closures and firearm
		restriction areas
		special hunting and trapping
		seasons permits
		special species, 1994-95
		Hydraulics projects
		regulations
		Trapping
		seasons and regulations, 1994-96
		special hunting and trapping
		seasons permits
		<b>PREP 94-13-190</b>
		PERM 94-11-030
		<b>FISHERIES, DEPARTMENT OF</b>
		(See also <b>FISH AND WILDLIFE,</b>
		<b>DEPARTMENT OF)</b>
		<u>Commercial</u>
		baitfish
		areas and seasons
		EMER 94-04-047
		bottomfish
		coastal bottomfish catch limits
		EMER 94-02-039
		EMER 94-05-003
		licenses
		PERM 94-01-001
		EMER 94-02-040
		marine fish
		rules and definitions
		PROP 94-03-106
		salmon
		Columbia River above Bonneville,
		seasons
		EMER 94-04-048
		Columbia River below Bonneville,
		seasons
		EMER 94-04-101
		EMER 94-06-042
		sea urchins
		area and seasons
		EMER 94-01-109
		EMER 94-01-152
		EMER 94-03-063
		EMER 94-05-055
		shellfish
		rules and definitions
		PROP 94-03-106
		shrimp
		Puget Sound
		PROP 94-03-098
		sturgeon
		Columbia River
		above Bonneville, seasons
		EMER 94-02-010
		vessel designation
		EMER 94-02-040
		vessel registration
		PERM 94-01-001
		<u>Personal use</u>
		food fish
		rules and definitions
		PROP 94-03-105
		licenses
		PERM 94-01-001
		EMER 94-02-040
		salmon
		area closures
		EMER 94-01-012
		shellfish
		rules and definitions
		PROP 94-03-105

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

### FOREST PRACTICES APPEALS BOARD

Appeals  
 EMER 94-07-062  
 PROP 94-07-097  
 PERM 94-12-030

### FOREST PRACTICES BOARD

Enforcement  
 Marbled murrelet  
 critical wildlife habitats  
 PERM 94-01-134  
 EMER 94-07-053  
 PROP 94-12-076  
**EMER 94-13-065**  
**PREP 94-13-066**  
 Meetings  
 MISC 94-01-133  
**MISC 94-13-211**  
 Penalties  
 assessment and enforcement  
 Spotted owl habitat protection  
 Wetlands  
 forested bogs and fens  
 EMER 94-01-124  
 PROP 94-09-029  
 EMER 94-09-030

### GAMBLING COMMISSION

Amusement games  
 approval and authorization  
 prizes  
 PERM 94-01-036  
**PREP 94-13-109**  
 Bingo  
 disposable bingo cards  
 electronic bingo card daubers  
 equipment requirements  
 game conduct  
 sale of bingo cards  
 PROP 94-01-034  
 PROP 94-10-005  
 PROP 94-11-094  
 PERM 94-01-033  
**PREP 94-13-111**  
**PROP 94-13-113**  
 PROP 94-10-005  
**PROP 94-13-101**  
 Card games  
 authorized types  
 PROP 94-10-006  
**PERM 94-13-098**  
 cardrooms  
 fees  
**EMER 94-13-100**  
**PREP 94-13-108**  
**PROP 94-13-112**  
 house dealers  
 PROP 94-10-006  
**PERM 94-13-098**  
 PROP 94-10-006  
 wager limits  
 Charitable or nonprofit organizations  
 qualifications, procedures, and  
 responsibilities  
 PERM 94-01-035  
 PROP 94-10-005  
**PERM 94-13-099**  
 Firearms as prizes  
 Meetings  
 MISC 94-01-037  
 MISC 94-04-099  
 MISC 94-05-047  
 MISC 94-07-099  
 Nonprofit or charitable organizations  
 qualification, procedures, and  
 responsibilities  
 PERM 94-01-035  
 Prohibited activities  
 PROP 94-10-005  
**PERM 94-13-099**  
 Punchboards and pull tabs  
 prizes, deletion of reference  
 retention requirements  
**PREP 94-13-110**  
 Rules coordinator  
 MISC 94-07-100  
 Rules, housekeeping changes  
 PROP 94-04-024  
 PROP 94-07-083  
 PERM 94-07-084  
 PERM 94-11-095

### GENERAL ADMINISTRATION, DEPARTMENT OF

Commodity redistribution  
 PROP 94-11-007  
 Inmate work programs  
 state purchasing practices  
 PROP 94-10-053  
 Parking program for facilities off  
 state capitol grounds  
 PROP 94-09-047  
 Surplus property disposal  
 PROP 94-11-007

### GOVERNOR, OFFICE OF THE

Clemency and pardons board  
 meetings  
 MISC 94-03-090  
 MISC 94-06-015  
 MISC 94-10-017  
 MISC 94-12-020  
 Combined fund drive, state employee  
 charity membership criteria  
 PERM 94-01-038  
 Efficiency and accountability commission  
 meetings  
 MISC 94-04-100  
 MISC 94-03-088  
 Energy strategy, implementation  
 Family policy council advisory  
 committee  
 MISC 94-12-013  
 MISC 94-08-089  
 Low-income housing tax credit allocations  
 Multimodal transportation programs and projects  
 selection committee  
 funds, distribution  
 PROP 94-05-100  
 EMER 94-05-101  
 PERM 94-10-030  
 PERM 94-11-081  
 MISC 94-01-182  
 MISC 94-04-039  
 PROP 94-05-100  
 EMER 94-05-101  
 PERM 94-10-030  
 PERM 94-11-081  
 EMER 94-01-069  
 EMER 94-04-015  
 PROP 94-10-029  
 EMER 94-10-031  
 meetings  
 operating procedures  
 project selection process  
 supplemental applications  
 EMER 94-10-031  
 National and community service,  
 commission on membership and duties  
 MISC 94-06-009  
 Rule making by agencies, procedures  
**MISC 94-13-057**  
 School-to-work transition, council on  
 establishment  
 MISC 94-04-070  
 Watershed planning, implementation,  
 and restoration for fish and wildlife  
 MISC 94-08-088

### GRAYS HARBOR COLLEGE

Meetings  
 MISC 94-02-024

### GREEN RIVER COMMUNITY COLLEGE

Adjudicative proceedings  
 Meetings  
 PERM 94-04-051  
 MISC 94-02-087  
 Parking and traffic  
 PERM 94-04-051  
 PERM 94-04-052  
 PERM 94-04-054  
 PERM 94-04-053  
 Smoking regulations  
 Tenure

### GROWTH PLANNING HEARINGS BOARDS

Meetings  
 MISC 94-01-053  
 MISC 94-01-067  
 MISC 94-01-077  
 Practice and procedure  
 PROP 94-01-097  
 PROP 94-07-007  
 PERM 94-07-033  
 MISC 94-01-053  
 Rules coordinator

### HARDWOODS COMMISSION

(See **TRADE AND ECONOMIC DEVELOPMENT,  
 DEPARTMENT OF**)

### HEALTH CARE AUTHORITY

Basic health plan  
 benefits  
 EMER 94-06-032  
 PROP 94-07-075  
 EMER 94-06-032  
 PROP 94-07-075  
 EMER 94-06-032  
 PROP 94-07-075  
 enrollment  
 EMER 94-06-032  
 PROP 94-07-075  
 hearings and grievances  
 EMER 94-06-032  
 PROP 94-07-075  
 Group purchasing association caregivers  
 health plan  
 eligibility  
 EMER 94-08-028

## Subject/Agency Index

(Citation in bold type refer to material in this issue)

