

# Washington State Register

SEPTEMBER 7, 1994

OLYMPIA, WASHINGTON

ISSUE 94-17



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## 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 August 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.

**Raymond W. Haman**  
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*Code Reviser*

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*Subscription Clerk*

# 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].

## 1994 - 1995

### 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>
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
95-01	Nov 23	Dec 7	Dec 21, 1994	Jan 4, 1995	Jan 24
95-02	Dec 7	Dec 21, 1994	Jan 4, 1995	Jan 18	Feb 7
95-03	Dec 21, 1994	Jan 4, 1995	Jan 18	Feb 1	Feb 21
95-04	Jan 4	Jan 18	Feb 1	Feb 15	Mar 7
95-05	Jan 18	Feb 1	Feb 15	Mar 1	Mar 21
95-06	Feb 1	Feb 15	Mar 1	Mar 15	Apr 4
95-07	Feb 22	Mar 8	Mar 22	Apr 5	Apr 25
95-08	Mar 8	Mar 22	Apr 5	Apr 19	May 9
95-09	Mar 22	Apr 5	Apr 19	May 3	May 23
95-10	Apr 5	Apr 19	May 3	May 17	Jun 6
95-11	Apr 26	May 10	May 24	Jun 7	Jun 27
95-12	May 10	May 24	Jun 7	Jun 21	Jul 11
95-13	May 24	Jun 7	Jun 21	Jul 5	Jul 25
95-14	Jun 7	Jun 21	Jul 5	Jul 19	Aug 8
95-15	Jun 21	Jul 5	Jul 19	Aug 2	Aug 22
95-16	Jul 5	Jul 19	Aug 2	Aug 16	Sep 5
95-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
95-18	Aug 9	Aug 23	Sep 6	Sep 20	Oct 10
95-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
95-20	Sep 6	Sep 20	Oct 4	Oct 18	Nov 7
95-21	Sep 20	Oct 4	Oct 18	Nov 1	Nov 21
95-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
95-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
95-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1996

<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 94-17-001****PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SERVICES FOR THE BLIND**

[Filed August 4, 1994, 1:24 p.m.]

Specific Statutory Authority for New Rule: Chapter 74.18 RCW.

Reasons Why the New Rule is Needed: WAC 67-35-051 (new) Licensees—Geographic availability—Certification, to indicate conditions by which a licensee may bid for a location; WAC 67-35-070 (revision) Selecting a vendor or licensee to operate a primary location vending facility, to delete repetitive language and relocate applicable terms from WAC 67-35-072; WAC 67-35-072 (revision) Vendor status—Loss of any vending facility to the VF program, to resolve conflict in terms with WAC 67-35-070, retitled to more accurately represent content; and WAC 67-35-910 (revision) Vendor agreement, to change conditions of termination of agreement from thirty to forty-five days.

Goals of New Rule: In each case, the goals are to clarify conditions under which the vendors in the business enterprise program are to participate.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Contact Bonnie Jindra, Assistant Director, Department of Services for the Blind, P.O. Box 40933, Olympia, WA 98504-0933, (206) 586-1224, FAX (206) 586-7627.

August 3, 1994

Bonnie Jindra  
Assistant Director**WSR 94-17-002****PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF REVENUE**

[Filed August 5, 1994, 11:50 a.m.]

Specific Statutory Authority for New Rule: RCW 84.33.091.

Reasons Why the New Rule is Needed: Taxpayers in northeastern Washington requested that the taper factor for scaling lodgepole pine be changed from two inches to one inch.

Goals of New Rule: This rule will bring the reporting system into line with common industry practice in this area.

Process for Developing New Rule: Modified negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Meeting, 1:30 p.m., on September 21, 1994, Department of Revenue Conference Room, Sixth Floor, Northtown Office Building, North 4407 Division Street, Spokane, WA. Contact Bill Justis, Department of Revenue, P.O. Box 47472, Olympia, WA 98504-7472, phone (206) 586-7120, FAX (206) 664-8438.

August 4, 1994

Gary K. O'Neil  
Assistant Director  
Special Programs Division**WSR 94-17-003****PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF REVENUE**

[Filed August 5, 1994, 11:51 a.m.]

Specific Statutory Authority for New Rule: RCW 84.33.091.

Reasons Why the New Rule is Needed: Growing, harvesting, and marketing conditions differ greatly from the rest of stumpage value area 6 in the area between the White Salmon and Klickitat rivers. The Department of Revenue intends to make changes in the boundary between stumpage value areas 5 and 6 to address this difference within stumpage value area 6.

Goals of New Rule: This change will remove from the sales data use to compute stumpage values those sales which exhibit growing, harvesting, and marketing conditions that are very similar to stumpage value area 5. Harvesters in this area also experience these conditions. This change should provide more equitable stumpage values to all harvesters in stumpage value areas 5 and 6.

Process for Developing New Rule: Modified negotiated rulemaking.

How Interested Parties can Participate in Formulation of the New Rule: Meeting, 1:00 p.m., on September 22, 1994, Department of Revenue Information Systems Conference Room, Carpet Exchange Building, 6300 Linderson Way, Tumwater, WA. Street parking only. Use south tower entrance and elevator to second floor information systems receptionist. Contact Robert Smith, Department of Revenue, P.O. Box 47472, Olympia, WA 98504-7472, phone (206) 753-1385, FAX (206) 664-8438.

August 4, 1994

Gary K. O'Neil  
Assistant Director  
Special Programs Division**WSR 94-17-007****PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF LICENSING**

[Filed August 8, 1994, 9:36 a.m.]

Specific Statutory Authority for New Rule: RCW 46.90.010.

Reasons Why the New Rule is Needed: Amend local ordinances that have adopted chapter 308-330 WAC, Model traffic ordinance, to authorize enforcement of chapters 139, 141, 275, and 305, Laws of 1994, and administrative amendments.

Goals of New Rule: Keep chapter 308-330 WAC current with RCW authorized traffic enforcements.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Send written comments or suggestions by September 15, 1994, to Jack Lince, Licensing Services Manager, Title and Registration Services, P.O. Box 2957, Mailstop 48021, Olympia, WA 98507-2957, phone (206) 753-7379, FAX (206) 586-5748.

August 8, 1994  
Nancy Kelly, Administrator  
Title and Registration Services

**WSR 94-17-009**  
**PREPROPOSAL STATEMENT OF INTENT**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed August 8, 1994, 11:22 a.m.]

Specific Statutory Authority for New Rule: RCW 84.52.0531(9).

Reasons Why the New Rule is Needed: To clarify eligibility for local effort assistance safety net allocation for levies collected in 1995.

Goals of New Rule: See above.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

How Interested Parties can Participate in Formulation of the New Rule: For telephone assistance contact Tom Case, (206) 753-6708. Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, FAX (206) 753-4201, TDD (206) 664-3631.

August 5, 1994  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 94-17-010**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF ECOLOGY**  
[Filed August 8, 1994, 3:46 p.m.]

Specific Statutory Authority for New Rule: RCW 90.48.465 requires the Department of Ecology to establish in rule (i.e., chapter 173-224 WAC) annual permit fees to collect expenses associated with issuing and administering wastewater discharge permits under RCW 90.48.160, 90.48.162, and 90.48.260.

Reasons Why the New Rule is Needed: The Department of Ecology anticipates the need to amend chapter 173-224 WAC for the 1995-97 biennium. Fee rule amendments are necessary to collect wastewater discharge permit program expenses as authorized by the 1995 legislature; implement fee schedule administrative and efficiency improvements as developed through the Department of Ecology's wastewater discharge permit fee restructuring project; and respond as appropriate to such historic (and often unanticipated) fee-setting circumstances as declining state general fund support for the wastewater discharge permit program, new federal requirements regarding municipal/industrial storm water permitting and biomonitoring, new permittees entering the wastewater discharge permitting system, and changes to RCW 90.48.465.

Goals of New Rule: The primary goal of any amendments to chapter 173-224 WAC will be to collect those wastewater discharge permit program expenses as authorized by the 1995 legislature. Additionally, any amendments to

chapter 173-224 WAC will look to the results of the Department of Ecology's wastewater discharge permit fee restructuring project for specific administrative and efficiency improvements. The goals of the Department of Ecology's wastewater discharge permit fee restructuring project are to improve fee-setting consistency for fee payers; develop and implement an understandable/supportable fee-setting rationale — e.g., based on workload, pollutant loading, activity, product-to-pollutant, etc.; ensure consistency with ecology's agency-wide "fee-setting principles"; incorporate pollution reduction incentives and pollution prevention where appropriate; and implement a revenue-neutral restructuring of existing fees as appropriate.

Process for Developing New Rule: The Department of Ecology will use a multi-phased process with stakeholder advisory committee to amend chapter 173-224 WAC. This multi-phased process is as follows: (1) Wastewater Discharge Permit Fee Restructuring Stakeholder Advisory Committee: August 4, 1994, to February 20, 1995; (2) Workshops, One-on-Ones, Meetings with Interested Associations: February 20, 1995, to July 3, 1995; and (3) Rule Development, Drafting, Public Review/Comment, and Adoption: July 3, 1995, to May 27, 1996.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties should contact Scott Boettcher, Department of Ecology, P.O. Box 47600, Olympia, WA 98506, (206) 407-6453, FAX (206) 407-6426, or Dan Wrye, Department of Ecology, P.O. Box 47600, Olympia, WA 98506, (206) 407-6459, FAX (206) 407-6426, to be placed on a mailing list to receive fee rule amendment informational materials, and to be notified of workshops/stakeholder involvement opportunities.

August 8, 1994  
Linda Crerar  
Assistant Director  
Office of Water

**WSR 94-17-012**  
**PREPROPOSAL STATEMENT OF INTENT**  
**GROWTH MANAGEMENT**  
**HEARINGS BOARDS**  
[Filed August 9, 1994, 11:07 a.m.]

Specific Statutory Authority for New Rule: RCW 36.70A.270(6) provides specific authority for the hearings boards to adopt rules of practice and procedure.

Reasons Why the New Rule is Needed: The hearings boards' existing rules, Title 242 WAC (WAC 242-02-010, 242-02-040, 242-02-072, 242-02-210, and 242-04-050), must be amended to reflect the boards' name change from Growth Planning to Growth Management Hearings Boards. See ESSHB 2510 (sections 26 through 33, chapter 249, Laws of 1994).

New provisions or revisions to the hearings boards' existing rules (see WAC 242-02-522) must be considered in order to comply with ESSB 6339 (section 1(5), chapter 257, Laws of 1994). It provides in part that:

... The boards shall specify in their joint rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer...

New provisions or revisions to the hearings boards' existing rules (see WAC 242-02-522 and 242-02-530) must be considered in order to comply with ESSB 6339 (section 1(8), chapter 257, Laws of 1994) which provides that:

A board member or hearing examiner is subject to disqualification for bias, prejudice, interest, or any other cause for which a judge is disqualified. The joint rules of practice of the boards shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

WAC 242-02-220 is entitled Petition for review—Time for filing. It currently does not specifically address when to file appeals that challenge the twenty year growth management planning population projections adopted by the Office of Financial Management (OFM) pursuant to RCW 43.62.035. WAC 242-02-040 (9)(c), which defines the term "publication," refers only to the filing of OFM's annual population determinations. Because the hearings boards have heard interim urban growth areas cases that involve OFM's twenty-year projections, it is important to know the statute of limitations for appealing those projections. The hearings boards will consider whether the existing rules suffice or whether a new subsection should be added that expressly discusses OFM's projections. If a new subsection is considered, possible options are to declare that no statute of limitations exists for challenging OFM's projections; that a petitioner has only sixty days to file an appeal from the date the OFM projections are received; or some time frame in between these two extremes (e.g., six months). In addition, the hearings boards will consider whether any limits should be placed upon who can file a petition challenging OFM's projections (e.g., only counties). Finally, the hearing boards will consider repealing WAC 242-02-040 (9)(c).

Some uncertainty has arisen in a case before one of the hearings boards because the board issued a notice of compliance hearing without filing a formal "motion." WAC 242-02-890(2) should be amended to remove any possible confusion, making clear that when a board issues an order or notice, that document constitutes a "motion" by that board. Thus, revised language could read:

(2) After the compliance deadline specified in subsection (1) of this section, a board on its own initiative ((motion)) or on the motion of a party shall schedule a hearing for the purpose of determining compliance. The time and place of the compliance hearing shall be given the highest priority of business.

**Goals of New Rule:** The goals of the new rules are to make the hearings boards' rules consistent with 1994 legislation, to remove any uncertainty about appealing OFM population projections, and to clarify that a board's notice or order constitutes sufficient notice to parties in lieu of a "motion."

**Process for Developing New Rule:** The hearings boards prefer that written comments and/or proposals be submitted on the above-referenced potential new rules, although in-person or telephonic comments will be accepted. Rules revisions will be discussed at the annual meeting of the hearings boards on September 8, 1994, in Seattle. Preproposal comments should be submitted by 5:00 p.m. on September 14, 1994. Subsequently, actual language will be

proposed, a CR-102 published in the Washington State Register, and at least one formal public hearing will be held. The hearings boards will then meet to take action on the proposed rules revisions.

**How Interested Parties can Participate in Formulation of the New Rule:** For further information or to provide comment on the Preproposal Statement of Intent, contact M. Peter Philley, Rules Coordinator, Central Puget Sound Growth Management Hearings Board, 2329 One Union Square, 600 University Street, Seattle, WA 98101, (206) 389-2625, FAX (206) 389-2588.

August 8, 1994  
M. Peter Philley  
Board Member  
Rules Coordinator

**WSR 94-17-015**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF HEALTH**  
[Filed August 9, 1994, 1:22 p.m.]

**Specific Statutory Authority for New Rule:** RCW 70.98.010 declares the policy of the state is to maintain a regulatory program that is compatible with the standards and regulatory program of the federal government. RCW 70.98.050 requires the department to develop the program with due regard for compatibility with federal programs (in this case, the United States Nuclear Regulatory Commission (NRC)) for regulation of by-product, source and special nuclear materials.

**Reasons Why the New Rule is Needed:** NRC has determined that certain federal rules are a matter of compatibility between the state and federal programs. Therefore similar rules must be implemented by the department. This proposed rule-making activity will affect chapters 246-220, 246-221, 246-235, and 246-240 WAC and result in a proposed new chapter 246-242 WAC.