Public employees benefits board			Dental disciplinary board		
insurance plans			adjudicative proceedings	PROP	94-03-045
eligibility	EMER	94-08-027	meetings	MISC	94-04-074
meetings	MISC	94-03-007	Dental examiners, board of		
	MISC	94-08-008	adjudicative proceedings	PROP	94-03-044
	MISC	<b>94-13-092</b>		PERM	94-08-011
<b>HEALTH CARE FACILITIES AUTHORITY</b>				PERM	94-12-038
Health care facilities, definition			dentist fees		
and categorization	PROP	94-12-021	examinations, eligibility		
Nursing homes			and application	PROP	94-06-046
financial assistance criteria	PROP	94-12-022	meetings	PERM	94-11-088
			temporary practice permits	MISC	94-04-072
<b>HEALTH SERVICES COMMISSION</b>			Dental hygienists	<b>PREP</b>	<b>94-13-005</b>
Benefits and premium payments,			education requirements	PROP	94-01-056
coordination	<b>PREP</b>	<b>94-13-169</b>		PERM	94-05-053
Border individuals or employers	<b>PREP</b>	<b>94-13-167</b>	licenses		
Certification of plans	<b>PREP</b>	<b>94-13-205</b>	fees	PERM	94-02-059
Community-rated maximum premium	<b>PREP</b>	<b>94-13-172</b>	reinstatement of expired license	PERM	94-04-005
Competitive oversight and antitrust			meetings	MISC	94-04-073
immunity	PROP	94-06-060	Health statistics, center for		
	PROP	94-12-078	pregnancy terminations,		
	PROP	94-12-081	reporting	PERM	94-04-083
	<b>PROP</b>	<b>94-13-208</b>	Hearings aids, fitters and dispensers		
	<b>PREP</b>	<b>94-13-170</b>	licenses		
Experimental and investigative services	<b>PREP</b>	<b>94-13-174</b>	inactive status	PERM	94-08-038
Health care data system			trainees, standards of training and		
Managed competition and antitrust			supervision	PROP	94-08-037
immunity	PROP	94-06-059		PERM	94-11-108
Medical risk adjustment	<b>PREP</b>	<b>94-13-171</b>	HIV		
Meetings	MISC	94-04-129	health insurance eligibility	PROP	94-01-057
	MISC	94-07-094		PERM	94-06-048
	PROP	94-01-141	Home care	PROP	94-10-046
	PERM	94-04-046	Home health agencies		
	<b>PREP</b>	<b>94-13-207</b>	deemed status	PROP	94-10-047
	<b>PREP</b>	<b>94-13-205</b>	licenses	PROP	94-10-047
			policies and procedures	PROP	94-10-047
	PROP	94-10-085	volunteers	PROP	94-10-047
	PROP	94-12-079	Hospice		
	<b>PREP</b>	<b>94-13-168</b>	deemed status	PROP	94-10-045
	<b>PREP</b>	<b>94-13-205</b>	licenses	PROP	94-10-045
	MISC	94-01-070	policies and procedures	PROP	94-10-045
	MISC	94-09-013	volunteers	PROP	94-10-045
	<b>PREP</b>	<b>94-13-166</b>	Hospitals		
	<b>PREP</b>	<b>94-13-173</b>	budgets and accounting	PROP	94-09-026
	PROP	94-12-080		PERM	94-12-089
	PROP	94-11-109	data collection and reporting	PROP	94-09-026
	<b>PREP</b>	<b>94-13-175</b>		PERM	94-12-089
	<b>PREP</b>	<b>94-13-176</b>	fee schedules	PROP	94-09-026
	<b>PREP</b>	<b>94-13-204</b>		PERM	94-12-089
	<b>PREP</b>	<b>94-13-206</b>	patient discharge reporting	PROP	94-09-007
				PERM	94-12-090
Waivers from participation			private psychiatric and alcoholism		
conscience or religion	<b>PREP</b>	<b>94-13-165</b>	hospitals, requirements	<b>PREP</b>	<b>94-13-177</b>
			public records	PROP	94-09-026
<b>HEALTH, DEPARTMENT OF</b>				PERM	94-12-089
Abortion facilities			Kidney centers	PERM	94-05-052
authority of department to regulate	PERM	94-04-083	Laboratories		
Adjudicative proceedings			medical test sites, fees	PROP	94-11-012
disciplinary boards	PERM	94-04-078	apprenticeship programs	PROP	94-06-045
	<b>PROP</b>	<b>94-13-087</b>	continuing education	PROP	94-01-055
	PERM	94-04-079		PROP	94-05-080
secretary programs and professions	<b>PROP</b>	<b>94-13-088</b>	meetings	<b>PERM</b>	<b>94-13-181</b>
			licensure	PROP	94-06-045
Boarding homes			examination	PROP	94-05-080
nursing care for residents	PERM	94-01-058		<b>PERM</b>	<b>94-13-181</b>
standards, revised provisions	PROP	94-08-040	initial application	PROP	94-06-045
	<b>PERM</b>	<b>94-13-180</b>	training	PROP	94-06-045
Chiropractic disciplinary board				<b>PREP</b>	<b>94-13-178</b>
adjudicative proceedings	PROP	94-03-053	without examination	PROP	94-05-080
	PERM	94-08-053		<b>PERM</b>	<b>94-13-181</b>
	PROP	94-11-080	Medical disciplinary board		
cooperation with investigation	PROP	94-02-016	adjudicative proceedings	PROP	94-07-011
future care contracts					
licenses					
renewal form	PROP	94-11-080			
meetings	MISC	94-04-110			
recordkeeping requirements	PROP	94-11-080			
scope of practice	PROP	94-11-080			

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Medical examiners, board of examinations			pharmacy assistants		
reciprocity or waiver scores	PROP	94-08-095	specialized functions	PROP	94-01-088
physician assistants	PROP	94-08-095		PROP	94-04-112
alternate sponsoring or supervising physicians, relationship with			procedural rules	PERM	94-08-097
Medical test sites				PROP	94-11-089
fees	PROP	94-11-012	reciprocity	<b>PROP</b>	<b>94-13-053</b>
Nursing, board of				PROP	94-04-113
advanced registered nurse practitioners education requirements	PROP	94-10-056	recordkeeping requirements	PERM	94-08-099
scope of practice	PROP	94-10-079	wildlife, department of	PROP	94-11-091
registered nurses	PROP	94-10-056	approved legend drug use		
continuing education	PROP	94-10-057	Physical therapy, board of	PERM	94-02-060
licensure	PROP	94-10-057	adjudicative proceedings	PERM	94-05-014
computer adaptive testing	PROP	94-01-132	licenses		
	PERM	94-07-012	applicants	PERM	94-05-014
			continuing competency	PERM	94-05-014
			endorsement, licensure by	PERM	94-05-014
			interim permits	PERM	94-05-014
			meetings	MISC	94-02-056
			Physician assistants		
			alternate sponsoring or supervising physicians, relationship with	PROP	94-08-094
Nursing home administrators, board of			Podiatric medical board		
fees	PROP	94-05-065	adjudicative proceedings	PROP	94-05-081
meetings	PERM	94-09-006		PERM	94-09-008
	MISC	94-03-054	continuing education	PERM	94-05-051
	MISC	94-10-011	licensure eligibility	PERM	94-05-051
Occupational therapy practice board			patient records	PROP	94-08-079
AIDS education and training education programs	PROP	94-10-059	substance abuse monitoring program	PERM	94-05-051
licenses	PROP	94-10-059	unlicensed persons, authorized acts		
On-site sewage systems requirements	PERM	94-09-025	Pools		
Opticians			construction and operating permits, fees	PROP	94-07-121
contact lenses				PERM	94-11-056
fitting and dispensing	PROP	94-02-057	Practical nursing, board of		
records retention	PERM	94-06-047	fees	PROP	94-05-035
records retention	PROP	94-02-057		PERM	94-08-102
fees	PROP	94-06-047	licensure		
	PROP	94-05-032	examination	PROP	94-05-033
	PERM	94-08-078		PERM	94-08-050
Optometry board			qualifications	PROP	94-05-033
continuing education	PERM	94-04-041		PERM	94-08-050
prescriptions for contact lens fitting	<b>PROP</b>	<b>94-13-086</b>	student records	PROP	94-05-033
sexual misconduct	PERM	94-04-041		PERM	94-08-050
Osteopathic medicine and surgery, board of			Psychology, examining board of		
adjudicative proceedings	PROP	94-11-093	continuing education	PROP	94-08-039
examinations	PROP	94-11-093		PERM	94-12-039
physicians assistants			licensure		
licensure	PROP	94-11-093	applications	PROP	94-08-039
prescriptions	PROP	94-11-093		PERM	94-12-039
Pharmacy, board of			examination	PROP	94-08-039
adjudicative proceedings	PROP	94-11-089		EMER	94-09-024
compounding practices	<b>PROP</b>	<b>94-13-053</b>	prerequisites	PERM	94-12-039
continuing education	PROP	94-02-079		PROP	94-08-039
controlled substances	PERM	94-08-101		PERM	94-12-039
destruction of schedule II substances in nursing homes	PROP	94-11-092	Quality improvement program for health care facilities and providers	PROP	94-09-042
list corrections and additions	PERM	94-02-077	Radiation protection, division of		
	PROP	94-02-089	environmental radioactivity		
	PROP	94-04-111	cleanup standards	PROP	94-09-041
	PERM	94-07-105	radiation levels	PROP	94-09-041
	PERM	94-08-098	fees	PROP	94-01-142
ephedrine prescription restrictions	PROP	94-02-078		PROP	94-07-107
examinations	PERM	94-08-100		PROP	94-07-108
fees	PROP	94-04-113		PERM	94-11-010
good compounding practices	PERM	94-08-099	radiation protection standards	PERM	94-11-011
hospital pharmacy standards	PERM	94-05-036		PROP	94-01-059
licenses	PROP	94-02-079		PERM	94-01-073
renewal notices	PROP	94-08-096		PROP	94-01-142
patient medication record systems	PROP	94-11-091		PROP	94-06-016
				PERM	94-06-017
			radioactive air emissions, regulations	PERM	94-07-010
			Radiologic technology advisory committee		
			meetings	MISC	94-04-103