**Goals of New Rule:** In order to be compatible with NRC rules the state must adopt certain new definitions; impose new reporting criteria for emergencies involving radioactive material; require certain licenses possessing large quantities to prepare and maintain decommissioning documentation; complete the required changes comparable to NRC's "Quality Management" rule for medical therapy administrations; and establish specific licensing and radiation safety requirements for large irradiators.

**Process for Developing New Rule:** All licensees will be notified of the proposed individual rule changes and invited to participate in developing state specific language for each rule prior to formally proposing the rule in the Washington State Register. A meeting may be held if there is sufficient interest among potentially affected licensees. The final rule, however, must be compatible with the existing federal rule.

**How Interested Parties can Participate in Formulation of the New Rule:** Interested parties should contact Terry C. Frazee at the Department of Health by phone (206) 753-3461; in writing to Radioactive Materials Section, P.O. Box 47827, Olympia, WA 98504-7827; or by electronic mail, TCF0303@WA-DOH.MHS.COMPUSE.RVE.COM. FAX

messages should be sent to (206) 753-1496. All comments must be received by September 15, 1994.

August 8, 1994  
Bruce Miyahara  
Secretary

July 14, 1994  
James D. Hanson  
Program Administrator

**WSR 94-17-016**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed August 9, 1994, 1:55 p.m.]

Specific Statutory Authority for New Rule: 7 CFR 273.9(a), RCW 74.04.050.

Reasons Why the New Rule is Needed: Update maximum gross and net income standards as required by 7 CFR 273.9(a). WAC 388-49-510 Income eligibility standards.

Goals of New Rule: Ensure correct determination of food stamp program eligibility effective October 1, 1994.

Process for Developing New Rule: 7 CFR 273.9(a) mandates maximum gross and net income eligibility standards, which vary by household size, to limit participation in the food stamp program to those with limited incomes. Maximum gross income is set at one hundred thirty percent of the federal poverty level; maximum net income is set at one hundred percent of the federal poverty level.

How Interested Parties can Participate in Formulation of the New Rule: Joan Wirth, Division of Income Assistance, Department of Social and Health Services, Mailstop 45400, Lacey, WA 98504, SCAN 585-8324, (206) 438-8324, FAX SCAN 585-8258, (206) 438-8258.

August 9, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-17-017**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF LICENSING**  
[Filed August 9, 1994, 2:03 p.m.]

Specific Statutory Authority for New Rule: RCW 18.96.080, 43.24.086.

Reasons Why the New Rule is Needed: To delete the plant identification examination that has been discontinued. To delete the proctoring program that has been discontinued.

Goals of New Rule: To establish the registration examination cost for each candidate at a sufficient level to defray the cost of administering the examination.

Process for Developing New Rule: Agency study; and examination fees are set in accordance with the examination vendor price.

How Interested Parties can Participate in Formulation of the New Rule: James D. Hanson, Administrator, Board of Landscape Architect Registration, P.O. Box 9045, Olympia, WA 98507-9045, (206) 753-1153, FAX (206) 586-0998, TDD (206) 753-1966. Deadline for Comments: August 31, 1994.

AMENDATORY SECTION (Amending WSR 94-04-044, filed 1/27/94, effective 2/27/94)

**WAC 308-13-150 Landscape architect fees.** The following fees shall be charged by the ((professional licensing)) business and professions division of the department of licensing:

Title of Fee	Fee
Application fee	\$150.00
Examination (entire) fee	((475.00)) 450.00
Reexamination administration fee	50.00
Examination Sections:	
Section 1: Legal and administrative aspects of practice	25.00
Section 2: Programming and environmental analysis	35.00
Section 3: Conceptualization and communication	85.00
Section 4: Design synthesis	80.00
Section 5: Integration of technical and design requirements	95.00
Section 6: Grading and drainage	85.00
Section 7: Implementation of design through construction process	45.00
<del>Section 8: Plant identification</del>	<del>40.00</del>
Exam proctor	100.00
Renewal (3 years)	450.00
Late renewal penalty	150.00
Duplicate license	25.00
Initial registration (3 years)	450.00
Reciprocity application fee	200.00
Certification	45.00
<del>Proctoring program</del>	<del>125.00</del>
Replacement certificate	20.00

**WSR 94-17-020**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
[Filed August 9, 1994, 4:36 p.m.]

Specific Statutory Authority for New Rule: RCW 77.12.040.

Reasons Why the New Rule is Needed: Late archery deer hunts in GMUs 524, 530, 556, and 560 were inadvertently omitted when the rule was adopted in April 1994.

Goals of New Rule: Maintain hunting opportunities for archery deer hunters and harvest surplus deer.

Process for Developing New Rule: Agency oversight in deleting hunting units from 1994 hunting seasons.

How Interested Parties can Participate in Formulation of the New Rule: Persons interested in commenting on this rule change can contact the Fish and Wildlife Commission. Written comments can be submitted prior to the October commission meeting when this rule change will be consid-

ered. Submit comments to the Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, George Tsukamoto, 600 Capitol Way North, Olympia, WA 98501-1091, (206) 753-5728, FAX (206) 664-3290.

Evan Jacoby  
Department of Fish and  
Wildlife Legal Counsel

#### WSR 94-17-022

### PREPROPOSAL STATEMENT OF INTENT TRANSPORTATION IMPROVEMENT BOARD

[Filed August 10, 1994, 10:28 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-01 WAC, Description of organization, revised to show the number and make up of the board to reflect the current RCW. Address of the Transportation Improvement Board is updated. Definition of eligible cities was moved to other WACs.

Goals of New Rule: To update the existing rules.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

#### WSR 94-17-023

### PREPROPOSAL STATEMENT OF INTENT TRANSPORTATION IMPROVEMENT BOARD

[Filed August 10, 1994, 10:29 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-02 WAC, Public access to information and records, update language, RCW references and listed the actual type of records the Transportation Improvement Board has.

Goals of New Rule: To revise the existing rule to reflect actual conditions and to be in agreement with current RCW language.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

#### WSR 94-17-024

### PREPROPOSAL STATEMENT OF INTENT TRANSPORTATION IMPROVEMENT BOARD

[Filed August 10, 1994, 10:30 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-12 WAC, Submission of proposed urban arterial trust account projects to Transportation Improvement Board, to provide rules to allow the board to adopt rules and state the intent of the UATA program. To update language for the revised program and state that proposed projects are not required to be on agencies' six-year TIP at the time of application, but must be added prior to board's approval.

Goals of New Rule: To have a rule that states the board's responsibility to adopt rules, to state the intent and define eligible agencies for the UATA program. To reflect the procedures of the revised UATA program.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

#### WSR 94-17-025

### PREPROPOSAL STATEMENT OF INTENT TRANSPORTATION IMPROVEMENT BOARD

[Filed August 10, 1994, 10:31 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-13 WAC, Submission of six-year plans to TIB, language and procedures needed to be updated and revised to reflect desired changes in the UATA program.

Goals of New Rule: To delete the requirement that proposed UATA projects are taken from agency six-year TIP. To list the new criteria to be used in rating projects. To state the value engineering studies will be performed in accordance with board policy. Allows problem areas to be mitigated instead of being corrected in accordance to a standard. Language was updated to reflect revised program.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

**WSR 94-17-026****PREPROPOSAL STATEMENT OF INTENT  
TRANSPORTATION IMPROVEMENT BOARD**

[Filed August 10, 1994, 10:32 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-16 WAC, Requirements of urban arterial project development, to reflect the updated language and procedures of the desired changes in the UATA program.

Goals of New Rule: To include current language that accurately reflects the new UATA program. Allow TIB funds to be used for undergrounding overhead utility lines. Deleted reference to standards for functional classification of arterials, which is now under the responsibility of Washington State Department of Transportation. Standards for arterials in small cities was moved to the rules for the small city program. To show that UATA funds will not be divided into functional classes. Allow funds to be set aside for pedestrian facilities.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

**WSR 94-17-027****PREPROPOSAL STATEMENT OF INTENT  
TRANSPORTATION IMPROVEMENT BOARD**

[Filed August 10, 1994, 10:33 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-20 WAC, Financial and payment requirements, revised rules are needed to update language and procedures of the desired changes in the UATA program.

Goals of New Rule: Update language to reflect the new program. Allow board to set difference matching rates. Allow projects to be approved prior to the VE study. State that final payment requests are to be submitted within six months of contract completion. Project scope and cost will be set at design approval.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

**WSR 94-17-028****PREPROPOSAL STATEMENT OF INTENT  
TRANSPORTATION IMPROVEMENT BOARD**

[Filed August 10, 1994, 10:34 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-24 WAC, Rules and regulation to SEPA guidelines, to update language of existing rules.

Goals of New Rule: Change EIS to environmental review.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

**WSR 94-17-029****PREPROPOSAL STATEMENT OF INTENT  
TRANSPORTATION IMPROVEMENT BOARD**

[Filed August 10, 1994, 10:35 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-112 WAC, Submission of proposed TIA projects to TIB, update language of existing rules and add rules needed to better describe the procedures of the TIA program.

Goals of New Rule: New rule will provide the intent of the TIA program. Moved cities under 5,000 into the new small city account program.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

**WSR 94-17-030****PREPROPOSAL STATEMENT OF INTENT  
TRANSPORTATION IMPROVEMENT BOARD**

[Filed August 10, 1994, 10:36 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapter 479-113 WAC, Submission of six-year plans for TIA projects,

updated language of existing rules to accurately describe the procedures of the TIA program.

Goals of New Rule: To list the priority criteria to be used in rating projects. Add a number of rules that directly refer to rules in the UATA program.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

### WSR 94-17-031

#### PREPROPOSAL STATEMENT OF INTENT TRANSPORTATION IMPROVEMENT BOARD

[Filed August 10, 1994, 10:37 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapters 479-310 and 479-312 WAC, rules for city hardship assistance program, update language to accurately reflect the current program.

Goals of New Rule: Allow a prorated amount of the program funds to be used in a proper portion for the TIB's administrative costs. Changed the application date to February 1.

Process for Developing New Rule: Agency study; and local agency input into the revision process as changes and recommendations were developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

### WSR 94-17-032

#### PREPROPOSAL STATEMENT OF INTENT TRANSPORTATION IMPROVEMENT BOARD

[Filed August 10, 1994, 10:38 a.m.]

Specific Statutory Authority for New Rule: RCW 47.26.160.

Reasons Why the New Rule is Needed: Chapters 479-410, 479-412, 479-416 and 479-420 WAC, Rules for the new small city account program.

Goals of New Rule: To provide rules describing the procedures for the program. These rules are parallel to the rules of the other programs administered by the Transportation Improvement Board.

Process for Developing New Rule: Agency study; and local agency input into the process as the program was developed.

How Interested Parties can Participate in Formulation of the New Rule: Executive Director, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, John Tevis, (206) 705-7595, Donna Laing, (206) 705-7548, FAX (206) 705-6830.

August 8, 1994  
Jerry M. Fay  
Executive Director

### WSR 94-17-038

#### PREPROPOSAL STATEMENT OF INTENT OFFICE OF INSURANCE COMMISSIONER

[Order A-3—Filed August 10, 1994, 11:50 a.m.]

Specific Statutory Authority for New Rule: RCW 48.02.060.

Reasons Why the New Rule is Needed: The 1994 legislature repealed the provision formerly in RCW 48.19.040(5) that required general liability, professional liability, and commercial automobile insurance rate filings to be submitted or updated every fifteen months. The rules implementing this statute must be revised to eliminate this requirement.

Goals of New Rule: To eliminate the fifteen-month filing rules; and to eliminate any other reference to this requirement in the regulations.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Submit comments by August 31, 1994 (refer to Matter No. A-3). No meetings are planned. Contact Patrick Musick, Deputy Insurance Commissioner, Office of Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, phone (206) 664-2093, FAX (206) 664-8486.

August 8, 1994  
Krishna Fells  
Chief of Staff  
for Deborah Senn  
Insurance Commissioner

### WSR 94-17-046

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF LICENSING

[Filed August 10, 1994, 3:42 p.m.]

Specific Statutory Authority for New Rule: RCW 46.87.010(2) and 46.87.080(7).

Reasons Why the New Rule is Needed: Current rule regarding issuance and use of TAP accounts and permits places undue restrictions and burdens on qualifications for, and use of, TAPs. Requirement for payment of fees in guaranteed funds places undue burden on motor carriers.

Goals of New Rule: Increase availability and use of TAPs in order to facilitate carrier movement on highways and reduce volume of temporary letters of authority issued by prorate office. Streamline process for establishing and

renewing motor carrier accounts under the international registration plan.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Provide input, comments, or suggestions, via letter, FAX, phone or personal contact to Arthur W. Farley, Licensing Services Manager Prorate, Department of Licensing, 2000 4th Avenue West, P.O. Box 9036, Olympia, WA 98507-9036, phone (206) 753-6993, FAX (206) 586-5905.

August 9, 1994  
Arthur W. Farley  
Licensing Services Manager

August 4, 1994  
Dennis Karras  
Secretary

**WSR 94-17-047**  
**PREPROPOSAL STATEMENT OF INTENT**  
**PERSONNEL RESOURCES BOARD**  
[Filed August 10, 1994, 4:00 p.m.]

Specific Statutory Authority for New Rule: RCW 41.06.150.

Reasons Why the New Rule is Needed: As of July 1, 1993, ESHB 2054 abolished the Higher Education Personnel Board and the State Personnel Board and created the Washington Personnel Resources Board (WPRB). As a result of ESHB 2054, both higher education and general government employees are covered by chapter 41.06 RCW and are under the WPRB's jurisdiction. Therefore, the Department of Personnel is working to consolidate the two existing civil service rule books, Titles 251 and 356 WAC, to create a new set of civil service rules, Title 359 WAC. Title 359 WAC will cover both general government and higher education employees. As part of the consolidation process, the Department of Personnel is now considering the development of rules relating to classification and compensation.

Goals of New Rule: The goal is to develop rules for classification and compensation which cover both general government and higher education employees.

Process for Developing New Rule: Department of Personnel rule development process, in the development and revision of rules, the Department of Personnel encourages participation of affected agencies, institutions of higher education, employee organizations, and other interested parties. Rule proposals are discussed at monthly joint rule meetings and possibly in task forces established for a specific topic. Rule proposals from these groups are submitted to the Washington Personnel Resources Board for adoption. Agendas and meeting notices, including the WPRB meeting agenda, are distributed to all identified interested parties.

How Interested Parties can Participate in Formulation of the New Rule: Persons interested in rules being considered or developed by the Department of Personnel for presentation to the board should contact the Department of Personnel, Office of Client Relations, 521 Capitol Way South, P.O. Box 47500, Olympia, WA 98504-7500 or telephone the Office of Client Relations at (206) 586-1770, (206) 664-3255, or FAX (206) 586-4694 for information about the joint rule and/or WPRB meetings.

**WSR 94-17-048**  
**PREPROPOSAL STATEMENT OF INTENT**  
**PERSONNEL RESOURCES BOARD**  
[Filed August 10, 1994, 4:01 p.m.]

Specific Statutory Authority for New Rule: RCW 41.06.150.

Reasons Why the New Rule is Needed: As of July 1, 1993, ESHB 2054 abolished the Higher Education Personnel Board and the State Personnel Board and created the Washington Personnel Resources Board (WPRB). As a result of ESHB 2054, both higher education and general government employees are covered by chapter 41.06 RCW and are under the WPRB's jurisdiction. Therefore, the Department of Personnel is working to consolidate the two existing civil service rule books, Titles 251 and 356 WAC, to create a new set of civil service rules, Title 359 WAC. Title 359 WAC will cover both general government and higher education employees. As part of the consolidation process, the Department of Personnel is now considering the development of rules relating to reduction in force, certifications, and appointments.

Goals of New Rule: The goal is to develop rules for reduction in force, certifications, and appointments which cover both general government and higher education employees.

Process for Developing New Rule: Department of Personnel rule development process, in the development and revision of rules, the Department of Personnel encourages participation of affected agencies, institutions of higher education, employee organizations, and other interested parties. Rule proposals are discussed at monthly joint rule meetings and possibly in task forces established for a specific topic. Rule proposals from these groups are submitted to the Washington Personnel Resources Board for adoption. Agendas and meeting notices, including the WPRB meeting agenda, are distributed to all identified interested parties.

How Interested Parties can Participate in Formulation of the New Rule: Persons interested in rules being considered or developed by the Department of Personnel for presentation to the board should contact the Department of Personnel, Office of Client Relations, 521 Capitol Way South, P.O. Box 47500, Olympia, WA 98504-7500 or telephone the Office of Client Relations at (206) 586-1770, (206) 664-3255, or FAX (206) 586-4694 for information about the joint rule and/or WPRB meetings.

August 4, 1994  
Dennis Karras  
Secretary

**WSR 94-17-049****PREPROPOSAL STATEMENT OF INTENT  
PERSONNEL RESOURCES BOARD**

[Filed August 10, 1994, 4:03 p.m.]

Specific Statutory Authority for New Rule: RCW 41.06.150.

Reasons Why the New Rule is Needed: As of July 1, 1993, ESHB 2054 abolished the Higher Education Personnel Board and the State Personnel Board and created the Washington Personnel Resources Board (WPRB). As a result of ESHB 2054, both higher education and general government employees are covered by chapter 41.06 RCW and are under the WPRB's jurisdiction. Therefore, the Department of Personnel is working to consolidate the two existing civil service rule books, Titles 251 and 356 WAC, to create a new set of civil service rules, Title 359 WAC. Title 359 WAC will cover both general government and higher education employees. As part of the consolidation process, the Department of Personnel is now considering the development of rules relating to the general provisions of Title 359 WAC.

Goals of New Rule: The goal is to develop rules specifying the general provisions of Title 359 WAC which cover both general government and higher education employees.

Process for Developing New Rule: Department of Personnel rule development process, in the development and revision of rules, the Department of Personnel encourages participation of affected agencies, institutions of higher education, employee organizations, and other interested parties. Rule proposals are discussed at monthly joint rule meetings and possibly in task forces established for a specific topic. Rule proposals from these groups are submitted to the Washington Personnel Resources Board for adoption. Agendas and meeting notices, including the WPRB meeting agenda, are distributed to all identified interested parties.

How Interested Parties can Participate in Formulation of the New Rule: Persons interested in rules being considered or developed by the Department of Personnel for presentation to the board should contact the Department of Personnel, Office of Client Relations, 521 Capitol Way South, P.O. Box 47500, Olympia, WA 98504-7500 or telephone the Office of Client Relations at (206) 586-1770, (206) 664-3255, or FAX (206) 586-4694 for information about the joint rule and/or WPRB meetings.

August 4, 1994  
Dennis Karras  
Secretary

**WSR 94-17-057****PREPROPOSAL STATEMENT OF INTENT  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed August 12, 1994, 10:39 a.m.]

Specific Statutory Authority for New Rule: This is an addition to existing chapter 28A.640 RCW.

Reasons Why the New Rule is Needed: SHB 2153 (1994 regular session) provided legislative directive to add

a section relative to sexual harassment in the public schools to the K-12 state antisex discrimination laws.

Goals of New Rule: To require the Superintendent of Public Instruction to develop criteria for sexual harassment policy, to supply sample policies, and to review established policies for consistency with the criteria. To require local school districts to adopt and disseminate a policy relative to sexual harassment and to develop a process for discussion of the policy with employees, volunteers, parents and students.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

How Interested Parties can Participate in Formulation of the New Rule: For telephone assistance contact Darcy Lees, (206) 753-2560, TDD 664-3631. Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, FAX (206) 753-4201, TDD (206) 664-3631.

August 11, 1994  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 94-17-061****PREPROPOSAL STATEMENT OF INTENT  
COMMISSION ON  
JUDICIAL CONDUCT**

[Filed August 12, 1994, 1:54 p.m.]

Specific Statutory Authority for New Rule: Chapter 154, Laws of 1994 (ESSB 6111, Ethics in public service).

Reasons Why the New Rule is Needed: To implement ESSB 6111 (chapter 154, Laws of 1994). ESSB 6111 substantially strengthens and clarifies the ethical standards that apply to state officers and state employees. The commission is directed by ESSB 6111 to enforce the new state ethics law for state officers and state employees of the judicial branch of state government.

Goals of New Rule: The goals are to establish procedures for filing, processing, investigating, and determining complaints filed under ESSB 6111; to adopt procedures for conducting public hearings as required by ESSB 6111; and to establish criteria and procedures for other requirements of ESSB 6111.

Process for Developing New Rule: The commission will request written comments from persons who may be interested in the development of the rules implementing ESSB 6111. Comments received will be considered by the commission before proposed rules are published pursuant to a formal notice.

How Interested Parties can Participate in Formulation of the New Rule: Written comments must be received by September 30, 1994. These comments will be considered by the rules subcommittee (ethics) of the commission at its October 6, 1994, meeting. Thereafter, the rules subcommittee will provide the written comments and the subcommittee's report and recommendations to the commission at its October 7, 1994, meeting. Thereafter, the commission may proceed with rule making. Contact Susan

Riddle, Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98507, (206) 753-4585, FAX (206) 586-2918.  
August 10, 1994  
David Akana  
Executive Director

**WSR 94-17-064**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Filed August 12, 1994, 3:13 p.m.]

Specific Statutory Authority for New Rule: RCW 74.04.510, 1993 Mickey Leland Childhood Hunger Relief Act, CP.L. 103-66, Sections 13921, 13922.

Reasons Why the New Rule is Needed: The above cited sections implement two new provisions affecting the Food Stamp Act of 1977 and, in turn, necessitate amending WAC 388-49-500 Income deductions.

Goals of New Rule: Implement new rules governing dependent care and institutes a new income deduction for child support obligations of a household member.

Process for Developing New Rule: Complying with federal statutory authorization.

How Interested Parties can Participate in Formulation of the New Rule: Contact Dan Ohlson, Department of Social and Health Services, Olympia, Washington 98504-5400, (206) 438-8326 or (SCAN 585), FAX (206) 438-8258.

August 12, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-17-065**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)  
(Public Assistance)  
[Filed August 12, 1994, 3:14 p.m.]

Specific Statutory Authority for New Rule: RCW 74.08.090. Amending WAC 388-86-04001 Hearing aids.

Reasons Why the New Rule is Needed: To correct typographical error.

Goals of New Rule: To correct rule.

Process for Developing New Rule: Distribute proposed rule to interested parties for review. All comments will be considered before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Bobbe J. Andersen, Project Manager, Medical Assistance Administration, Mailstop 45530, Olympia, Washington 98504-5530, (206) 753-0529, FAX (206) 753-7315.

August 12, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-17-088**

**PREPROPOSAL STATEMENT OF INTENT**  
**GAMBLING COMMISSION**

[Filed August 16, 1994, 4:16 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Amendments would accommodate increases to license fees and inspection services stamps. Would simplify and consolidate fee schedule according to license type and clarify two-part payment plan.

Goals of New Rule: Will simplify fee schedule by consolidating fee schedule according to license type and will accommodate housekeeping changes required by an increase in fees and restructuring of license fee schedule. Will clarify two-part payment plan.

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.

August 16, 1994  
Sharon M. Tolton  
Assistant Director

**WSR 94-17-097**

**PREPROPOSAL STATEMENT OF INTENT**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed August 17, 1994, 10:51 a.m.]

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

Reasons Why the New Rule is Needed: Chapter 392-121 WAC governing placement of nondegreed vocational instruction staff on LEAP salary allocation documents is not clear.

Goals of New Rule: To clarify placement of nondegreed vocational instructional staff on LEAP salary allocation documents; experience in higher education comparable positions; and housekeeping changes.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to: Rules Coordinator/Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, FAX (206) 753-4201, TDD (206) 664-3631. For telephone assistance contact: John Molohon, (206) 753-6708.

August 15, 1994  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 94-17-098**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed August 17, 1994, 10:58 a.m.]

Specific Statutory Authority for New Rule: Definition of "nonhousehold member" for food stamp program at CFR 273.1(b).

Reasons Why the New Rule is Needed: Resources of ineligible students are treated the same as nonhousehold members. Ineligible students need to be defined as nonhousehold members rather than ineligible household members. WAC 388-49-420 Resources—Nonexempt.

Goals of New Rule: Clarify resources of ineligible food stamp household members are considered available to remaining household members and resources of nonhousehold members, including ineligible students, are exempt.

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 Mike Arnaud, Food Stamp Program Section, Division of Income Assistance, phone (206) 438-8322 or SCAN 585-8322, FAX 438-8258 or SCAN 585-8258.

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

**WSR 94-17-102**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF HEALTH**  
 [Filed August 17, 1994, 1:37 p.m.]

Specific Statutory Authority for New Rule: RCW 18.29.150(2).

Reasons Why the New Rule is Needed: To establish criteria for the retaking of the dental hygiene examination.

Goals of New Rule: To provide more leniency on the retaking of parts of the exam and to provide a remedial education requirement after several unsuccessful attempts at passing the dental hygiene examination.

Process for Developing New Rule: Provide opportunity for public input, evaluate suggestions and concerns and incorporate where necessary in the rule.

How Interested Parties can Participate in Formulation of the New Rule: Contact Carol Lewis, Program Manager, Dental Hygiene Program, P.O. Box 46867 [47867], Olympia, WA 98504-7867, phone (206) 586-1867, FAX (206) 664-9077.

Information will be gathered by notice and public meetings of the Dental Hygiene Examining Committee.

August 16, 1994  
 Carol L. Lewis  
 Program Manager

**WSR 94-17-117**  
**PREPROPOSAL STATEMENT OF INTENT**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed August 17, 1994, 3:37 p.m.]

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

Reasons Why the New Rule is Needed: Chapter 392-122 WAC contains rules for state allocations for education programs conducted by school districts at juvenile parole learning centers. The state legislature has ceased to provide categorical funding for such programs.

Goals of New Rule: To delete those portions of chapter 392-122 WAC pertaining to juvenile parole learning centers.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to: Rules Coordinator/Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, FAX (206) 753-4201, TDD (206) 664-3631, and for telephone assistance contact: John Molohon at (206) 753-6708.

August 15, 1994  
 Judith A. Billings  
 Superintendent of  
 Public Instruction

**WSR 94-17-123**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF LICENSING**  
 [Filed August 19, 1994, 11:07 a.m.]

Specific Statutory Authority for New Rule: RCW 46.70.160, 46.70.124.

Reasons Why the New Rule is Needed: Dealers are experiencing an increased time to acquire physical title on trade-in vehicles with a paperless title from First Interstate Bank and other potential paperless title lienholder participants and from out-of-state lienholders holding the title on trade-in vehicles.

Goals of New Rule: Increase time period for dealer to make application for a certificate of title in the purchaser's name from thirty days to forty-five days; and allow dealers to sell an inventory vehicle as soon as the lien on the acquired vehicle has been paid rather than waiting to receive the title from the lienholder.

Process for Developing New Rule: Negotiated rule making; and randomly survey dealers to determine amount of time necessary for title transfers.

How Interested Parties can Participate in Formulation of the New Rule: Submit comments to Gail Saul, Dealer Services, P.O. Box 48071, Olympia, WA 98504-8071, phone (206) 586-6655, FAX (206) 586-6703.

August 17, 1994  
 Lynda Henriksen  
 License Services Manager

**WSR 94-17-124**  
**PREPROPOSAL STATEMENT OF INTENT**  
**STATE BOARD**  
**OF EDUCATION**

[Filed August 19, 1994, 11:40 a.m.]

Specific Statutory Authority for New Rule: RCW 28A.410.010, 28A.305.130.

Reasons Why the New Rule is Needed: To make the rule consistent with the Office of the Superintendent of Public Instruction reorganization, which places professional education and certification under the State Board of Education.

Goals of New Rule: To clarify that the Professional Education Advisory Committee is the advisory working committee of the State Board of Education and the Office of the Superintendent of Public Instruction on professional education and certification issues.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (206) 586-2357, TDD (206) 664-3631. For telephone assistance contact Joanne Sorensen, (206) 586-2320.

August 19, 1994  
 Larry Davis  
 Executive Director

**WSR 94-17-125**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

[Filed August 19, 1994, 1:19 p.m.]

Specific Statutory Authority for New Rule: RCW 19.146.225.

Reasons Why the New Rule is Needed: To administer and interpret amendments to chapter 19.146 RCW and to govern the activities of licensed mortgage brokers and other persons subject to this chapter.

Goals of New Rule: To amend and add rules to chapter 50-60 WAC as required by amendments to chapter 19.146 RCW and to govern the activities of licensed mortgage brokers and other persons subject to this chapter.