**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

Sewage systems, on-site requirements	PERM	94-09-025	<b>HORSE RACING COMMISSION</b>		
Sex offender treatment providers certification	PROP	94-09-027	Association officials and employees	PROP	94-09-003
definitions	PERM	<b>94-13-179</b>	duties	PROP	94-09-003
education requirements	PROP	94-09-027	testing	PROP	94-09-003
fees	PERM	<b>94-13-179</b>	Definitions	PROP	94-09-003
professional conduct and standards	PROP	94-09-027	Exacta rules	PROP	94-05-076
treatment standards	PERM	<b>94-13-179</b>	Licenses		
Shellfish sanitation control	PROP	94-12-087	duration	PERM	94-04-002
Transient accommodations	PROP	94-12-088	Medication testing program	PERM	94-04-002
Tuberculosis control	PROP	94-10-058	Practice and procedure	PROP	94-09-003
Uniform Disciplinary Act	PROP	94-12-048	Quinella rules	PROP	94-05-077
model procedural rules for boards	PERM	94-04-078	Race results, transmission	PERM	94-04-003
secretary programs and professions, adjudicative proceedings	PERM	94-04-079	Racing rules	PROP	94-09-003
Veterinary medication clerks			Trifecta rules	PROP	94-05-075
fees	PROP	94-08-076	<b>HUMAN RIGHTS COMMISSION</b>		
scope of functions	EMER	94-08-077	Disability discrimination	PROP	94-04-087
supervision	EMER	94-08-051	Meetings	MISC	94-01-119
Vision care practitioners	PROP	94-10-026		MISC	94-01-120
Vision Care Consumer Assistance Act, implementation	EMER	94-08-051	Preemployment inquiries	MISC	94-03-083
training and education	PROP	94-08-052	Pregnancy discrimination	MISC	94-05-087
Water	PROP	94-08-052	Sex discrimination	MISC	94-06-002
drinking water certification	PREP	<b>94-13-004</b>		MISC	94-07-118
group A public water systems	PROP	94-08-075		MISC	94-09-037
group B public water systems	PROP	94-06-008		MISC	94-11-052
satellite system management agencies	PROP	<b>94-13-085</b>		<b>MISC</b>	<b>94-13-154</b>
water works operator certification	PERM	94-04-004		PROP	94-04-087
<b>HIGHER EDUCATION COORDINATING BOARD</b>				PROP	94-04-087
Award for excellence in education program	PROP	94-09-061	<b>HYDRAULIC APPEALS BOARD</b>		
Degree Authorization Act			Rules of procedure	EMER	94-07-059
administration and governance	PROP	94-06-018		PROP	94-07-096
Displaced homemaker program	PROP	94-10-001		PERM	94-12-029
Meetings	MISC	94-03-049	<b>INDETERMINATE SENTENCE REVIEW BOARD</b>		
	MISC	94-09-044	Rules coordinator	MISC	94-02-067
	MISC	94-10-052	<b>INFORMATION SERVICES, DEPARTMENT OF</b>		
Running start program	PROP	94-01-112	Information services board		
	PROP	94-04-093	meetings	MISC	94-12-040
State work-study program	PROP	94-09-058	<b>INSURANCE COMMISSIONER, OFFICE OF</b>		
Washington scholars program	PROP	94-09-060	Agents, solicitors, and adjusters		
<b>HIGHER EDUCATION FACILITIES AUTHORITY</b>			continuing education	PROP	94-11-100
Organization and operation	PROP	94-12-092	licenses	PROP	94-11-100
Underwriters, selection	PROP	94-12-092	Annuities	PROP	94-05-057
<b>HIGHLINE COMMUNITY COLLEGE</b>			Audited financial statements	PROP	94-01-192
Meetings	MISC	94-04-071	Financial statements	PROP	94-01-192
	MISC	<b>94-13-115</b>		PERM	94-04-045
<b>HISPANIC AFFAIRS, COMMISSION ON</b>			Health care service contractors		
Meetings	MISC	94-04-127	custodial care benefits	PROP	94-05-056
	MISC	94-08-003	participating provider contracts	PROP	94-01-075
	MISC	94-09-063	preexisting condition limitations, restrictions	PROP	94-04-125
	MISC	94-10-016		PERM	94-08-081
			Health insurance		
			coordination of benefits	PROP	94-11-122
			custodial care benefits	PROP	94-05-056
			health plan providers		
			dispute resolution	PROP	94-10-077
			selection	PROP	94-10-077
			termination	PROP	94-10-077
			off-label drugs	PROP	94-05-070
			preexisting condition limitations, restrictions		
				PROP	94-04-125
				PERM	94-08-081
				PROP	94-11-082
				<b>PERM</b>	<b>94-13-216</b>
			reinsurance agreements	PROP	94-05-089
				PROP	94-08-013
				PROP	94-10-024
				PROP	94-12-077

**Subject/Agency Index**  
(Citation in bold type refer to material in this issue)

Health insurance reform short term coordination of benefits form modification	PROP 94-11-122	Electricians	
	PROP 94-02-065	journeyman electricians	
	PROP 94-03-048	certificate of competency	PERM 94-01-005
	PROP 94-03-085	Fees	PERM 94-01-100
portability	PROP 94-02-065	Medical and mental health treatment fees and rules	PERM 94-02-015
	PROP 94-03-048	Occupational health standards	
	EMER 94-03-084	general	PROP 94-07-085
	PROP 94-03-085		PERM 94-07-086
	PROP 94-04-126		PROP 94-10-010
	PROP 94-08-006		PROP 94-11-124
	PERM 94-08-060	tobacco smoke in offices	PERM 94-07-086
rate limitations	PROP 94-02-065	Prevailing wages	
	PROP 94-03-048	fees for filing statements	PERM 94-01-100
	PROP 94-03-085	Safety and health standards	
renewability	PROP 94-02-065	agriculture	PROP 94-01-186
	PROP 94-03-048		EMER 94-06-044
	EMER 94-03-084		PERM 94-06-068
	PROP 94-03-085		PROP 94-10-007
unfair practices	PROP 94-02-065	general	PROP 94-10-010
Health maintenance organizations		Safety standards	
custodial care benefits	PROP 94-05-056	agriculture	PROP 94-12-095
participating provider contracts	PROP 94-01-075	commercial diving operations	PROP 94-10-010
preexisting condition limitations, restrictions	PROP 94-04-125	construction	PROP 94-10-010
	PERM 94-08-081		PROP 94-11-124
Life insurance		electrical workers	PROP 94-11-124
accelerated benefits	PROP 94-05-071	firefighters	PROP 94-11-124
reinsurance agreements	PROP 94-05-089	logging operations	PROP 94-11-124
	PROP 94-08-013	ski lift area facilities	
	PROP 94-10-024	and operations	PROP 94-11-124
	PROP 94-12-077	telecommunications	PROP 94-10-010
Long-term care insurance		Workers' compensation	
home health care	PROP 94-09-050	classifications	PROP 94-07-128
	PROP 94-11-096		PROP 94-07-129
	<b>PROP 94-13-217</b>		PERM 94-12-051
	PROP 94-09-050	general	PERM 94-12-063
inflation protection	PROP 94-11-096	health care providers' reimbursement	PROP 94-01-186
	<b>PROP 94-13-217</b>		PERM 94-02-045
preproposal comments	PROP 94-09-048		PERM 94-03-008
standards	PROP 94-09-050	logging or tree thinning, mechanized operations	PROP 94-06-055
	PROP 94-11-096		PERM 94-12-051
	<b>PROP 94-13-217</b>	medical aid rules and fee schedule rates and rating system	PROP 94-07-126
Malpractice insurance			PROP 94-07-127
midwifery and birthing centers	PERM 94-02-053		PERM 94-12-050
Midwifery and birthing centers malpractice joint underwriting authority	PERM 94-02-053	respiratory impairment, evaluation	PERM 94-03-073
	PROP 94-09-049	self-insurance	
	<b>PERM 94-13-006</b>	accident reports and claims	PROP 94-12-096
		admission and termination of members	PROP 94-12-096
		assessments	PROP 94-12-096
		certification	PROP 94-03-006
			PERM 94-05-042
		claims	PROP 94-12-096
		employee rights	PROP 94-03-006
			PERM 94-05-042
		surety	PROP 94-03-006
			PERM 94-05-042
<b>INTEREST RATES</b> (See inside front cover)			
<b>INVESTMENT BOARD</b>			
Meetings	MISC 94-04-019		
<b>JUDICIAL CONDUCT, COMMISSION ON</b>			
Meetings	MISC 94-01-050	<b>LAKE WASHINGTON TECHNICAL COLLEGE</b>	
	MISC 94-01-051	Meetings	MISC 94-01-052
	MISC 94-11-076		MISC 94-03-016
<b>LABOR AND INDUSTRIES, DEPARTMENT OF</b>		<b>LEGAL FOUNDATION OF WASHINGTON</b>	
Boiler rules, board of meetings	MISC 94-01-015	Meetings	MISC 94-04-008
small electric boilers, exemption from rules	EMER 94-04-006		MISC 94-07-057
	PROP 94-05-072		
Crime victims compensation		<b>LICENSING, DEPARTMENT OF</b>	
mental health treatment fees and rules	PERM 94-02-015	Appraisers	
Electrical board		allowed credits for experience	PROP 94-12-041
meetings	MISC 94-02-055	Cemetery board	
Electrical installations		fees	PERM 94-01-117
wiring and apparatus	PERM 94-01-005	Escrow commission	
		escrow officer, responsibilities	PERM 94-04-050
		organization and operation	PERM 94-04-050
		meetings	MISC 94-02-018



## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

<u>Instant game number 120 - Lucky Deal</u>		retailer settlement	PERM 94-03-020
criteria	PROP 94-03-099		MISC 94-07-028
	PERM 94-07-029	On-line games	
	PROP 94-12-082	criteria	PERM 94-03-020
definitions	PROP 94-03-099	effective date	MISC 94-07-028
	PERM 94-07-029	Prizes	
	PROP 94-12-082	payment	PROP 94-12-082
ticket validation	PROP 94-03-099	Retailers	
	PERM 94-07-029	effective date	MISC 94-07-028
	PROP 94-12-082	license termination	PROP 94-07-116
			PERM 94-11-027
<u>Instant game number 121 - Hog Mania</u>		obligations	PERM 94-03-020
criteria	PROP 94-03-099		PROP 94-07-116
	PERM 94-07-029		PERM 94-11-027
definitions	PROP 94-03-099	procedures	PERM 94-03-020
	PERM 94-07-029	retailer settlement	PERM 94-03-020
ticket validation	PROP 94-03-099		
	PERM 94-07-029		
<u>Instant game number 122 - High Card</u>		<b>MARINE EMPLOYEES' COMMISSION</b>	
criteria	PROP 94-07-116	Meetings	MISC 94-07-002
	PERM 94-11-027		
definitions	PROP 94-07-116	<b>MARINE OVERSIGHT BOARD</b>	
	PERM 94-11-027	Meetings	MISC 94-02-084
ticket validation	PROP 94-07-116		MISC 94-09-033
	PERM 94-11-027		<b>MISC 94-13-106</b>
<u>Instant game number 123 - Holiday Cash</u>		<b>MARINE SAFETY, OFFICE OF</b>	
criteria	PROP 94-07-116	Bunkering standards	MISC 94-09-056
	PERM 94-11-027		PROP 94-12-024
definitions	PROP 94-07-116		PROP 94-12-093
	PERM 94-11-027	Oil spill prevention plan	PROP 94-12-025
ticket validation	PROP 94-07-116	Regional marine safety committees	
	PERM 94-11-027	meetings	MISC 94-01-110
<u>Instant game number 124 - Queen of Hearts</u>			MISC 94-07-039
criteria	PROP 94-07-116	Rules coordinator	MISC 94-02-021
	PERM 94-11-027		
definitions	PROP 94-07-116	<b>MARITIME COMMISSION</b>	
	PERM 94-11-027	Meetings	MISC 94-01-027
ticket validation	PROP 94-07-116		
	PERM 94-11-027		
<u>Instant game number 125 - Windfall</u>		<b>MINORITY AND WOMEN'S BUSINESS</b>	
criteria	PROP 94-07-116	<b>ENTERPRISES, OFFICE OF</b>	
	PERM 94-11-027	Agencies and educational institutions	
definitions	PROP 94-07-116	plans, contents	PROP 94-01-164
	PERM 94-11-027		PROP 94-08-110
ticket validation	PROP 94-07-116	responsibilities	PERM 94-11-119
	PERM 94-11-027		PROP 94-08-109
<u>Instant game number 126 - Megamoney II</u>		Annual goals for participation	PERM 94-11-118
criteria	PROP 94-07-116		PROP 94-01-127
	PERM 94-11-027		PERM 94-03-068
definitions	PROP 94-07-116	Certification	PERM 94-07-064
	PERM 94-11-027	applications	PROP 94-08-108
ticket validation	PROP 94-07-116		PERM 94-11-114
	PERM 94-11-027	fees	PROP 94-08-108
<u>Instant game number 127 - 7-11-21</u>			PERM 94-11-115
criteria	PROP 94-12-082	Contractors	
definitions	PROP 94-12-082	violations and penalties	PROP 94-08-107
ticket validation	PROP 94-12-082		PERM 94-11-117
<u>Instant game number 128 - \$2 Big Kahuna</u>		Fees	PROP 94-01-090
criteria	PROP 94-12-082		PROP 94-01-187
definitions	PROP 94-12-082	Subcontractor, definition	EMER 94-01-188
ticket validation	PROP 94-12-082		PERM 94-11-113
<u>Instant game number 129 - Beat the Dealer</u>			PROP 94-08-107
criteria	PROP 94-12-082		PERM 94-11-116
definitions	PROP 94-12-082		
ticket validation	PROP 94-12-082		
<u>Instant game number 130 - Moolah Moolah</u>		<b>MULTIMODAL TRANSPORTATION PROGRAMS</b>	
criteria	PROP 94-12-082	<b>AND PROJECTS SELECTION COMMITTEE</b>	
definitions	PROP 94-12-082	(See GOVERNOR, OFFICE OF THE)	
ticket validation	PROP 94-12-082		
Instant games		<b>NATURAL RESOURCES, DEPARTMENT OF</b>	
criteria	PERM 94-03-020	Burning permits	
effective date	MISC 94-07-028	fees	PROP 94-08-093
official end	PERM 94-03-020	Forest closures	
Lotto		closed season	EMER 94-09-020
prizes	PROP 94-03-099	extra fire hazard areas	<b>EMER 94-13-095</b>
	PERM 94-07-029		

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Forest fire advisory board meetings	MISC	94-08-012	Paragliders aircraft prohibition, exemption	PERM	94-01-087
Forest practices board (see <b>FOREST PRACTICES BOARD</b> )			Recreational vessels operation and equipment	PROP	94-12-065
Natural heritage advisory council meetings	MISC	94-03-070	Senior citizens, off-season pass	PROP	94-03-097
	MISC	94-09-059		PROP	94-06-010
Natural resources, board of meetings	MISC	94-12-031	Tree removal in state parks	PROP	94-08-036
	MISC	94-12-091		PROP	94-06-049
	MISC	<b>94-13-073</b>		PERM	94-10-012
Puget Sound dredged material disposal site use fees	<b>EMER</b>	<b>94-13-056</b>	<b>PENINSULA COLLEGE</b>		
Surface Mining Act mine reclamation	PROP	94-09-062	Meetings	MISC	94-01-185
Survey monuments removal or destruction	PROP	94-01-022		MISC	94-05-098
	PERM	94-06-034	Rules coordinator	MISC	94-04-026
<b>NORTHWEST AIR POLLUTION AUTHORITY</b>			<b>PERSONNEL APPEALS BOARD</b>		
Air contaminant sources reporting	PERM	94-01-108	Practice and procedures	<b>PREP</b>	<b>94-13-198</b>
Fees	PERM	94-01-108	<b>PERSONNEL, DEPARTMENT OF</b>		
Operating permits	PERM	94-01-108	Career executive program transition into Washington management service	PROP	94-01-125
<b>NOXIOUS WEED CONTROL BOARD</b> (See <b>AGRICULTURE, DEPARTMENT OF</b> )				PROP	94-09-065
<b>OLYMPIC COLLEGE</b>			Personnel resources board (see <b>PERSONNEL RESOURCES BOARD</b> )		
Meetings	MISC	94-01-122	Rules coordinator	MISC	94-01-160
	MISC	94-01-123		MISC	94-06-001
	MISC	94-02-085	Washington management service affirmative action	PROP	94-06-064
	MISC	94-07-046		PERM	94-09-012
<b>OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR</b>			career executive program, transition from	PROP	94-01-125
Housekeeping rules revisions	PROP	94-12-010		PROP	94-09-065
	<b>PROP</b>	<b>94-13-196</b>	establishment	PERM	94-12-055
Meetings	MISC	94-05-099		PROP	94-01-048
	MISC	94-06-052	phase in agencies	EMER	94-03-069
	MISC	94-07-069		PROP	94-11-071
	MISC	<b>94-13-134</b>	reduction in force	PROP	94-06-064
Rules coordinator	MISC	94-02-062		PERM	94-09-012
	MISC	94-06-006	reversion	PROP	94-09-065
<b>PARKS AND RECREATION COMMISSION</b>			review period	PERM	94-12-055
Alcohol possession or consumption in parks	PROP	94-10-069	salary adjustments	PROP	94-09-065
	<b>PERM</b>	<b>94-13-081</b>		PERM	94-12-055
Aircraft paragliders, prohibition exemption	PERM	94-01-087	<b>PERSONNEL RESOURCES BOARD</b>		
Boating safety program local government programs	PROP	94-01-149	Affirmative action	PROP	94-04-010
	PERM	94-04-076		PROP	94-04-086
Camping facilities fees	PROP	94-03-097	Appeals	PERM	94-06-063
	PROP	94-06-010	Classification plan	<b>PROP</b>	<b>94-13-090</b>
	PERM	94-08-036		PROP	94-02-034
	PROP	94-10-048	Demotion	PROP	94-12-058
	<b>PERM</b>	<b>94-13-080</b>	Dismissal	PROP	94-12-060
Clean vessel funding program	PROP	94-10-070	Employee training and development	PROP	94-02-034
	<b>PERM</b>	<b>94-13-082</b>		PROP	94-02-034
Commercial solicitation in parks	PROP	94-12-064	Exemptions, civil service law	PROP	94-06-065
Day use fees	PROP	94-03-097		PROP	94-10-009
	PROP	94-06-010	Filing of papers	<b>PERM</b>	<b>94-13-091</b>
	PERM	94-08-036		PROP	94-02-030
	EMER	94-09-009	Higher education institutions and related boards, civil service law exemptions	PERM	94-02-031
Film permit application, fee	PROP	94-03-089	Layoff or separation	PROP	94-12-059
	PROP	94-06-020		PROP	94-02-036
	PERM	94-08-005		PROP	94-04-084
Fort Worden fees	PROP	94-01-150		PERM	94-08-024
	PERM	94-04-075		PERM	94-02-031
Meetings	MISC	94-01-148		PROP	94-02-034

**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

Operations	PERM 94-02-032	identification of affiliated entities	EMER 94-07-001
	PROP 94-02-035		PROP 94-07-035
Position allocations and reallocations	PROP 94-02-034	limitations	PERM 94-11-016
Public records, availability	PERM 94-02-032		PROP 94-07-035
	PROP 94-02-035		PROP 94-07-088
Reduction in force			PROP 94-07-089
register designation	EMER 94-04-085		PROP 94-07-142
transition pool	PROP 94-12-056		PERM 94-11-016
Register designation certification		personal use, standard	PERM 94-11-018
	PROP 94-06-066		PROP 94-03-087
	PERM 94-10-008		PROP 94-04-121
composition and ranking	PROP 94-06-066	pledges	PERM 94-07-141
	PERM 94-10-008		PROP 94-05-097
reduction in force	EMER 94-04-085	political committees	PERM 94-07-141
Salaries			PROP 94-03-087
reallocation	PROP 94-12-058		PROP 94-04-121
	PROP 94-12-060		PROP 94-05-097
Service of process	PROP 94-02-036		PROP 94-07-035
	PROP 94-04-084		PERM 94-07-141
	PERM 94-08-024	prohibited contributions	PERM 94-11-016
	PROP 94-12-057		PROP 94-07-035
State internship program	PERM 94-02-033	source of contribution, identification	PERM 94-11-016
	PROP 94-02-035		PROP 94-07-035
Trial service	PROP 94-02-034		PROP 94-07-088
Washington management service			PROP 94-07-089
Washington general service, movement between	PROP 94-04-009	Enforcement	PERM 94-11-016
	PERM 94-04-011	Exempt activities	PERM 94-05-010
		definition and reporting	MISC 94-01-054
		limitations	MISC 94-01-054
<b>PIERCE COLLEGE</b>		Lobbyists and lobbying	
Meetings	MISC 94-02-017	agency lobbying report	PROP 94-07-035
		employer contributions	PERM 94-11-016
<b>PILOTAGE COMMISSIONERS, BOARD OF</b>			PROP 94-07-035
Oil tankers		Meetings	PERM 94-11-016
tug escort requirements	PROP 94-04-119		PERM 94-05-010
	PERM 94-07-079	Public records, availability	<b>MISC 94-13-001</b>
Pilotage tariff rates		Volunteer services	PERM 94-05-010
Grays Harbor district	PROP 94-01-153		PROP 94-07-142
	EMER 94-01-154		PERM 94-11-017
	EMER 94-05-005		
	PERM 94-05-006	<b>PUBLIC EMPLOYEES BENEFITS BOARD</b>	
Puget Sound district	PROP 94-08-056	(See <b>HEALTH CARE AUTHORITY</b> )	
	PERM 94-12-044		
<b>POLLUTION CONTROL HEARINGS BOARD</b>		<b>PUBLIC INSTRUCTION, SUPERINTENDENT OF</b>	
Appeals	EMER 94-07-061	Administrator internship program	PROP 94-04-025
	PROP 94-07-098		PERM 94-07-102
	PERM 94-12-027	Child nutrition	
<b>PUBLIC DISCLOSURE COMMISSION</b>		practice and procedures	PROP 94-01-137
Affiliated entities	PROP 94-08-080		PERM 94-04-097
Aggregate, definition	MISC 94-01-054	Funding	
Campaign finance reporting forms	EMER 94-01-039	appropriation allocation	<b>PREP 94-13-119</b>
	PROP 94-01-040	block grants, distribution	PROP 94-11-066
	PERM 94-05-011	Elementary and Secondary Education	
Collective bargaining organizations and associations, definitions	PERM 94-05-010	Act compliance	PROP 94-04-094
Contributions			PERM 94-07-103
annual report	EMER 94-07-001	enrollment counting	<b>PREP 94-13-120</b>
	PROP 94-07-035	instructional counting	<b>PREP 94-13-210</b>
	PERM 94-11-016	local enhancement funding, distribution	PROP 94-11-066
automatically affiliated entities	PROP 94-07-142	technical colleges, basic	
	PERM 94-11-017	education funding	<b>PREP 94-13-094</b>
designation for primary and general elections	PROP 94-03-087		<b>PROP 94-13-107</b>
	PROP 94-04-121	Magnet school programs	PROP 94-08-074
	PROP 94-05-097		PERM 94-12-019
	PERM 94-07-141	Running start program	PROP 94-01-114
encouraging expenditures to avoid contributions, result	MISC 94-01-054		PROP 94-01-136
fair market value, definition	PROP 94-07-088	Salary allocations	PERM 94-04-095
	PERM 94-11-018	certificated instructional staff	PERM 94-04-096
		Student learning improvement grants	PERM 94-01-190
		Teacher assistance program	PROP 94-04-122
			PERM 94-12-002
			PROP 94-11-120

## Subject/Agency Index

(Citation in bold type refer to material in this issue)

### PUBLIC WORKS BOARD

(See **COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF**)

### PUGET SOUND AIR POLLUTION CONTROL AGENCY

Chromic acid plating and anodizing	PERM	94-01-083
Coatings	PERM	94-01-083
	PROP	94-02-083
	PERM	94-05-067
Compliance with regulations	PERM	94-01-083
	PROP	94-02-083
	PERM	94-05-067
Construction permits notice and review requirements	PROP	94-06-062
	PERM	94-09-035
Control officer duties and powers	PROP	94-02-083
	PERM	94-05-067
Definitions	PROP	94-02-083
	PERM	94-05-067
	PROP	94-06-061
	PERM	94-09-034
Emission standards compliance	PROP	94-02-083
	PERM	94-05-067
Gasoline loading terminals	PERM	94-01-083
Gasoline stations vapor recovery	PROP	94-02-083
	PERM	94-05-067
Meetings	MISC	94-07-068
Outdoor fires exemptions from emission standards	PROP	94-06-061
	PERM	94-09-034
prohibited areas	PROP	94-06-061
	PERM	94-09-034
Oxygenated gasoline oxygen content	PROP	94-08-085
	PERM	94-11-077
Refuse burning Sources registration	PERM	94-01-083
	PROP	94-02-083
	PERM	94-05-067

### PUGET SOUND WATER QUALITY AUTHORITY

Meetings	MISC	94-03-017
Puget Sound water quality management plan	MISC	94-04-128
Rules coordinator	MISC	94-02-019

### RENTON TECHNICAL COLLEGE

Meetings	MISC	94-03-015
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### RETIREMENT SYSTEMS, DEPARTMENT OF

Annual leave cash payments in lieu of unused leave	PROP	94-07-144
Elected and appointed officials, eligibility and application for retirement service membership	PROP	94-08-087
	PERM	94-12-014
Employee status, determination	PROP	94-05-012
	PERM	94-09-039
Location restricted compensation	<b>PROP 94-13-048</b>	
	<b>PREP 94-13-122</b>	
	<b>PROP 94-13-197</b>	
Retirement allowance calculation	PROP	94-07-144
	PERM	94-11-009
judicial plan members recomputation following reemployment	PROP	94-07-143
	PERM	94-11-008
plan II members recomputation following reemployment	PROP	94-05-013
	PERM	94-09-040
Standby pay	<b>PROP 94-13-048</b>	

### REVENUE, DEPARTMENT OF

Business and occupation tax  
agricultural products, sales by  
producers

	PROP	94-03-034
	PERM	94-07-048
farmers, miscellaneous sales to	PROP	94-03-037
	PERM	94-07-051
feed, seed, fertilizer, and spray materials for farm use	PROP	94-03-035
	PERM	94-07-049
heat or steam sales	PROP	94-01-155
	<b>PERM 94-13-033</b>	
horticultural services to farmers	PROP	94-03-036
	PERM	94-07-050
hospitals, medical care facilities, and adult family homes	PROP	94-01-158
	EMER	94-05-083
	PERM	94-11-097
hotels, motels, and boarding houses	PROP	94-01-157
	PERM	94-05-001
landscape and horticultural services laundries and dry cleaners	PROP	94-10-013
	PROP	94-01-156
	PERM	94-09-016
motor carriers, sales to interstate or foreign commerce carriers	PROP	94-07-023
schools and educational institutions	PROP	94-03-047
	PERM	94-07-047
	EMER	94-05-085
tax reporting	<b>EMER 94-13-032</b>	
	PROP	94-07-027
ticket sellers	EMER	94-05-086
tour operators	<b>EMER 94-13-029</b>	
Cigarette tax reporting	PROP	94-07-026
	PERM	94-10-062
Excise tax real estate excise tax administration and compliance	PERM	94-04-088
	<b>PROP 94-13-089</b>	
tobacco products tax reporting	PROP	94-07-025
Inflation rates	PROP	94-08-082
	PERM	94-11-098
Property tax agricultural land valuation	PROP	94-01-166
	PERM	94-05-062
exemptions	PROP	94-01-169
	PERM	94-07-008
forest land values	PERM	94-02-046
levies	PERM	94-07-066
nonprofit homes for aging nonprofit organizations, associations, and corporations, exemption conditions	PROP	94-10-060
	PROP	94-01-169
	PERM	94-07-008
	PROP	94-07-123
	PROP	94-11-099
open space taxation	<b>PREP 94-13-096</b>	
personal property ratio, computation	PROP	94-01-168
	PERM	94-05-064
refunds, rate of interest	PROP	94-01-167
	PERM	94-05-063
Public utility tax	PROP	94-01-159
	<b>PERM 94-13-034</b>	
Sales tax agricultural products, sales by producers	PROP	94-03-034
	PERM	94-07-048
farmers, miscellaneous sales to	PROP	94-03-037
	PERM	94-07-051
feed, seed, fertilizer, and spray materials for farm use	PROP	94-03-035
	PERM	94-07-049
heat or steam sales	PROP	94-01-155
	<b>PERM 94-13-033</b>	