Process for Developing New Rule: Discussion and development of proposals through meetings with the Mortgage Brokerage Commission and other industry groups.

How Interested Parties can Participate in Formulation of the New Rule: The department is using the Mortgage Brokerage Commission as the primary method for soliciting comment on its proposed rules. The commission is scheduled to meet through the remainder of 1994 as follows:

<u>Date</u>	<u>Time</u>	<u>Location</u>
September 20	9 a.m. to 12 p.m.	State Training Center Des Moines, Washington

October 13	9 a.m. to 12 p.m.	Ramada Inn Spokane, Washington
November 15	9 a.m. to 12 p.m.	To be announced

Interested parties may contact Colleen Freeze of the department at (206) 753-6520 to obtain copies of the draft proposed rules, to obtain commission minutes, to get information about commission meetings, and to get directions.

Interested parties may also mail comments on the draft proposed rules to the commission, care of Mark Thomson, Assistant Director, P.O. Box 41201, Olympia, WA 98504-1201.

August 19, 1994  
 John L. Bley  
 Director

**WSR 94-17-128**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 (Public Assistance)

[Filed August 19, 1994, 4:33 p.m.]

Specific Statutory Authority for New Rule: RCW 74.08.090. WAC 388-513-1380 Institutional participation.

Reasons Why the New Rule is Needed: Implement SB 6604 which requires a limit on guardianship and attorney fees connected with the guardianships of an institutionalized person.

Goals of New Rule: Implement SB 6604 which requires a limit on guardianship and attorney fees connected with the guardianships of an institutionalized person.

Process for Developing New Rule: Agency study; and interagency communications. Several meetings with interested guardians and attorneys.

How Interested Parties can Participate in Formulation of the New Rule: Joanie Scotson, Program Manager, P.O. Box 45530, Olympia, WA 98504-5530, phone (206) 753-7462, FAX (206) 753-7315, TDD 1-800-848-5429.

August 19, 1994  
 Dewey Brock, Chief  
 Office of Vendor Services

**WSR 94-17-129**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Filed August 19, 1994, 4:34 p.m.]

Specific Statutory Authority for New Rule: RCW 74.04.050.

Reasons Why the New Rule is Needed: Changes in 7 CFR 273.9 (c)(16) and 7 CFR 273.9 (b)(i)(vi). WAC 388-49-450 Income—Earned.

Goals of New Rule: Clarify that fellowships with a work requirement are now considered earned income and subject to a 20% earned income deduction when computing

food stamp benefits; and clarify adult and child governmental foster care payments are not counted as income.

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 585-8324, FAX 438-8258 or SCAN 585-8258.

August 19, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-17-132**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed August 22, 1994, 1:06 p.m.]

Specific Statutory Authority for New Rule: RCW 74.04.050.

Reasons Why the New Rule is Needed: Update 185% of need standard. This standard is used to determine eligibility for various public assistance programs. WAC 388-250-1300.

Goals of New Rule: Provide correct standard amounts to determine eligibility for various public assistance programs.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Betty Brinkman, Division of Income Assistance, P.O. Box 45400, Olympia, WA 98504-5400, (SCAN 585) 438-8309, FAX (SCAN 585) 438-8258.

August 22, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-17-135**  
**PREPROPOSAL STATEMENT OF INTENT**  
**YAKIMA VALLEY**  
**COMMUNITY COLLEGE**

[Filed August 22, 1994, 3:04 p.m.]

Specific Statutory Authority for New Rule: RCW 28B.50.140.

Reasons Why the New Rule is Needed: In the last three years the increase in vandalism and graffiti on the college campus is evident.

Goals of New Rule: To actively pursue civil and criminal action against any person committing acts of vandalism. Publishing the rule in the WAC will help serve public notice of this goal.

Process for Developing New Rule: Negotiated rule making; and agency study.

How Interested Parties can Participate in Formulation of the New Rule: A public hearing on this issue will be held. Ms. Karen Judge, Vice-President, Administrative Services,

P.O. Box 1647, Yakima, WA 98907, (509) 575-2358, FAX (509) 575-2461.

August 15, 1994  
Suzanne West  
Executive Assistant  
to President

**WSR 94-17-135A**  
**PREPROPOSAL STATEMENT OF INTENT**  
**YAKIMA VALLEY**  
**COMMUNITY COLLEGE**  
[Filed August 22, 1994, 3:04 p.m.]

Specific Statutory Authority for New Rule: RCW 28B.50.140.

Reasons Why the New Rule is Needed: Chapter 132P-116 WAC needs to be updated. The college hopes to negotiate a user fee for parking to fund maintenance, enforcement and construction of parking lots.

Goals of New Rule: To clarify current rules and implement a fee for parking resulting in a financial base to improve/create parking.

Process for Developing New Rule: Negotiated rule making; and agency study.

How Interested Parties can Participate in Formulation of the New Rule: Negotiations with both employee unions requiring several meetings. A public hearing will be held. Mr. Paul Strater, Director, Human Resources, Yakima Valley Community College, P.O. Box 1647, Yakima, WA 98907, (509) 575-2374 or (509) 575-2132.

August 15, 1994  
Suzanne West  
Executive Assistant  
to President

**WSR 94-17-135B**  
**PREPROPOSAL STATEMENT OF INTENT**  
**YAKIMA VALLEY**  
**COMMUNITY COLLEGE**  
[Filed August 22, 1994, 3:04 p.m.]

Specific Statutory Authority for New Rule: RCW 28B.50.140.

Reasons Why the New Rule is Needed: Chapter 132P-33 WAC is outdated and needs to be reviewed/revised to accommodate changes in local, state and federal guidelines.

Goals of New Rule: To incorporate needed changes to the Yakima Valley Community College students rights and responsibilities regulations.

Process for Developing New Rule: Negotiated rule making; and agency study.

How Interested Parties can Participate in Formulation of the New Rule: A public hearing will be held. Other meetings will occur as necessary. Ms. Ellie Heffernan, Dean, Enrollment and Student Services, Yakima Valley Community College, P.O. Box 1647, Yakima, WA 98907, (509) 575-7201.

August 15, 1994  
 Suzanne West  
 Executive Assistant  
 to President

**WSR 94-17-147**  
**PREPROPOSAL STATEMENT OF INTENT**  
**LOTTERY COMMISSION**  
 [Filed August 23, 1994, 12:53 p.m.]

Specific Statutory Authority for New Rule: RCW 67.70.040(1).

Reasons Why the New Rule is Needed: The lottery is considering proposing these rules for adoption during fiscal year 1995: Rules for at least two new instant ticket games at each commission meeting during the fiscal year, and amendment to WAC 315-04-200 for the purpose of rendering ineligible for a lottery license, any person guilty of any felony.

Goals of New Rule: The goal of the rules for the new instant ticket games will be to explain how the games function to retailers and players. Rigid validation requirements will prevent prize payment on invalid tickets. The goal of the amendment to WAC 315-04-200 is to maintain and reinforce the integrity of the lottery by preventing all convicted felons from obtaining a lottery license.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Contact Jeffrey Burkhardt, Rules Coordinator, at (206) 586-6583, FAX (206) 753-2602, P.O. Box 43000, Olympia, WA 98504, with any comments or questions regarding this statement of intent.

August 23, 1994  
 Evelyn P. Yenson  
 Director

**WSR 94-17-157**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF LICENSING**  
 (Real Estate Commission)  
 [Filed August 23, 1994, 3:40 p.m.]

Specific Statutory Authority for New Rule: SB 6284 Real estate education legislation, RCW 18.85.040 Director's general rulemaking authority.

Reasons Why the New Rule is Needed: To implement new real estate education legislation increasing licensing education clock hour requirements and to update, clarify, or reorganize other rules that need housekeeping or other changes to conform to policy goals. See rules shown below, agency has preliminarily identified as needing changes.

Implementing Real Estate Education Legislation: WAC 308-124A-025, revise hour requirements; WAC 308-124A-422 (1) and (2), revise course and hour requirements; WAC 308-124A-425, change waiver to substitution, add criteria for equivalent course work; new WAC 308-124A-590, first active renewal of license, course requirement; WAC 308-124A-600, add new course references; WAC 308-124H-011, add language re: Prescribed course curriculum; and WAC 308-124H-025 add new course references.

Housekeeping/Other: WAC 308-124-005, address and zip update; WAC 308-124A-025, clarify examination requirements; WAC 308-124A-110, clarify requirements for out of state licensees to take exam; WAC 308-124A-420, address and zip update; WAC 308-124A-422(2), consolidate info into one rule re: Activation of license; WAC 308-124A-600(5), clarify repeating courses; WAC 308-124H-025, clarify course requirements and reorganize rule for clarity; WAC 308-124H-025, clarify course requirements and reorganize rule for clarity; WAC 308-124H-041, add language that certificate should be signed by school administrator; WAC 308-124H-310, new section 17 - course must be taught consistent with curriculum; WAC 308-124H-540, add requirements for instructor approval; WAC 308-124H-570, clarify rule on advertising and add new section 17 - course must be taught consistent with curriculum; and WAC 308-124H-800 clarify fees (no increase in fees).

Goals of New Rule: To implement new real estate education legislation; to respond to policy goals established, by real estate commission regarding real estate education program.

Process for Developing New Rule: Agency study. The Real Estate Commission intends to hold a rules hearing at its meeting on December 2 in the SeaTac area so it can implement these rules in advance of the July 1, 1995, effective date of the new legislation.

How Interested Parties can Participate in Formulation of the New Rule: The department solicits input from all interested parties and will keep those apprised of this process who are on the department's mailing list or otherwise request such information. The department intends to hold several forums on proposed rule changes and their economic impact on small businesses. This process and the proposed draft changes will be presented at its next real estate commission meeting on September 20, 1994, in Bellevue at the Bellevue Red Lion. For more information contact: Robert Mitchell, Department of Licensing, Business and Professions Division, Real Estate Division, P.O. Box 9021, Olympia, WA 98507-9021, (206) 586-6102, FAX (206) 586-0998.

August 23, 1994  
 Linda M. Moran  
 Senior Assistant Attorney General  
 Council for Department of Licensing

**WSR 94-17-158**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed August 23, 1994, 4:33 p.m.]

Specific Statutory Authority for New Rule: RCW 74.04.050; ESSB 6244, Section 206.

Reasons Why the New Rule is Needed: WAC 388-215-1620, state legislature requires department to continue AFDC to families of children in temporary foster care; change of agency name; and need for additional information on persons who are excluded from AFDC assistance units due to factors not related to need.

Goals of New Rule: Add new cross-reference for exception to rule that children in foster care cannot be included in AFDC assistance units; change agency reference from "Office of Support Enforcement" to "Division of Child Support"; and add "child not living with relative" to situations where persons may be excluded from assistance units.

Process for Developing New Rule: Internal (management) and external (field staff and other interested parties) 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 Tom Everett, Program Manager, AFDC/Refugee Cash Assistance Section, Division of Income Assistance, Mailstop 45400, phone (SCAN 585) 438-8312, FAX (SCAN 585) 438-8258.

August 23, 1994  
Dewey Brock, Chief  
Office of Vendor Services

#### WSR 94-17-159

**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed August 23, 1994, 4:34 p.m.]

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: WAC 388-215-1610, change in federal policy regarding AFDC eligibility for relatives care for children who receive foster care maintenance payments.

Goals of New Rule: State new policy that children who receive foster care are considered "independent children" to qualify needy, nonparental relatives for AFDC although the income, resources or needs of these children are not taken into account; and clarify that children who receive SSI may also qualify a needy, nonparental relative for AFDC.

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

How Interested Parties can Participate in Formulation of the New Rule: Contact Tom Everett, Program Manager, AFDC/Refugee Cash Assistance Section, Division of Income Assistance, Mailstop 45400, phone (206) 438-8312, (SCAN) 585-8312, FAX (206) 438-8258, (SCAN) 585-8258.

August 23, 1994  
Dewey Brock, Chief  
Office of Vendor Services

#### WSR 94-17-160

**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed August 23, 1994, 4:35 p.m.]

Specific Statutory Authority for New Rule: RCW 74.04.050.

Reasons Why the New Rule is Needed: WAC 388-49-460, changes in 7 CFR 273.9 (b)(2)(ii) and (iv).

Goals of New Rule: Clarify that fellowships without a work requirement are counted as unearned income; and clarify adult and child governmental foster care payments are unearned income if the foster care party is a food stamp household member.

Process for Developing New Rule: Internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments.

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, Olympia, WA 98504, phone (206) 438-8324 or (SCAN) 585-8324, FAX (206) 438-8258 or (SCAN) 585-8258.

August 23, 1994  
Dewey Brock, Chief  
Office of Vendor Services

#### WSR 94-17-161

**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed August 23, 1994, 4:36 p.m.]

Specific Statutory Authority for New Rule: CFR 273.10 (e)(4)(ii)(F), FNS Adm. Memo 07-19-94.

Reasons Why the New Rule is Needed: Revised rule increases the thrifty food plan (TFP) effective October 1, 1994. WAC 388-49-550 Monthly allotments.

Goals of New Rule: Issuance will increase the maximum food stamp program allotments.

Process for Developing New Rule: Proposed rule is distributed to all interested parties for review. Comments are received and incorporated as appropriate.

How Interested Parties can Participate in Formulation of the New Rule: Contact Mike Arnaud, Mailstop 45400, phone 438-8322 or (SCAN) 585-8322, FAX 438-8258.

August 23, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 94-17-163**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 8:54 a.m.]

Specific Statutory Authority for New Rule: RCW 51.16.035 and 51.16.100.

Reasons Why the New Rule is Needed: To be responsive to changes in hazards relative to entertainers and provide rate payer equity to employers covered by the proposed new risk classification and two existing risk classifications which are proposed to be amended.

Goals of New Rule: To establish a new risk classification for entertainers, and amend two existing classification definitions to reference the new classification.

Process for Developing New Rule: Agency is seeking input from affected employers through CR-101 notice, CR-102 filing process and public hearings set for late October 1994.

How Interested Parties can Participate in Formulation of the New Rule: Frank Romero, Classification Development Manager, Insurance Services Division, P.O. Box 44148, Olympia, WA 98504-4148, (206) 956-4748, FAX (206) 956-4721. Input accepted through October 31, 1994.

August 24, 1994  
Mark O. Brown  
Director

**WSR 94-17-178**  
**PREPROPOSAL STATEMENT OF INTENT**  
**OFFICE OF MINORITY AND**  
**WOMEN'S BUSINESS ENTERPRISES**  
[Filed August 24, 1994, 11:06 a.m.]

Specific Statutory Authority for New Rule: RCW 39.19.030(7).

Reasons Why the New Rule is Needed: Presently, if a minority or woman owns fifty-one percent of the interest in a business, and a noneligible person owns the other forty-nine percent, it is certifiable. However, when ninety percent of the interest of the business is owned by a combination of minorities and women, but neither owns the requisite fifty-percent, such a firm is not certifiable.

Goals of New Rule: The rule is to promote equitable treatment of all businesses that are owned and controlled by minorities, women or a combination thereof. It also defines prohibited relationships between certified businesses and other businesses.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Call or write Juan Huey-Ray, Rules Coordinator, Office of Minority and Women's Business Enterprises, P.O. Box 41160, Olympia, WA 98504-1160, phone (206) 586-1228, FAX (206) 586-7079.

August 24, 1993 [1994]  
James A. Medina  
Director

AMENDATORY SECTION (Amending WSR 94-24-107 [94-11-116], filed 12/2/92 [5/18/94], effective 1/3/93 [6/18/94])

**WAC 326-02-030 Definitions.** Words and terms used in this title shall have the same meaning as each has under chapter 120, Laws of 1983, unless otherwise specifically provided in this title, or the context in which they are used clearly indicates that they should be given some other meaning.

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Certified business" or "certified" means a business or the status of a business that has been examined by the Washington state office of minority and women's business enterprises and deemed to be a minority business enterprise (MBE), a women's business enterprise (WBE), a minority woman's business enterprise (MWBE), or a combination business enterprise (CBE).

(3) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.

(4) "Combination business enterprise" or "CBE" means a small business concern organized for profit, performing a commercially useful function, that is ~~((fifty percent))~~ legitimately-owned and controlled by ((one or more minority men)) any combination of individual minorities and/or women, ((or MBEs certified by the office and fifty percent owned and controlled by one or more nonminority women)) or firms ((WBEs)) certified by the office which do not otherwise qualify as an MBE, WBE, or MWBE. ((The)) Individual owners must be United States citizens or lawful permanent residents. The combined ownership interests of minorities and/or women must be at least fifty-one percent.

(5) "Commercially useful function" means the performance of real and actual services which are integral and necessary in the discharge of any contractual endeavor, and not solely for the purpose of obtaining certification or obtaining credit for participation goal attainment.

(6) "Common industry practices" means those usages, customs, or practices which are ordinary, normal, or prevalent among businesses, trades, or industries of similar types engaged in similar work in similar situations in the community.

(7) "Conduit" means a certified business which agrees to be named as a subcontractor on a contract in which such certified business does not perform the work but, rather, the work is performed by the prime contractor, prime consultant, material supplier, purchasing contractor, or any other ~~((noncertified))~~ business.

(8) "Contract" means a mutually binding legal relationship (including a purchase order, lease, or any modification thereof), which obligates the seller to furnish goods or services (including construction), and the buyer to pay for them.

(9) "Contract by contract basis" means a single contract within a specific class of contracts.

(10) "Contractor" means a party who enters into a contract directly with a state agency or educational institution.

(11) "Corporate-sponsored dealership" means a business that does not meet the requirements for certification but is participating in a program specifically developed by a national or regional corporation to address the present-day issue of lack of opportunities for minorities or women in the dealership industry.

(12) "Director" means the director of the office of minority and women's business enterprises.

(13) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(14) "Front" means a business which purports to be eligible for certification but is not in fact legitimately owned and controlled by minorities, women, or a combination thereof.

(15) "Goods and/or services" means all goods and services, including professional services.

(16) "Heavy construction" means construction other than building construction; e.g., highway or street, sewer and pipeline, railroad, communication and power line, flood control, irrigation, marine, etc.

(17) "Joint venture" means a partnership of two or more persons or businesses created to carry out a single business enterprise for profit, for which purpose they combine their capital, efforts, skills, knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(18) "Legitimately owned and controlled" means that minorities, women, or a combination thereof, own at least fifty-one percent interest in the business (unless the business qualifies as a corporate sponsored dealership under the provisions of subsection (11) of this section and WAC 326-20-050(4)); and the minorities, women, or combination thereof, possess and exercise sufficient expertise specifically in the firm's field of operation to make decisions governing the long-term direction and the day-to-day operations of the firm.

(19) "Manufacturer" means a business which owns, operates, or maintains a factory or establishment that produces or creates goods from raw materials or substantially alters goods before reselling them.

(20) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black: Having origins in any of the black racial groups of Africa;

(b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

(d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

(21) "Minority business enterprise," "minority-owned business enterprise," or "MBE" means a small business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority individuals or minority business enterprises certified by the office. The minority owners must be United States citizens or lawful permanent residents.

(22) "Minority women's business enterprise" or "MWBE" means a small-business concern, organized for

profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority women and is certified by the office. The owners must be United States citizens or lawful permanent residents.

(23) "Office" means the office of minority and women's business enterprises of the state of Washington.

(24) "Pass-through" means a certified business which buys goods (~~from a noncertified business~~) and simply resells those goods to the state, state contractors or other persons doing business with the state for the purpose of allowing those goods to be counted towards fulfillment of WBE or MBE goals.

(25) "Person" means one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(26) "Procurement" means the purchase, lease, or rental of any goods or services.

(27) "Public works" means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(28) "Regular dealer" means a certified business that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business.

(29) "Services," in the context of "goods and/or services," means all services including, but not limited to, client services, personal services, and purchased services as defined in RCW 39.29.006.

(30) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

(31) "Subcontractor" means a party that indirectly provides goods or services, including but not limited to construction, to a state agency or educational institution through a contractor.

(32) "Supplier" means a manufacturer, regular dealer, broker, or packager that:

(a) provides or furnishes goods or materials;

(b) performs a commercially useful function; and

(c) is not considered a conduit, front, or pass-through.

(33) "Switch business" means a business which was previously owned and controlled by a man, men or nonminorities, which has made technical changes to its business structure so that it is now purportedly owned and controlled by a woman or women or by a minority person or persons, but continues to operate in substantially the same manner as it did prior to the written revisions of the business structure.

(34) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a small business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more women or women's business enterprises

certified by the office. The women owners must be United States citizens or lawful permanent residents.

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

**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 94-17-182

### PREPROPOSAL STATEMENT OF INTENT HEALTH SERVICES COMMISSION

[Filed August 24, 1994, 11:11 a.m.]

**Specific Statutory Authority for New Rule:** RCW 43.72.100, 43.72.040(21) and 48.43.030 (5)(a), Essential community providers.

**Reasons Why the New Rule is Needed:** Rules on essential providers are needed to ensure that certified health plans address access barriers for underserved or hard to reach populations as they develop their provider networks.

**Goals of New Rule:** The goals of the new rule are to maintain and enhance access to health services for all populations, encourage integration of community-based health resources, and improve 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.

#### Essential Community Providers

**Subject of Possible Rule making:** The Washington Health Services Act of 1993 establishes the powers and duties of the Washington Health Services Commission, including the authority to adopt standards for the availability and accessibility of services provided by certified health plans and registered employer health plans (RCW 43.72.040(21)). The commission is seeking comments from plans, consumers, employers, providers and others about the designation of certain providers as "essential community providers" and requirements for their inclusion in plan networks. Your comments will assist the commission in understanding the impact of including requirements regarding essential community providers in standards for plans.

Ensuring access to health care services is a primary goal of health reform. There is a concern that individuals from certain populations will continue to have difficulty accessing care under the reformed system and that traditional providers to these populations may be excluded from plan networks. This has led to the development of the concept of essential community providers at the federal level. Examples of providers included under proposed federal legislation are community and migrant health centers, Native American health programs, and school health services. The definition also includes providers of confidential and sensitive services

such as family planning clinics (Title X) and AIDS providers under the Ryan White Act. The commission shares the concern that some populations may have difficulty accessing services and will consider if a similar essential provider requirement is appropriate and necessary for state reform.

The proposed approach recognizes the need to maintain and improve access to health services for underserved or hard to reach populations during a transition to a fully-managed health care system. The intent of the proposed rules is to build upon existing successful strategies for reaching these populations and encourage integration of community-based health system resources.

The proposed approach would require plans to include essential community providers in their networks. The commission envisions the proposed approach as a transitional rather than a permanent strategy. The approach designates specific categories of essential community providers and describes a process for the designation of additional categories. The proposed definition is derived from federal legislative proposals.

#### Proposed Approach:

1. With respect to essential community providers located within the plan's service area, each certified health plan shall either offer a written provider participation agreement to the provider, or offer a written agreement under which the plan shall make payment to the provider.

2. A participation agreement between a certified health plan and an essential community provider shall specify that the plan agrees to treat the provider in accordance with terms and conditions at least as favorable as those that are applicable to other providers participating in the plan with respect to each of the following:

- The scope of services for which payment is made by the plan to the provider.
- The rate of payment for covered care and services.
- The availability of financial incentives to participating providers.
- Limitations on financial risk provided to other participating providers.
- Assignment of enrollees to participating providers.
- Access by the provider's patients to providers in medical specialties or subspecialties participating in the plan.

3. Essential community providers who are not offered or do not elect participation agreements will be paid in accordance with applicable Medicare payment methodology and rates.

4. The categories of institutions and other agencies that shall be designated as essential community providers are as follows:

- Migrant health centers under section 329 of the Public Health Services Act.
- Community health centers under section 330 of the Public Health Services Act.
- Homeless program providers under section 340 of the Public Health Services Act.
- Public housing providers under section 340A of the Public Health Services Act.
- Family Planning Clinics under Title X of the Public Health Services Act.
- Native American health programs. A service unit of the Native American Health Service, a tribal organization,

or an urban Native American program, as defined in the Indian Health Care Improvement Act.

- AIDS providers under Ryan White Act under Title XXIII of the Provider of Health Services Act.
- Maternal and child health care providers under Title V of the Social Security Act.
- Federally qualified health centers and rural health clinics as defined in section 1861 (aa) of the Social Security Act.
- Providers of school health services under subtitle G of Title III or programs of local government or school districts.
- Community practice networks under subtitle E of Title III.

5. Additional agencies, organizations, or providers may be included as essential community providers if the Department of Health determines that health plans operating in the area served by the applicant would not be able to assure adequate access to items and services included in the uniform benefit package if the applicant were not included in the plan's network. The categories for additional agencies, organizations or providers to be included are as follows:

- Public and private nonprofit hospitals and other institutional health care providers located in an area designated as a health professional shortage area (under section 332 of the Public Health Service Act), or providing a substantial amount of health services (as determined in accordance with standards established by the Department of Health) to a medically underserved population (as designated under section 330 of such act).
- Other public and private nonprofit agencies, organizations and health care providers that are located in such an area, and providing health care and services essential to residents of such an area or such populations.
- Sole providers of highly specialized services in the uniform benefit package.

6. These requirements shall only apply to plans until June 30, 1999. Discussion Questions: Comments are encouraged to address any aspect of the need for rules on inclusion of essential community providers by plans. The commission is particularly interested in receiving comments in response to the following questions:

1. Is there a need for designating essential community providers? If so, what is the rationale for having this special category of providers?

2. What should be the criteria for recognition as an essential community provider?

3. What specific definition of essential community provider should be used?

4. Should the commission wait to evaluate the need for any special provisions until reform is underway?

5. If plans are not required to include providers who have traditionally delivered care to populations that have been underserved, how can access for these populations be assured?

6. Should the rules developed by the commission encourage traditional providers of health services to historically underserved populations to seek contracts with plans and intervene only when information indicates that access for select populations is limited or plans are engaged in exclusionary practices?

7. Should the rules require that certain types of agencies and organizations be designated essential community providers and allow the Department of Health or the commission to consider the designation of other providers on a case by case basis?

8. Should plans be required to offer full participation agreements or, at a minimum, reimbursement agreements to essential community providers?

9. To what degree are the agencies and organizations identified in this approach already participating in established managed care plans?

10. Is the need for an essential community provider requirement less in Washington state than nationally because of the level of integration that has already occurred between traditional providers and managed care systems due to the Basic Health Plan and Healthy Options?

11. What are the possible incentives or disincentives for essential community providers and plans to develop the relationships they need to successfully transition into the reformed system?

12. Should the inclusion of essential community providers be a permanent or a transitional process?

13. If essential community providers are included in plan networks should enrollees be able to self-refer to them?

How Interested Parties can Participate in Formulation of the New Rule: Please respond in writing by October 7, 1994, to Washington Health Services Commission, Randy Revelle, Director, P.O. Box 41189, Olympia, WA 98504-1189. Questions about the preproposal? Contact Nancy Long, Policy Analyst, (206) 407-0154.

August 23, 1994  
Bernadene Dochnahl  
Commission Chair

**WSR 94-17-191**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 11:21 a.m.]

Specific Statutory Authority for New Rule: Chapter 49.17 RCW.

Reasons Why the New Rule is Needed: To update safety standards for pulp, paper, and paperboard mills and converters regarding industry technology issues, unique industry equipment and processes and training requirements.

Goals of New Rule: Modification of existing rules to address new technology used in the industry process and equipment and training to provide employees with a safe and healthful workplace and employer guidance.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Robert Lawton, Managing Director, Pacific Coast Association of Pulp and Paper Manufacturers, (503) 636-8008, FAX (503) 636-8104; Roger Heiser, Area Representative, United Paper Workers International Union, (206) 887-3886; Gene Hain, Association of Western Pulp and Paper Workers, (503) 228-7486; and Bob Rhimer, Industrial

Safety Engineer, Department of Labor and Industries, (206) 956-5522, FAX (206) 956-5529.

August 24, 1994  
Dorette M. Markham  
for Mark O. Brown  
Director

**WSR 94-17-192**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 11:22 a.m.]

Specific Statutory Authority for New Rule: Chapter 49.17 RCW, Federal Register Volume 59, Number 153, dated August 10, 1994.

Reasons Why the New Rule is Needed: OSHA issued final rules to improve safety and health conditions for workers in general industry, construction and shipbuilding, who may be exposed to asbestos in the workplace and to eliminate potential of asbestos.