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

horticultural services to farmers	PROP 94-03-036	Whatcom Community College	MISC 94-01-044
	PERM 94-07-050		
hospitals, medical care facilities, and adult family homes	PROP 94-01-158	<b>SEATTLE COMMUNITY COLLEGES</b>	
	EMER 94-05-084	Contested case hearings and administrative disputes	PROP 94-05-097A
	PERM 94-11-097	Meetings	MISC 94-01-006
hotels, motels, and boarding houses	PROP 94-01-157		MISC 94-01-085
	PERM 94-05-001		MISC 94-01-131
landscape and horticultural services	PROP 94-10-013		MISC 94-03-059
laundries and dry cleaners	PROP 94-01-156		PROP 94-05-097A
	PERM 94-09-016		MISC 94-06-033
motor carriers, sales to interstate or foreign commerce carriers	PROP 94-07-023		MISC 94-07-101
resale certificates, use and penalties for misuse	EMER 94-05-083		MISC 94-08-064
	PROP 94-06-004		MISC 94-08-065
	<b>EMER 94-13-030</b>	Rules coordinator	<b>MISC 94-13-075</b>
	<b>PERM 94-13-031</b>		MISC 94-01-107
schools and educational institutions	PROP 94-03-047	<b>SECRETARY OF STATE</b>	
	PERM 94-07-047	Archives and records management, division of	
tax reporting	EMER 94-05-085	electronic imaging systems, standards for accuracy and durability	PROP 94-01-161
	<b>EMER 94-13-032</b>		PROP 94-03-081
ticket sellers	PROP 94-07-027		PERM 94-04-102
tour operators	EMER 94-05-086	Corporations division	
	<b>EMER 94-13-029</b>	charitable solicitation organizations	
watercraft, sales to nonresidents	PROP 94-03-046	financial reporting	PERM 94-01-004
Timber excise tax			PROP 94-10-054
stumpage values	PERM 94-02-047	registration	PERM 94-01-004
	PROP 94-02-073	charitable trusts	
	PROP 94-02-074	financial reporting	PERM 94-01-004
	PROP 94-03-086		PROP 94-10-054
	PROP 94-04-089	registration	PERM 94-01-004
	PROP 94-04-090	commercial fund raisers	
	PROP 94-09-057	auditing standards	PERM 94-02-011
	PROP 94-10-063	registration	PERM 94-02-011
Tobacco products tax reporting	PROP 94-07-025	fees	PERM 94-01-074
	PERM 94-10-061		PROP 94-12-085
Use tax			PROP 94-12-086
motor carriers, operation in interstate or foreign commerce	PROP 94-07-024	limited liability companies	PROP 94-12-085
		limited partnerships	PROP 94-12-085
		naming conventions	PROP 94-12-085
		trademarks	PROP 94-12-085
		Election training and certification program	PROP 94-01-010
			PERM 94-07-018
<b>RULES COORDINATORS</b>			
(See Issue 94-01 for a complete list of rules coordinators designated as of 12/22/93)			
Arts commission	MISC 94-01-099	<b>SHORELINE COMMUNITY COLLEGE</b>	
Big Bend Community College	MISC 94-07-005	Meetings	MISC 94-03-012
Central Washington University	MISC 94-01-105		
Clover Park Technical College	MISC 94-01-043	<b>SHORELINES HEARINGS BOARD</b>	
Community and technical colleges, state board for	MISC 94-01-023	Appeals	EMER 94-07-060
Deaf, Washington School for the	MISC 94-08-063		PROP 94-07-095
Deferred compensation, committee for	MISC 94-03-058		PERM 94-12-028
Eastern Washington University	MISC 94-01-031		
Everett Community College	MISC 94-01-071	<b>SKAGIT VALLEY COLLEGE</b>	
Evergreen State College, The	MISC 94-01-072	Grievance procedure	PERM 94-01-028
Financial management, office of	MISC 94-06-057	Harassment	PERM 94-01-028
Gambling commission	MISC 94-07-100	Meetings	MISC 94-01-128
Growth planning hearings boards	MISC 94-01-053		MISC 94-07-016
Health services commission	MISC 94-01-070		<b>MISC 94-13-023</b>
	MISC 94-09-013		<b>MISC 94-13-138</b>
Indeterminate sentence review board	MISC 94-02-067	Records, availability	PERM 94-01-028
Marine safety, office of	MISC 94-02-021	Smoking policy	PERM 94-01-028
Outdoor recreation, interagency committee for	MISC 94-02-062	<b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b>	
Peninsula College	MISC 94-04-026	Aid to families with dependent children entitlements	PROP 94-05-069
Personnel, department of	MISC 94-01-160		PERM 94-08-015
	MISC 94-06-001	income allocation	PROP 94-05-019
Puget Sound water quality authority	MISC 94-02-019		PERM 94-08-019
Seattle Community Colleges	MISC 94-01-107	income disregard	PROP 94-05-054
Spokane, Community Colleges of	MISC 94-01-009		PERM 94-08-021
Trade and economic development, department of	MISC 94-01-183	mandatory monthly reporting	PROP 94-05-017
Utilities and transportation commission	MISC 94-02-026		PERM 94-08-017
Washington state patrol	MISC 94-08-047		

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

net cash income	PROP 94-05-016	newly acquired nonexempt resources and income	PROP 94-05-029
	PERM 94-08-016		PERM 94-08-020
replacement of exempt property	PROP 94-05-018	protective payments	PROP 94-11-024
	PERM 94-08-018		<b>PERM 94-13-202</b>
Alcohol and substance abuse, division of		quality control review cooperation	<b>PROP 94-13-007</b>
chemical dependency treatment service	PERM 94-02-002	replacement of exempt property	PROP 94-05-018
providers certification	PROP 94-02-020		PERM 94-08-018
	PROP 94-07-072	rules reorganization	PROP 94-07-114
Children and family services,			PERM 94-10-065
division of day care centers			<b>PROP 94-13-008</b>
licenses	PROP 94-11-111		<b>EMER 94-13-009</b>
	<b>PERM 94-13-201</b>	self-employment resource exemptions	PROP 94-03-055
Deaf and hard of hearing services			PERM 94-06-024
telecommunications access service (TAS)	PROP 94-01-080	special payments	PROP 94-06-035
	PERM 94-02-042		PERM 94-09-001
	EMER 94-04-032	standards of assistance	PROP 94-01-118
	PERM 94-04-037		PERM 94-04-035
Developmental disabilities, division of			PROP 94-06-035
family support services	PROP 94-01-062	supplemental security income (SSI) program	PERM 94-09-001
	EMER 94-01-063		PROP 94-12-004
	EMER 94-01-064		
	PERM 94-04-092		PROP 94-01-118
	PROP 94-01-011		PROP 94-01-138
Disaster relief			PERM 94-04-033
Food stamp program			PERM 94-04-035
adult children and siblings,	<b>PREP 94-13-116</b>	transfer of property	PROP 94-01-139
eligibility	<b>PROP 94-13-132</b>		PERM 94-04-043
			<b>PROP 94-13-054</b>
alcohol and drug treatment center	<b>PREP 94-13-117</b>	unearned income	<b>EMER 94-13-055</b>
residents, eligibility	<b>PROP 94-13-131</b>	violations, disqualification	<b>PREP 94-13-114</b>
		Individual and family grant program	<b>PROP 94-13-024</b>
aliens		disaster relief	PROP 94-01-011
verification for entitlements	PROP 94-11-064		PERM 94-04-036
	<b>PERM 94-13-203</b>	Juvenile rehabilitation, division of	
halfway house residents, eligibility	<b>PREP 94-13-118</b>	collection of costs of support, treatment, and confinement	PROP 94-12-066
	<b>PROP 94-13-133</b>	consolidated juvenile services program	PROP 94-08-007
income budgeting	PROP 94-03-041		PERM 94-11-065
	PROP 94-06-023	parole conditions	PROP 94-12-026
income deductions	PROP 94-07-031	Medical assistance	
	PERM 94-12-042	children, eligibility	EMER 94-08-043
	<b>PROP 94-13-130</b>		PROP 94-08-044
	<b>PREP 94-13-194</b>	client grievances	PROP 94-11-059
information release to child			EMER 94-11-063
support programs	PROP 94-11-064	copayments	PROP 94-01-003
interview process	PERM 94-01-066		PERM 94-04-038
monthly reporting	PROP 94-03-050		EMER 94-08-045
	PERM 94-06-027		PROP 94-08-046
	PERM 94-07-080		PERM 94-11-057
resources, exemptions	<b>PROP 94-13-026</b>		PROP 94-11-058
standards of assistance	EMER 94-02-043	cost recovery	EMER 94-11-061
students, eligibility	<b>PREP 94-13-129</b>	drugs	<b>PREP 94-13-104</b>
Home and community services division		discount agreement	PROP 94-01-046
chore personal services budget control	PROP 94-07-082		PERM 94-01-094
	PERM 94-10-025	eligibility	
Income assistance		effective date	PROP 94-05-026
alien's sponsor's income	PROP 94-10-086		PERM 94-07-132
	<b>PERM 94-13-050</b>	income standards	<b>PREP 94-13-102</b>
			<b>PREP 94-13-103</b>
consolidated emergency assistance program (CEAP)	PROP 94-03-051	exempt resources	PERM 94-02-007
	PERM 94-06-026	eyeglasses and examinations	PROP 94-01-081
disqualification	<b>PROP 94-13-024</b>		EMER 94-02-044
entitlements	PROP 94-05-069		PROP 94-04-031
	PERM 94-08-015		PROP 94-05-044
income allocation	PROP 94-05-019		PROP 94-07-021
	PERM 94-08-019		PERM 94-07-122
income disregard	PROP 94-05-054	hearing aids	PROP 94-02-050
	PERM 94-08-021		EMER 94-02-051
income exclusions	PROP 94-12-003		PROP 94-05-043
incorrect payments	PROP 94-02-052		PERM 94-07-022
in-kind income	PROP 94-04-042	home health services	PROP 94-01-147
	PERM 94-08-022		PERM 94-03-052
monthly allotments	PROP 94-12-083		
net cash income	PROP 94-05-016		
	PERM 94-08-016		