Goals of New Rule: Reduction of time-weighted-average permissible exposure limit (PEL) of 0.1 fiber per cubic centimeter (f/cc) for all asbestos work in all industries; a new classification scheme for asbestos construction and shipyard industry work which ties mandatory work practices to work classification; a presumptive asbestos identification requirement for "high hazard" asbestos containing building materials; limited notification requirements for employers who use unlisted compliance methods in high risk asbestos work; and mandatory methods of control for brake and clutch repair.

Process for Developing New Rule: The department must adopt rules identical or "at-least-as-effective-as" OSHA rules, as required by RCW 49.17.010 and the OSHA/WISHA state plan agreement.

How Interested Parties can Participate in Formulation of the New Rule: Chuck Blocher, Industrial Safety Engineer, Department of Labor and Industries, (206) 956-5523, FAX (206) 956-5529; Janine Rees, Industrial Hygienist, Department of Labor and Industries, (206) 281-5476, FAX (206) 281-5529, P.O. Box 44620, Olympia, WA 98504-4620.

August 24, 1994  
Dorette M. Markham  
for Mark O. Brown  
Director

**WSR 94-17-193**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 11:23 a.m.]

Specific Statutory Authority for New Rule: Chapter 49.17 RCW, Federal Register Volume 59, Number 152, dated August 9, 1994.

Reasons Why the New Rule is Needed: The Occupational Safety and Health Administration (OSHA) issued final rules to improve safety and health conditions for workers in the construction industry who are exposed to falling off,

onto, or through working levels and to protect employees from falling objects.

Goals of New Rule: The federal standard requires fall protection to be provided at the six foot level through the use of guardrail systems, safety net systems, or personal fall arrest systems. The rule will also prohibit use of body belts as part of a personal fall arrest system as of January 1, 1998. Effective that same date, only locking snaphooks will be permitted for use in personal fall arrest systems and positioning system.

Process for Developing New Rule: The department must adopt rules identical or "at-least-as-effective-as" the OSHA rules, as required by RCW 49.17.010 and the OSHA/WISHA state plan agreement. The department does have fall protection rules in effect, chapter 296-155 WAC, Part C-1. The new OSHA rules will be reviewed and may be merged with the current department rules.

How Interested Parties can Participate in Formulation of the New Rule: Bob Rhimer, Industrial Safety Engineer, Department of Labor and Industries, (206) 956-5522, FAX (206) 956-5529, P.O. Box 44620, Olympia, WA 98504-4620.

August 24, 1994  
Dorette M. Markham  
for Mark O. Brown  
Director

**WSR 94-17-194**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 11:24 a.m.]

Specific Statutory Authority for New Rule: Chapter 49.17 RCW.

Reasons Why the New Rule is Needed: Existing rules for use of cranes are outdated and do not adequately address industry needs relating to technology and national consensus standard requirements.

Goals of New Rule: Modification of general industry, construction and other related rules to incorporate language from national consensus standards and addition of new rules addressing industry technology.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: An industry committee is in place to review existing standards and recommend modifications. The committee consists of representatives from management, labor, and the department. The following individuals may be contacted regarding formulation of new rules: Mike Draper, Department of Labor and Industries, (206) 956-3890, FAX (206) 269-3903; Chuck Blocher, Department of Labor and Industries, (206) 956-5523, FAX (206) 956-5529; Herb Heinhold, Independent Safety Consultant, (206) 926-1847, FAX (206) 926-0240; Brian Satran, IUOW, Local 302, (206) 448-6180, FAX (206) 443-9965; and Frank Turman, Sellen Construction, (206) 682-7770, FAX (206) 623-5206.

August 24, 1994  
Dorette M. Markham  
for Mark O. Brown  
Director

**WSR 94-17-195**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 11:25 a.m.]

Specific Statutory Authority for New Rule: Chapter 49.17 RCW.

Reasons Why the New Rule is Needed: On March 2, 1994, rules were adopted in chapter 296-306 WAC, Safety standards for agricultural code, which removed the agriculture exemption from chapter 296-24 WAC, General safety and health standards effective March 1, 1995. This amendment was made in order to provide agriculture employees the same level of workplace protection as employees in other industries throughout the state. To provide clarity and make application of the general safety and health standards less burdensome, the agency convened an agriculture workgroup consisting of representatives from the agency, industry labor and industry management. The workgroup was given the task of identifying sections of chapter 296-24 WAC which would commonly apply to agriculture and recommending which sections be incorporated in the agriculture vertical standards. Remaining sections of chapter 296-24 WAC would be referenced, as appropriate, in chapter 296-306 WAC.

Goals of New Rule: Incorporate appropriate sections of chapter 296-24 WAC and references as necessary into chapter 296-306 WAC. This action has the goal of providing easier to use industry vertical standards which are directly applicable to agriculture and less confusing.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: A representative workgroup has been convened consisting of participation by representatives from management, labor and the agency. Interested parties may contact the following department staff for further information regarding activities of this workgroup: Monte Hanks, Safety and Health Specialist, Department of Labor and Industries, (206) 956-4245, FAX (206) 956-5529; and Marcia Holt, Standards Supervisor, Department of Labor and Industries, (206) 956-5530, FAX (206) 956-5529.

August 24, 1994  
Dorette M. Markham  
for Mark O. Brown  
Director

**WSR 94-17-196**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 11:26 a.m.]

Specific Statutory Authority for New Rule: RCW 49.17.010, [49.17].050, Federal Register Volume 59, Number 137, Tuesday, July 19, 1994, page 36695-366100.

Reasons Why the New Rule is Needed: In response to a congressional mandate, OSHA issued a final rule to address requirements of the Hazardous Materials Transportation Uniform Safety Act of 1990. These rules will ensure that placards and labels required on hazardous materials and explosives, both in transportation and at stationary facilities, be retained until such materials have been removed to the extent that they no longer pose a safety risk. The Department of Labor and Industries is required to adopt rules "at-least-as-effective-as" OSHA rules.

Goals of New Rule: New rules will require employers who receive a package, transport vehicle, freight container, motor vehicle or rail freight car which contains a hazardous material and which is required to be marked, placarded or labeled in accordance with the United States Department of Transportation (DOT) hazardous materials regulations, to retain the markings, placards and labels on the package, transport vehicle, freight container, motor vehicle, or rail freight car. Such markings, placards and labels generally must be retained on packages until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards and retained on transport vehicles, freight containers, motor vehicles or rail freight cars until hazardous materials which requires the marking or placard are removed so a hazard no longer exists.

Process for Developing New Rule: The department must adopt rules identical or "at-least-as-effective-as" OSHA rules, as required by RCW 49.17.010 and the OSHA/WISHA state plan agreement.

How Interested Parties can Participate in Formulation of the New Rule: Merle Larson, Industrial Safety Engineer, Department of Labor and Industries, (206) 956-5519, FAX (206) 956-5529; Dave Johnson, Industrial Hygienist 3, Department of Labor and Industries, (206) 956-5427, FAX (206) 956-5529, P.O. Box 44620, Olympia, WA 98504-4620.

August 24, 1994  
Dorette M. Markham  
for Mark O. Brown  
Director

**WSR 94-17-197**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 11:27 a.m.]

Specific Statutory Authority for New Rule: Confined and enclosed spaces and other dangerous atmospheres in shipyard employment final rule filed in Federal Register Volume 59, Number 141, dated July 25, 1994. Reference: 29 CFR Part 1915 and RCW 49.17.040, [49.17].050, and [49.17].060.

**Reasons Why the New Rule is Needed:** 29 CFR Part 1915 and chapter 296-304 WAC, set requirements for work in explosive and other dangerous atmospheres in vessels and vessel sections and applies to shipbuilding, ship repairing, and shipbreaking operations and to related employment. The final rule being promulgated by OSHA extends the protection afforded by these previous rules to employees entering any confined or enclosed space or working in any other dangerous atmosphere in or out of a shipyard. The final rule also simplifies and clarifies some of the requirements in the previous standards. The OSHA final rule includes requirements for a shipyard competent person, a marine chemist, a certified industrial hygienist, or a coast guard authorized person to evaluate conditions within a confined or enclosed space and to institute measures to ensure that entrants are protected. It also contains requirements for posting unsafe spaces, for safe performance of cleaning, cold work, and hot work, and for classifying a person as a shipyard competent person. The state has existing standards specifically addressing confined spaces hazards. However they do not address the new OSHA requirements found in the amended final rule, 29 CFR 1915.

**Goals of New Rule:** The state has existing standards specifically addressing confined spaces hazards. However they do not address the new OSHA requirements found in the final rule 29 CFR Part 1915, which sets requirements for work in explosive and other dangerous atmospheres in vessels and vessel sections as applied to shipbuilding, ship repairing, and shipbreaking operations and to related employment. The final rule being promulgated by OSHA extends the protection afforded by these previous rules to employees entering any confined or enclosed space or working in any other dangerous atmosphere in or out of a shipyard. The final rule also simplifies and clarifies some of the requirements in the previous standards.

**Process for Developing New Rule:** The department must adopt rules identical or at-least-as-effective-as OSHA rules as required by RCW 49.17.010 and the OSHA/WISHA state plan agreement.

**How Interested Parties can Participate in Formulation of the New Rule:** Please send comments to Marcia Holt, Standards Supervisor, (206) 956-5530, FAX (206) 956-5529; or Patricia Wolheter, Industrial Safety Engineer, (206) 956-5524, FAX (206) 956-5529, P.O. Box 44620, Olympia, WA 98504-4620.

August 24, 1994  
Dorette M. Markham  
for Mark O. Brown  
Director

ments to the final rule in Federal Register Volume 59, dated May 19, 1994. Reference: 29 CFR Part 1910.146 and RCW 49.17.040, [49.17].050, and [49.17].060.

**Reasons Why the New Rule is Needed:** Modifications to rules on confined spaces are required due to the following: Federal-initiated proposed amendments and new sections are made to be at-least-as-effective-as the federal final rule relating to permit-required confined spaces, published in Federal Register Volume 58, Number 9, dated January 14, 1993; corrective amendments noted in Federal Register Volume 58, Number 123, dated June 29, 1993; and corrective amendments noted in Federal Register Volume 59, Number 96, dated May 19, 1994. The United States Department of Labor, Occupational Safety and Health Administration (OSHA) has determined, based on its review of the rulemaking record, that the existing standards do not adequately protect workers in confined spaces from atmospheric, mechanical, and other hazards. It was also determined that the ongoing need for monitoring, testing, and communication at workplaces which contain entry permit confined spaces can be satisfied only through the implementation of a comprehensive permit-required confined spaces entry program. The state has existing standards specifically addressing confined spaces hazards. However they do not address the new OSHA requirements for written permit-entry into confined spaces. Federal-initiated regulations will be adopted to address the issue of permit-required confined spaces.

**Goals of New Rule:** The state has existing standards specifically addressing confined spaces hazards. However they do not address the new OSHA requirements for written permit-entry into confined spaces. Compliance with the provisions of these amended and new standards will effectively provide more comprehensive protection to employees who work in confined spaces from injury or death.

**Process for Developing New Rule:** The department must adopt rules identical or at-least-as-effective-as OSHA rules as required by RCW 49.17.010 and the OSHA/WISHA state plan agreement.

**How Interested Parties can Participate in Formulation of the New Rule:** Please send comments to Marcia Holt, Standards Supervisor, (206) 956-5530, FAX (206) 956-5529; or Patricia Wolheter, Industrial Safety Engineer, (206) 956-5524, FAX (206) 956-5529, P.O. Box 44620, Olympia, WA 98504-4620.

August 24, 1994  
Dorette M. Markham  
for Mark O. Brown  
Director

**WSR 94-17-198**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 11:28 a.m.]

**Specific Statutory Authority for New Rule:** Permit-required confined spaces final rule filed in Federal Register Volume 58, Number 9, dated January 14, 1993; corrective amendments to the final rule in Federal Register Volume 58, Number 123, dated June 29, 1993; and corrective amend-

**WSR 94-17-199**  
**PREPROPOSAL STATEMENT OF INTENT**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**  
[Filed August 24, 1994, 11:43 a.m.]

**Specific Statutory Authority for New Rule:** RCW 48.43.020 Eligibility requirements for certificate of registration—Application requirements.

**Reasons Why the New Rule is Needed:** RCW 48.43.010, no person or entity in this state may, by mail or

otherwise, act or hold himself or herself out to be a certified health plan as defined by RCW 43.72.010 without being registered as a certified health plan with the insurance commissioner.

**Goals of New Rule:** The goals of the rule or guidelines are to define the application process in which a new entity can become a certified health plan.

**Process for Developing New Rule:** Agency study.

**How Interested Parties can Participate in Formulation of the New Rule:** Please respond in writing by September 23, 1994, to Dennis Edward Julnes, Financial Analyst, Office of Insurance Commissioner, P.O. Box 40255, Olympia, WA 98504-0255, FAX (206) 664-8486.

#### ADMISSION PROCEDURES FOR DOMESTIC CERTIFIED HEALTH PLANS

##### A. Organizational Documents:

###### 1. Solicitation Permit.

a. Apply for a Solicitation Permit, including filing of proposed Washington articles of incorporation and by-laws. (The specific requirements of RCW 48.06.030 through 48.06.200 are to be followed.)

b. Once the application for a Solicitation Permit is approved, the solicitation of funds may begin.

###### 2. Management

###### 1. Files list of officers and directors

2. Files biographical affidavit of each of the directors and principal officers on N.A.I.C. prescribed forms, if not submitted with the application for a solicitation permit

3. Files an Application for Certificate of Authority/Registration\*

##### B. Financial

1. Present three-year prospective comparative financial statements which includes the following information:

a. Statutory balance sheets

b. Statutory income statements

c. Statutory statements of changes in cash flows

d. A summary of statutory accounting policies

e. A summary of assumptions, including projected enrollment and demographic profile of service area population assumptions, as (a) through (d) above are based.

f. An affirmation by an officer of the corporation that the prospective financial statements have been presented to the best of the signer's knowledge and belief, given their summary of assumptions, based on information, circumstances and conditions existing at time the prospective information was prepared.

g. These three-year prospective comparative financial statements shall use the accounting classifications prescribed in NAIC life and health annual statements instructions.

2. A current financial statement including summaries of statutory accounting policies. The financial statement shall be prepared in accordance with the life and health annual statement instructions prescribed by the N.A.I.C. These statements are prepared after the funds have been raised by applicant and in compliance with its solicitation permit. The financial statements must show the applicant:

a. meets minimum net worth (capital and surplus) requirements.

b. meets funded reserve requirements.

3. Copies of proposed provider contracts.

4. Reinsurance contracts and other agreements between applicant and organization(s) paying or insuring payment for health care services

5. A description of the proposed arrangements for liability and malpractice insurance coverage

C. Proposed Plan of Operation including:

1. Access plan

2. A detailed description of:

a. The procedures for monitoring the quality of care to be provided.

b. Peer review procedures

c. The procedures by which complaints and grievances will be resolved

3. A plan for handling insolvency

4. A plan for offering health care services that are reasonable and equitable.

5. Marketing plan

6. Plan for including consumers and provider advisory/decision-making bodies.

7. A chart or listing clearly presenting the identities of inter-relationships among the applicant and all affiliates (as defined in RCW 48.31B.005(1)) of the applicant.

D. Prior to issuance of a registration, and after funds have been raised, pursuant to the solicitation permit, a qualifying financial examination will be made by the Insurance Commissioner's examiners.

August 24, 1994

Deborah Senn

Insurance Commissioner



**WSR 94-17-013**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**FACILITIES AUTHORITY**  
 [Filed August 9, 1994, 11:09 a.m.]

Continuance of WSR 94-12-092.

Purpose: Change of address, description of organization, and selection of investment banking firms as underwriters, as previously published and subjected to public hearing.

Other Identifying Information: WAC 253-02-040 and 253-16-090.

Reasons Supporting Proposal: See above, final approval continued until next meeting date Friday, August 19th.

Name of Proponent: Washington Higher Education Facilities Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No.

Date of Intended Adoption: Friday, August 19th.

August 4, 1994

Suzan J. Snodgrass  
 Acting Executive Director

**WSR 94-17-014**  
**PROPOSED RULES**  
**NORTHWEST AIR**  
**POLLUTION AUTHORITY**  
 [Filed August 9, 1994, 11:12 a.m.]

Original Notice.

Title of Rule: Northwest Air Pollution Authority regulation.

Purpose: To bring the Northwest Air Pollution Authority regulations up to date by amending, adding and deleting sections to reflect changes in the Washington Clean Air Act, Washington Administrative Codes, federal new source performance standards, national emission standards for hazardous air pollutants, adding provisions that promote effective air pollution control and raising fees to reflect added costs of performing duties.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: Additions, amendments and deletions of the Northwest Air Pollution Authority regulation affect many sections.

Reasons Supporting Proposal: Incorporation of new stationary requirements and deletion of others will simplify enforcement and aid in reducing air pollution.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James Randles, 302 Pine Street, Suite 207, Mt. Vernon, WA 98273, (206) 428-1617.

Name of Proponent: Northwest Air Pollution Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Section 104 - Adoption of State and Federal Rules, this revised section specifically references all Washington Administrative Codes, federal new source performance standards, and national emission standards for hazardous air pollutants that have been promulgated at the time of adoption. These changes will allow the Northwest Air Pollution Authority to receive delegation and enforce all applicable state and federal rules; Section 132 - Criminal Penalty, this section is amended to be consistent with the federal air operating permit program, specifically 40 CFR 70.11 (a)(3)(ii); Section 133 - Civil Penalty, this section is amended to be consistent with the federal air operating permit program, specifically 40 CFR 70.11 (a)(3); Section 200 - Definitions, several of the definitions of terms are changed to be consistent with state and federal definitions; Section 300 - Notice of Construction When Required, clarification of when an investigation fee is required; Section 301 - Information Required for Notice of Construction and Application for Approval, Public Notice, Public Hearing, correction of typographical error; Section 302 - Issuance of Approval or Order, further clarifies definition of best available control technology; Section 322 - Exemptions from Registration, addition of two new exemptions that set threshold levels of pollutant emissions below which no registration or "Notice of Construction" is required; Section 324 - Fees, registration fees are raised for sources of odor and some refuse incinerators. Clarifies that holders of variances pay an annual fee. Plan and examination fees for fuel burning equipment, scrubbers, incinerators, and gasoline stations are raised. New fees are added for air toxic screening, "Order of Approval" modifications, and public hearings. SEPA review fees and bubble and emission reduction credit application fees are raised; Section 340 - Report of Breakdown and Upset, correction of typographical error; Section 451 - Emission of Air Contaminant - Visual Standard, deletes section 451.14 as this section was less stringent than state rules; Section 462 - Emission of Sulfur Compounds, added a sixty consecutive minute averaging period which is consistent with state rules; Section 501 - Open Burning, restricts burning of materials originating from an area designated as having a burn ban. It also further defines limitations on burning at commercial establishments; Section 570 - Removal and Encapsulation of Asbestos Material, this section is repealed and replaced by a new section titled "Asbestos Control Standards" which reflects changes in the state and federal laws; and Section 580 - Volatile Organic Compound Control, modifies the definition of a gasoline station and changes the throughput threshold for Stage 1 requirements to be consistent with state rules.

Proposal Changes the Following Existing Rules: The proposal would amend Section 104 - Adoption of State and Federal Rules, Section 132 - Criminal Penalty, Section 133 - Civil Penalty, Section 200 - Definitions, Section 300 - Notice of Construction When Required, Section 302 - Issuance of Approval or Order, Section 301 - Information Required for Notice of Construction and Application for Approval, Public Notice, Public Hearing, Section 322 - Exemptions from Registration, Section 324 - Fees, Section 340 - Report of Breakdown and Upset, Section 451 - Emission of Air Contaminant - Visual Standard, Section 462 - Emission of Sulfur Compounds, Section 501 - Outdoor

Burning and Section 581 - Volatile Organic Compound Control; repeal Section 570 - Removal and Encapsulation of Asbestos Material; and add Section 570 - Asbestos Control Standards.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not required of this organization.

Hearing Location: Skagit County Administration Building, Hearing Room A, Second and Kincaid Street, Mt. Vernon, Washington 98273, on October 13, 1994, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Duffy, by September 30, 1994.

Submit Written Comments to: FAX (206) 428-1620.

Date of Intended Adoption: October 13, 1994.

August 5, 1994

Terryl L. Nyman

Air Pollution Control Officer

**Reviser's note:** The material contained in this filing will appear in the 94-18 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 94-17-037**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed August 10, 1994, 11:42 a.m.]

Original Notice.

Title of Rule: WAC 232-28-61957 1994-95 Washington game fish seasons and catch limits—Horsethief Lake (Klickitat Co.).

Purpose: To close Horsethief Lake to fishing after October 31, 1994.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This proposed regulation will close Horsethief Lake to fishing after October 31, 1994, which is consistent with the closure of the state park located on Horsethief Lake. The state park is the only public access to the lake.

Reasons Supporting Proposal: The intent of this proposed regulation is to provide consistency of regulations between state agencies. The closure of Horsethief Lake is consistent with the closure of the state park and all public access to the lake.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management Program, Olympia, Washington, (206) 902-2325; and Enforcement: Dayna Matthews, Chief, Enforcement, Olympia, Washington, (206) 902-2927.

Name of Proponent: Washington Fish and Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The only public access to Horsethief Lake is from the state park. It is anticipated that closing the lake to fishing during the time the park is closed will reduce

enforcement concerns regarding the park closure. Additionally, this provides a consistent message to the public regarding the use of the park and the lake facilities.

Statement of Finding: A special finding is needed for this proposed regulation. The closure of the lake needs to be in place 12:01 a.m., November 1, 1994, which is prior to the thirty days after filing is normally required.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Because there is no direct impact.

Hearing Location: Cavanaugh's Fourth, East 110 Fourth Avenue, Spokane, WA 99202, on October 8, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson, TDD (206) 902-2207.

Submit Written Comments to: Bob Gibbons, FAX (206) 902-2158, by September 28, 1994.

Date of Intended Adoption: October 8, 1994.

August 10, 1994

Evan Jacoby

Legal Counsel

NEW SECTION

**WAC 232-28-61957 1994-95 Washington game fish seasons and catch limits—Horsethief Lake (Klickitat Co.).** Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to Horsethief Lake (Klickitat Co.).

Horsethief Lake (Klickitat Co.): April 30 - October 31, 1994

All other provisions of WAC 232-12-619 and 232-28-619 relating to the above waters remain in effect and unchanged.

**WSR 94-17-043**  
**PROPOSED RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed August 10, 1994, 1:38 p.m.]

Original Notice.

Title of Rule: Academic integrity standards and procedures.

Purpose: To define academic dishonesty and to establish a system by which to address incidents of academic dishonesty.

Statutory Authority for Adoption: RCW 28B.30.150, 28B.30.095, 28B.30.125.

Summary: The proposed rules define academic dishonesty and establish a system that the university will use to address suspected incidents of dishonesty.

Reasons Supporting Proposal: Like many universities, Washington State University has experienced an apparent increase in academic dishonesty. The current student conduct code does not adequately address or define academic dishonesty.

Name of Agency Personnel Responsible for Drafting: Gus Kravas and Don Bushaw, Student Affairs/Provost, (509)

335-4531; Implementation and Enforcement: Gus Kravas, Student Affairs, (509) 335-4531.

Name of Proponent: Washington State University, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules include a concise definition of what constitutes academic dishonesty and establish a system to address incidents of academic dishonesty. The purpose of these rules is to educate students about academic dishonesty and establish standards for academic integrity. In addition, these rules establish a system to be used when a student is suspected of a violation of the academic integrity code. The university anticipates the effects of the rules to be as follows: Students will better understand the nature of academic dishonesty and its consequences; the university will be better able to foster an atmosphere of academic integrity; and the university will be better able to identify and to penalize violations of academic integrity.

Proposal Changes the Following Existing Rules: The proposed rules would make two minor changes to existing rules: The prologue to Washington State University's student conduct code would be revised to reflect the addition of the academic integrity standards and procedures; and the existing definition of academic dishonesty will be revised. This change establishes that accusations of academic dishonesty by a recognized student group will be processed through the existing student conduct system. Accusations that an individual has engaged in academic dishonesty will be handled under the proposed academic integrity standards and procedures.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Washington State University did not prepare a small business impact statement under chapter 19.85 RCW because these rules will only impact internal academic and disciplinary matters.

Hearing Location: Compton Union Building, Room 220, on September 28, 1994, at 3 p.m.

Assistance for Persons with Disabilities: Contact Anna Binkley by September 26, 1994, TDD (509) 335-1566.

Submit Written Comments to: Gus Kravas, FAX (509) 335-1208, by September 28, 1994.

Date of Intended Adoption: October 14, 1994.

August 9, 1994

Lou Ann Pasquan  
Rules Coordinator

**AMENDATORY SECTION** [(Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89)]

**WAC 504-25-005 Prologue.** Washington State University, as a community dedicated to the advancement of knowledge, expects all students to behave in a manner consistent with its high standards of scholarship and conduct. Students are expected to uphold these standards both on and off campus. Acceptance of admission to the university carries with it the obligation of responsibility for the welfare of the community. Freedom to learn can be preserved only through respect for the rights of others, for the free expression of ideas, for academic integrity, and for the law.

Under the terms of admission to Washington State University, students accept its regulations and acknowledge the right of the university to take disciplinary action, including expulsion, for conduct judged unsatisfactory or disruptive to the educational process. When students violate the standards of conduct established by the university, and defined in Part I of this section, they are subject to the university disciplinary process defined in Part II of this section. Violations of the Academic Integrity Standards as defined in Part III of this chapter, subject students to the process for such violations, also in Part III. The purpose of ~~((this))~~ these processes is to educate and to protect the welfare of the community.

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

**AMENDATORY SECTION** [(Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89)]

**WAC 504-25-015 Academic dishonesty.** ~~((Academic dishonesty, including . . . discovered in their courses))~~ (1) A student organization's assistance in, or encouragement of, academic dishonesty as defined in WAC 504-25-015(2) is prohibited. Part III of this chapter provides procedures for dealing with academic dishonesty by individual students. Part II of this chapter provides procedures for dealing with assisting in or encouragement of academic dishonesty by student organizations. (2) Academic dishonesty, includes ((all forms of)) cheating, plagiarism and fabrication in the process of completing academic work((, is prohibited. Knowingly facilitating academic dishonesty is also prohibited. The expectation of)). The university expects that ((is that)) student((s)) organizations will accept these standards and that their members will conduct themselves as responsible members of the academic community. These standards should be interpreted by students as general notice of prohibited conduct. They should be read broadly, and are not designed to define misconduct in exhaustive forms. ~~((Faculty and their departments also have jurisdiction over academic matters and may also take academic action against students for any form of academic dishonesty discovered in their courses.))~~

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

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.

### PART III

#### ACADEMIC INTEGRITY STANDARDS & PROCEDURES

#### NEW SECTION

**WAC 504-25-300 Introduction.** As an institution of higher education, Washington State University is committed to principles of truth and academic honesty. All members of the university community share the responsibility for maintaining and supporting these principles. When a student enrolls in Washington State University, the student assumes an obligation to pursue academic endeavors in a manner

consistent with the standards of academic integrity adopted by the university. To maintain the academic integrity of the community, the university cannot tolerate acts of academic dishonesty including any forms of cheating, plagiarism, or fabrication. Washington State University reserves the right and the power to discipline or to exclude students who engage in academic dishonesty. To that end, the university has established the following rules defining prohibited academic dishonesty and the process followed when such behavior is alleged. These rules incorporate Washington State University's Academic Integrity Policy, the university-wide document establishing policies and procedures to foster academic integrity. This policy is applicable to undergraduate and graduate students alike, as it pertains to dishonesty in course work and related academic pursuits. In cases of dishonesty in research and original scholarship, the University's *Policy and Procedural Guidelines for Misconduct in Research and Scholarship* may take precedence over the policies and procedures contained herein.

#### NEW SECTION

**WAC 504-25-305 Overview of academic integrity procedures.** (1) The university prohibits acts of academic dishonesty in order to foster the principles of truth and academic honesty. The academic integrity procedures used by the university are considered a part of creating an educational environment that does not award undeserved credit.

(2) Settlement procedures, hearings, or appeals conducted as part of the academic integrity procedures are not subject to many of the constraints of criminal or civil hearings.

(3) The purposes of the academic integrity procedures are as follows:

(a) To determine the facts about the allegation(s);

(b) To determine the responsibility of the accused student;

(c) To determine the appropriate penalty if the accused student is found responsible for a violation; and

(d) To help any students found responsible for any violation of the academic integrity standards understand the negative impact of their actions.