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

income and resources, computation	EMER 94-08-041	Restoration of right to possess	
	PROP 94-08-042	firearms by former involuntarily	
	PROP 94-11-060	committed person	EMER 94-03-004
	EMER 94-11-062		PROP 94-03-005
incorrect payments	PROP 94-02-052		PERM 94-06-025
	PERM 94-05-045	Special commitment center	
infusion, enteral and parenteral		travel policy and expenses	PROP 94-07-087
therapy	<b>PREP 94-13-105</b>		PERM 94-12-006
institutionalized client		Support enforcement	
allocation		assessing support	PROP 94-07-041
of income and resources	PERM 94-02-006		EMER 94-07-042
	PROP 94-05-025	collection actions	PERM 94-10-064
	PERM 94-07-130	conference board process	PROP 94-11-112
	EMER 94-08-043	defenses to liability	PROP 94-11-110
	PROP 94-08-044		PROP 94-07-081
	PROP 94-11-059	eligibility for services	PERM 94-10-033
	EMER 94-11-063	equitable estoppel	PROP 94-11-112
trusts	EMER 94-05-027		PROP 94-07-081
	PROP 94-05-028	good cause not to cooperate	PERM 94-10-033
Medicare cost sharing	PERM 94-07-131		PROP 94-01-042
	EMER 94-08-043	responsibilities of office	PERM 94-04-034
	PROP 94-08-044	Telecommunications access service (TAS)	PROP 94-11-112
	PROP 94-11-059	transition policies	
	EMER 94-11-063		PROP 94-01-080
mental health services, managed care			EMER 94-04-032
prepaid healthcare plans	PROP 94-01-079		PERM 94-04-037
	PROP 94-01-140		
	PROP 94-02-003	<b>SOUTH PUGET SOUND COMMUNITY COLLEGE</b>	
	EMER 94-02-004	Meetings	MISC 94-03-032
	EMER 94-02-008		MISC 94-05-031
	PROP 94-02-009		MISC 94-08-061
	PERM 94-07-020		MISC 94-13-093
occupational therapy	PERM 94-01-065		
	PROP 94-04-022	<b>SPOKANE, COMMUNITY COLLEGES OF</b>	
	EMER 94-04-023	Meetings	MISC 94-01-019
	PERM 94-07-030		MISC 94-10-050
physical therapy	PERM 94-01-065		MISC 94-13-137
	PROP 94-04-022	Rules coordinator	MISC 94-01-009
	EMER 94-04-023		
	PERM 94-07-030	<b>SPOKANE COUNTY AIR POLLUTION CONTROL</b>	
pregnant women	EMER 94-08-043	<b>AUTHORITY</b>	
	PROP 94-08-044	Dust control on unpaved roads	
	PROP 94-11-059	contingency measures	<b>PROP 94-13-193</b>
	EMER 94-11-063	Solid fuel burning devices	
rules reorganization	PROP 94-07-114	standards	PERM 94-03-027
	PERM 94-10-065		<b>PROP 94-13-192</b>
speech therapy services	PERM 94-01-065		
	PROP 94-04-022	<b>SUPREME COURT</b>	
	EMER 94-04-023	Bail and mandatory appearance (CrRLJ)	MISC 94-08-002
	PROP 94-07-030	Bar association	
SSI-related income exemptions	PERM 94-02-005	collective bargaining for employees (GR 12)	MISC 94-01-025
	EMER 94-08-041	Judicial information system	
	PROP 94-08-042	records, contents (JISCR)	MISC 94-07-058
	PROP 94-11-060	Infractions, monetary penalties (IRLJ 6.2)	MISC 94-08-001
	EMER 94-11-062	Videotaped proceedings (RAP)	MISC 94-01-024
working disabled		<b>TACOMA COMMUNITY COLLEGE</b>	
hospital premium insurance	EMER 94-11-063	Discrimination	PROP 94-03-082
Mental health division		Grievance procedure	PROP 94-03-082
community mental health programs	PROP 94-12-005	Meetings	MISC 94-01-129
hospital charges, schedule	<b>PROP 94-13-051</b>		MISC 94-03-079
managed care prepaid healthcare plans	PROP 94-02-003		MISC 94-04-080
	EMER 94-02-004		MISC 94-04-081
	EMER 94-02-008		MISC 94-10-051
	PROP 94-02-009	Sexual harassment	PROP 94-03-082
	PERM 94-07-020		
Nursing homes		<b>TAX APPEALS, BOARD OF</b>	
accounting and reimbursement		Hearings	
system	PROP 94-07-109	procedures for requesting formal or	
	PERM 94-12-043	informal hearing	PROP 94-03-056
rules and regulations	<b>PROP 94-13-052</b>		PROP 94-03-057
Public records			PERM 94-07-043
disclosure and exemptions	<b>PROP 94-13-025</b>		PERM 94-07-044
		Meetings	MISC 94-01-016

**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

<b>TOXICOLOGIST, STATE</b>			<b>USURY RATES</b>		
Breath alcohol test program	PROP	94-07-073	(See inside front cover)		
<b>TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>			<b>UTILITIES AND TRANSPORTATION COMMISSION</b>		
(See also COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)			Administrative procedures		
Community economic revitalization board meetings	MISC	94-04-109	alternate dispute resolution	PROP	94-07-140
Hardwoods commission meetings	MISC	94-03-039	case management	PROP	94-07-140
Rules coordinator	MISC	94-07-017	Auto transportation companies applications	PROP	94-07-137
	MISC	94-01-183	equipment	PERM	94-11-021
			operation of vehicles	PROP	94-07-137
<b>TRAFFIC SAFETY COMMISSION</b>			tariffs	PROP	94-11-020
Meetings	MISC	94-02-066	Commercial ferries	PROP	94-07-137
			definitions	PERM	94-11-021
<b>TRANSPORTATION COMMISSION</b>			tariffs	PERM	94-03-003
Highway corridor and alignment authority	PROP	94-08-054	Electric utilities		
Meetings	MISC	94-01-143	purchases of electricity	PROP	94-01-175
	MISC	94-04-040	Log road classification	PERM	94-07-045
	MISC	94-06-041	Meetings	PERM	94-03-001
	MISC	94-07-113	Motor freight carriers	MISC	94-02-027
	MISC	94-10-019	alcohol and controlled substance testing	PROP	94-11-104
	MISC	94-12-073	bills of lading	PERM	94-03-002
	MISC	94-13-200	classification of carriers	PROP	94-07-135
<b>TRANSPORTATION IMPROVEMENT BOARD</b>			driver responsibilities	PERM	94-11-022
Meetings	MISC	94-03-030	permit rights, transfer	PROP	94-11-104
	MISC	94-08-084	safety, drivers and equipment	PERM	94-11-022
	MISC	94-11-028		PROP	94-07-135
	MISC	94-13-035		PROP	94-11-019
<b>TRANSPORTATION, DEPARTMENT OF</b>				PERM	94-11-022
Adjudicative proceedings	PROP	94-12-070		PROP	94-11-104
Contractors prequalification	PROP	94-01-021		PROP	94-11-019
Ferry system	PERM	94-05-004		PROP	94-11-022
tolls	PROP	94-04-077		PROP	94-11-104
Highway Advertising Control Act	PERM	94-07-104			
highway fatality markers	PROP	94-09-031	Motor vehicles		
national scenic byway demonstration project	PERM	94-12-049	interstate carriers		
political campaign signs	PROP	94-09-031	registration	EMER	94-01-041
Motor vehicles	PERM	94-12-049	limousine charter party carriers		
overlength exemptions	EMER	94-02-064	operation	PROP	94-10-071
temporary additional tonnage permits	PROP	94-03-043	registration	PROP	94-10-071
	PERM	94-07-055	log road classification	PERM	94-03-001
	PROP	94-03-042	North American uniform out-of-service criteria, adoption	PROP	94-11-102
	PERM	94-07-054	passenger charter carriers	PROP	94-11-103
Practice and procedure	PROP	94-12-070	operation	PROP	94-10-072
Real property acquisition and relocation assistance	PROP	94-12-071	registration	PROP	94-10-072
			Organization and operation	PROP	94-07-139
<b>UNIVERSITY OF WASHINGTON</b>			Private carriers	PERM	94-11-002
Meetings	MISC	94-01-098	household goods moves, excessive charges	PROP	94-07-134
	MISC	94-02-054	registration and regulation	PERM	94-11-001
	MISC	94-03-028		PROP	94-07-134
	MISC	94-03-029		PERM	94-11-001
	MISC	94-03-077	Railroads		
	MISC	94-03-078	annual reports	PROP	94-07-138
	MISC	94-04-013	hazardous materials transport	PERM	94-11-003
	MISC	94-04-016	rates, notice	PROP	94-11-101
	MISC	94-04-020	track clearances	PROP	94-07-138
	MISC	94-04-021		PERM	94-11-003
	MISC	94-04-028	Rules coordinator	MISC	94-02-026
	MISC	94-05-021	Solid waste collection companies		
	MISC	94-05-022	driver qualifications	PROP	94-11-102
	MISC	94-10-014	equipment safety	PROP	94-11-102
			hazardous materials transport	PROP	94-11-102
			insurance requirements	PROP	94-07-136
			rate increases, notice	PERM	94-11-004
				PROP	94-11-101

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Telecommunication companies				<b>WASHINGTON STATE UNIVERSITY</b>		
alternative operator services	<b>PROP</b>	<b>94-13-027</b>		Academic integrity		
complaints	<b>PROP</b>	<b>94-13-027</b>		standards	<b>PREP</b>	<b>94-13-139</b>
deposits	<b>PROP</b>	<b>94-13-027</b>		violations	<b>PREP</b>	<b>94-13-139</b>
disconnection of service	<b>PROP</b>	<b>94-13-027</b>		Adjudicative hearings	<b>PREP</b>	<b>94-13-143</b>
mandatory cost changes	PERM	94-01-146		Bids for goods and services		
open network architecture environment	PROP	94-01-191		bid protest	<b>PREP</b>	<b>94-13-144</b>
pay telephone call restriction	PROP	94-05-048		Library Plaza use	<b>PREP</b>	<b>94-13-148</b>
refusal of service	<b>PROP</b>	<b>94-13-027</b>			<b>PREP</b>	<b>94-13-149</b>
Water companies				Library use	<b>PREP</b>	<b>94-13-151</b>
customer deposits, interest	PERM	94-01-095		Meetings	MISC	94-01-121
					MISC	94-10-015
<b>VETERANS' AFFAIRS, DEPARTMENT OF</b>				Nursing education center parking	<b>PREP</b>	<b>94-13-145</b>
State veterans' homes				Parking	<b>PREP</b>	<b>94-13-153</b>
Medicaid funded programs	PROP	94-09-043		Residency determination	<b>PREP</b>	<b>94-13-152</b>
non-Medicaid funded programs	PROP	94-09-043		Smoking regulations	<b>PREP</b>	<b>94-13-150</b>
resident income and resources	PERM	94-04-001		Student disciplinary process	<b>PREP</b>	<b>94-13-142</b>
				Student living groups		
<b>VOCATIONAL-TECHNICAL EDUCATION, COUNCIL ON</b>				alcohol policies	<b>PREP</b>	<b>94-13-140</b>
Meetings	MISC	94-01-093		conduct regulations	<b>PREP</b>	<b>94-13-141</b>
	MISC	94-04-082		Student organizations	<b>PREP</b>	<b>94-13-147</b>
	MISC	94-07-071		Student records	<b>PREP</b>	<b>94-13-146</b>
	MISC	94-11-083				
				<b>WHATCOM COMMUNITY COLLEGE</b>		
<b>VOLUNTEER FIREFIGHTERS, BOARD FOR</b>				Meetings	MISC	94-01-184
Meetings	MISC	94-03-031		Rules coordinator	MISC	94-01-044
	MISC	94-05-020				
				<b>WESTERN WASHINGTON UNIVERSITY</b>		
<b>WALLA WALLA COMMUNITY COLLEGE</b>				Student records	PROP	94-07-117
Meetings	MISC	94-04-027				
	MISC	94-12-074		<b>WILDLIFE, COMMISSION AND DEPARTMENT</b>		
				(See also <b>FISH AND WILDLIFE, DEPARTMENT OF</b> )		
<b>WASHINGTON STATE HISTORICAL SOCIETY</b>				Fishing		
Meetings	MISC	94-01-018		fishing contests		
				game fish seasons and catch limits, 1992-94	PERM	94-06-014
<b>WASHINGTON STATE LIBRARY</b>				Lake Sammamish	PERM	94-06-013
Continuing education, council on membership	PERM	94-11-023		Lake Washington	PERM	94-06-013
Library commission meetings	MISC	94-06-053		steelhead	EMER	94-02-037
	MISC	<b>94-13-042</b>		game fish seasons and catch limits, 1994-95	EMER	94-03-038
<b>WASHINGTON STATE PATROL</b>				Baker Lake	PROP	94-06-040
Commercial vehicles				Columbia River	EMER	94-04-012
rules promulgation	PROP	94-05-023			PERM	94-04-018
tire chains or traction devices	EMER	94-02-081		Grand Ronde River	PROP	94-06-038
	PROP	94-02-082		Lake Roosevelt	EMER	94-08-048
	PERM	94-08-069		Lake Sammamish	PROP	94-06-039
Emergency vehicles parked on roadways	<b>PREP</b>	<b>94-13-079</b>		Lake Washington	PERM	94-06-012
Hazardous materials				Sauk River	PERM	94-06-013
procedure upon entering state	PERM	94-01-180		Shannon Lake	PROP	94-06-039
Private carriers				steelhead	EMER	94-02-037
drivers' qualifications	PERM	94-01-178		Tucannon River	EMER	94-03-038
hours of service of drivers	PERM	94-01-178		northern squawfish sport-reward fishery	PROP	94-06-039
private carrier, term changed to commercial motor vehicle	PROP	94-05-023		Game	PROP	94-06-043
	PERM	94-08-004		bighorn sheep units	PROP	94-04-067
Rules coordinator	MISC	94-08-047		cougar areas	PROP	94-04-068
School buses				deer area descriptions	PROP	94-04-061
lamps, operation	PERM	94-01-179		elk area descriptions	PROP	94-04-062
stop signal arms	PERM	94-01-179		goat units	PROP	94-04-065
Sunscreens tint film decals	PERM	94-05-024		moose units	PROP	94-04-066
Tow trucks				private lands wildlife management area	PROP	94-04-069
business standards	<b>PREP</b>	<b>94-13-078</b>		Game management units (GMUs)		
				boundary descriptions	PROP	94-04-055
					PROP	94-04-056
					PROP	94-04-057
					PROP	94-04-058
					PROP	94-04-059
					PROP	94-04-060
				Hunting		
				bow and arrow area descriptions	PROP	94-04-063

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

firearm restriction areas and special closures, 1994-95	PROP	94-04-117
muzzleloader area descriptions	PROP	94-04-064
special closures and firearm restriction area, 1994-95	PROP	94-04-117
special hunting and trapping seasons permits	PROP	94-04-118
	PROP	94-06-036
	PROP	94-06-037
Hunting seasons		
bighorn sheep auction permit, 1994	PERM	94-04-123
deer and bear, 1994-97	PROP	94-04-114
deer and elk permits, 1994-95	PROP	94-05-078
elk, 1994-97	PROP	94-04-116
hunting hours and small game seasons, 1994-97	PROP	94-04-115
migratory waterfowl, 1993-94	EMER	94-04-007
special species, 1994-95	PROP	94-05-079
Meetings	MISC	94-02-001
Migratory waterfowl		
1993-94 seasons and regulations	EMER	94-02-012
Trapping		
special hunting and trapping seasons, permits	PROP	94-04-118
	PROP	94-06-036
	PROP	94-06-037

### WINE COMMISSION

(See AGRICULTURE, DEPARTMENT OF)

### WORKFORCE TRAINING AND EDUCATION

#### COORDINATING BOARD

Meetings	MISC	94-01-078
	MISC	94-02-048
	MISC	94-04-049
	MISC	94-05-015
	MISC	94-09-011
	MISC	<b>94-13-083</b>

### YAKIMA COUNTY CLEAN AIR AUTHORITY

Fees	PERM	94-01-084
Outdoor burning	PROP	94-07-112
	PERM	94-12-011

### YAKIMA VALLEY COMMUNITY COLLEGE

Meetings	MISC	94-01-106
----------	------	-----------



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