(e) To educate the students, although sanctions can include temporary or permanent removal from the university.

(4) Students involved in these procedures should expect to be treated fairly and go through the process in a timely manner.

(5) A student's mental state, or use of drugs or alcohol, that may have influenced a student's behavior will generally not limit the responsibility of the student for his or her action.

#### NEW SECTION

**WAC 504-25-310 Definitions.** (1) Academic dishonesty. Academic dishonesty includes cheating, falsification, fabrication, multiple submission, plagiarism, abuse of academic materials, complicity, or misconduct in research, all of which are defined below.

(2) Cheating. Cheating is the intentional use of, or attempt to use, unauthorized material, information, or study aids in any academic activity to gain advantage. Cheating

includes, but is not limited to, communicating improperly with others, especially other students, during tests or the preparation of assignments for classes; copying from books, notes or other sources during a test when this is not permitted; copying from another student's work (reports, laboratory work, computer programs, files, etc.); making improper use of calculators or other devices during a test; illegitimately procuring or using copies of current examinations; allowing a substitute to take an examination or write a paper for oneself.

(3) Falsification. Falsification is the intentional and unauthorized alteration of information in the course of an academic activity. Falsification includes, but is not limited to, altering the record of data, experimental procedures, or results; falsely describing the source of information (e.g., reproducing a quotation from a book review as if it had been obtained from the book itself); altering academic records; altering a returned examination paper and then seeking a higher grade based on the result.

(4) Fabrication. Fabrication is the intentional invention or counterfeiting of information in the course of an academic activity without proper authorization. Fabrication includes, but is not limited to, counterfeiting data, research results, information, or procedures with inadequate foundation in fact; counterfeiting a record of internship or practicum experiences; submitting a false excuse for absence or tardiness.

(5) Multiple submission. Multiple submission includes, but is not limited to, submitting the same paper or oral report for credit in two courses without the responsible instructor's permission; making minor revisions in a paper or report for which credit has already been received and submitting it again as a new piece of work.

(6) Plagiarism. Plagiarism is knowingly representing the work of another as one's own, without proper acknowledgment of the source. The only exceptions to the requirement that sources be acknowledged occur when the information, ideas, etc., are common knowledge. Plagiarism includes, but is not limited to, submitting as one's own work the work of a "ghost writer" or work obtained from a commercial writing service; quoting directly or paraphrasing closely from a source without giving proper credit; using figures, graphs, charts, or other such material without identifying the sources.

(7) Abuse of academic materials. Abuse of academic materials occurs when a student intentionally or knowingly destroys, steals, mutilates, or otherwise makes inaccessible library or other academic resource material that does not belong to him or her. Abuse of academic materials includes, but is not limited to, stealing, destroying, or mutilating library materials; stealing or intentionally destroying another student's notes or laboratory data; hiding resource materials so others may not use them; destroying computer programs or files needed in others' academic work; copying computer software in ways that violate the terms of the licensing agreement that comes with the software.

(8) Complicity in academic dishonesty. A student is guilty of complicity in academic dishonesty if he or she intentionally or knowingly helps or attempts to help another or others to commit an act of academic dishonesty of any of the types defined above. Complicity in academic dishonesty includes, but is not limited to, knowingly allowing another to copy from one's paper during an examination or test;

distributing test questions before the time scheduled for the test; collaborating on academic projects when students are expected to work independently; taking a test for another student, or signing a false name on a piece of academic work.

(9) Misconduct in research. Graduate and undergraduate students on research appointments for the university are responsible for compliance with the university's *Policy and Procedural Guidelines for Misconduct in Research and Scholarship* found in the Faculty Manual, under the title of "Faculty Code of Professional Ethics." Misconduct in research is treated as academic dishonesty.

(10) Responsible instructor. The responsible instructor in the academic integrity process is the person who assigns the grades, supervises students' work, or is responsible for teaching operations in the course of study in which the alleged violation occurred. The term "responsible instructor" can include, but is not limited to, instructors, graduate assistants, another instructor, and clinical supervisors. If the conduct does not relate to a particular course, the role of instructor for these procedures may be a department chair or academic advisor.

#### NEW SECTION

**WAC 504-25-315 Academic integrity processes.** (1) Every act of academic dishonesty affects academic evaluation of the student and also is a violation of the university's standards of conduct. Responsible instructors retain the authority and responsibility to assign grades to students, considering from an academic standpoint the nature of the student's action. This is the case even when the case is referred to the university academic integrity process. Students have recourse to appealing the responsible instructor's assignment of grades according to usual academic policy. See Academic Regulation 104.

(2) All clear instances of academic dishonesty shall be reported to the office of student affairs as outlined in 504-35-335(2). The first reported instance at WSU of academic dishonesty by a student will be treated as purely an academic matter unless, in the judgment of the responsible instructor, more serious action should be taken through the disciplinary process. Any allegation of subsequent academic dishonesty will be treated as a matter to be referred to the office of student affairs.

**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 504-35-320 Reports of academic dishonesty.** Any member of the university community who witnesses an apparent act of academic dishonesty shall report the act either to the instructor responsible for the course or activity or to the office of student affairs.

**Reviser's note:** The above new section was filed by the agency as WAC 504-35-320. This section is placed among sections in chapter 504-25 WAC, and therefore should be numbered WAC 504-25-320. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

#### NEW SECTION

**WAC 504-25-325 Judicial officer and hearing boards.** (1) Judicial officer. Judicial officers are assistants in the office of student affairs and serve as the investigators and prosecutors. Judicial officers are appointed for each Washington State University campus. The judicial officer for a particular case prepares the case and the materials after notification of a violation by an instructor. The judicial officer also serves as the secretary of the academic integrity conduct board.

(2) Academic integrity conduct board. The academic integrity conduct board is a subcommittee of the university conduct board whose members are recommended by the vice provost for academic affairs and appointed by the president. The academic integrity conduct board shall consist of at least five teaching faculty and four students. A hearing panel comprised of three faculty and two student members of the academic integrity conduct board will hear all cases regarding academic dishonesty in which a finding of responsibility could result in expulsion or suspension. In a case involving allegations of misconduct in research by a graduate student, at least one member shall be a member of the graduate faculty.

(3) Academic integrity conduct board chair. One faculty member of the academic integrity conduct board shall be appointed the chair by the president. The chair shall serve on all academic integrity conduct board hearing panels.

(4) Faculty hearing officers. Faculty hearing officers are faculty members of the academic integrity conduct board. Faculty hearing officers are appointed for each Washington State University campus. A case may be heard by a faculty hearing officer when, in the judgment of the university judicial officer, the offense is such that the sanction to be imposed shall not include suspension or expulsion.

(5) University appeals board. See WAC 504-25-360. The university appeals board hears appeals of action taken by the academic integrity conduct board in accordance with WAC 504-25-360.

#### NEW SECTION

**WAC 504-25-330 Acts of academic dishonesty that violate the conduct regulations and the academic integrity standards.** Whenever the judicial officer determines that an alleged violation could constitute a violation of both the Conduct Regulations, WAC 504-25 Part I, and the Academic Integrity Standards, WAC 504-25 Part III, the alleged violation will be handled under the procedures of WAC 504-25 Part II. The judicial officer shall assign such cases to either an administrative hearing officer or the university conduct board in the manner described in 504-25-210.

#### NEW SECTION

**WAC 504-25-335 Academic integrity procedures.** (1) Initial evaluation of evidence.

(a) A responsible instructor assembles the available evidence when he or she acquires evidence of a student violation of the academic integrity standards. The instructor determines whether the case warrants further investigation or action.

PROPOSED

(b) In cases of misconduct in research by students, the initial evaluation will be conducted in accordance with the university's policy on misconduct in research. If it is determined that misconduct has occurred, the matter will be referred to the office of student affairs. Referral to student affairs does not affect the ability of the university independently to terminate employment if the misconduct relates to the student's appointment.

(2) Grading by instructor—referral for conduct action. If the responsible instructor finds that a violation of academic integrity has occurred, the instructor should proceed to assign a grade, or take other appropriate action, considering the academic nature of the violation.

The instructor shall notify the office of student affairs of any finding that a violation has occurred. The office of student affairs shall notify the instructor of whether or not the alleged violation is a first offense.

If the violation is a first offense, the office of student affairs will take no additional action, unless the instructor deems the violation serious enough as to warrant further action. In such serious first offense cases, the office of student affairs shall review the case and handle it according to the procedures set forth in this chapter.

If the offense is not a first violation, the office of student affairs shall review the case and handle it according to the procedures set forth in this chapter.

If the responsible instructor's grade is appealed and a department chair, dean, or the provost subsequently finds that a violation did not occur, or that the academic sanction was too severe, a report shall be filed with the office of student affairs indicating the finding or the modified grade.

(3) University conduct process.

(a) The university judicial officer for the campus where the violation occurred shall prepare cases for a hearing when an alleged violation of academic integrity standards is referred to the university conduct process.

(b) The university judicial officer shall contact and interview the accused student.

(c) During the interview, the student is informed of the charge(s) and asked to make a written statement about the incident.

(d) The student is informed of the individual's rights and responsibilities in the academic integrity process.

(e) The judicial officer may interview other people involved.

(f) Evaluation of the allegation.

(i) The judicial officer may discontinue any investigation when the allegation is deemed to be without basis. Before discontinuing the investigation, the judicial officer shall contact the responsible instructor.

(ii) In the event the judicial officer finds there is any basis to the allegation, the student may be officially charged with violation of the standards of conduct.

(g) Assignment of the type of hearing.

(i) The judicial officer will evaluate the seriousness of the charge and assign the case to either a faculty hearing officer or the academic integrity conduct board.

(ii) Any alleged violation which could result in suspension or expulsion shall be referred to the academic integrity conduct board, unless the student requests and is granted a hearing by a faculty hearing officer.

(iii) Every other violation shall be assigned to a faculty hearing officer at the campus where the student attends.

(h) Notice. When any student is charged by the judicial officer with a violation of the academic integrity standards, the accused party must be notified at least seven calendar days in advance of the hearing. The notice must be in writing and include the following:

(i) The specific charges, citing the appropriate university policy or regulation allegedly violated;

(ii) The time and place of the alleged act(s) insofar as may be reasonably known;

(iii) The time and place of the hearing.

#### NEW SECTION

**WAC 504-25-340 Rights of students charged with violations of the academic integrity standards.** Students charged with violations of the academic integrity standards shall have the same rights afforded students in disciplinary procedures for violations of the standards of conduct. These rights are codified as WAC 504-25-220.

#### NEW SECTION

**WAC 504-25-350 Hearing guidelines.** The guidelines established for administrative hearings and hearings before the university conduct board for violations of standards of conduct shall apply for hearings of alleged violations of the academic integrity standards. These guidelines are codified in WAC 504-25-235.

#### NEW SECTION

**WAC 504-25-355 Sanctions.** (1) The hearing officer or academic integrity conduct board may impose any of the following sanctions or any combination of the sanctions for violations of the academic integrity standards:

(a) A formal warning.

(b) Addition of a notation to the grade recommended by the instructor. The notation shall indicate that the student was found responsible for an act of academic dishonesty in the course for which the grade was given.

(c) Academic assignment or other creative interventions designed to promote the ethical development of the student. Such assignments or interventions shall not be devised to embarrass or unduly burden the student.

(2) The academic integrity board, or the hearing officer if the student has elected not to go before the board, may impose the following additional sanctions for violations of the academic integrity standards:

(a) Suspension from the university for a specified interval of time.

(b) Expulsion from the university.

#### NEW SECTION

**WAC 504-25-360 Appeals.** (1) Who may appeal.

(a) Any student charged with any violation(s) of the academic integrity standards and found responsible for any violation(s) by a hearing board or administrative hearing officer is entitled to one administrative appeal.

(b) The judicial officer, after consulting with the responsible instructor, is entitled to one administrative appeal

when a student is found not responsible or the judicial officer deems the sanction inappropriate.

(2) Types of appeals.

(a) Appeals of findings by a faculty hearing officer go to the vice provost for academic affairs.

(b) Appeals of findings by the academic integrity conduct board go to the university appeals board.

(3) Procedure for filing an appeal.

(a) An appeal must be filed within twenty-one calendar days of the date the student received the decision.

(b) All requests to review decisions must be in writing and delivered to the vice provost for student affairs.

(c) The request must state the grounds for appeal.

(d) Students may request an appeal based on the following:

(i) There was a procedural error which materially affected the decision;

(ii) New evidence has been found which was not previously available and which would have materially affected the decision;

(iii) The decision was not supported by substantial evidence; or

(iv) The sanction is too severe or not appropriate.

(e) The judicial officer may only request an appeal based on the following:

(i) The decision was not supported by substantial evidence; or

(ii) The sanction is too severe, not severe enough, or not appropriate.

(4) Appeal Process.

(a) During the appeal process, the burden of proof shifts to the appealing party.

(b) The appeal is a review of the record of the hearing plus the letter of appeal, including any written argument(s) submitted by the appealing party and non-appealing party and a statement of the new evidence if that is the ground for the appeal.

(c) An appeal is not a new hearing.

(d) The vice provost for student affairs or the university appeals board may permit oral argument. The student and the judicial officer shall be notified at least three days in advance of the argument.

#### NEW SECTION

**WAC 504-25-365 Finding of no responsibility.** If the student is finally found not to have been responsible for a violation of the academic integrity guidelines, the finding will be communicated to the responsible instructor, and the instructor shall evaluate the finding and issue a grade or other appropriate action, taking into consideration the finding. If the student is not satisfied with the grade issued, the student may appeal in accordance with academic policy. See Academic Regulation 104.

#### NEW SECTION

**WAC 504-25-370 Other interventions.** In limited circumstances the university may use other interventions as codified in WAC 504-25-240.

#### NEW SECTION

**WAC 504-25-375 Records.** Records of academic integrity procedures are confidential. Such records shall be maintained in the manner established for disciplinary records in WAC 504-25-245.

#### **WSR 94-17-045**

#### **WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING**

[Filed August 10, 1994, 3:40 p.m.]

The Department of Licensing hereby withdraws proposed amendatory sections WAC 308-66-190 and 308-66-195 filed with your office on August 2, 1994, as part of WSR 94-16-126.

Robert E. Smith  
Acting Administrator  
Dealer/Manufacturer Services

#### **WSR 94-17-068**

#### **WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF**

#### **LABOR AND INDUSTRIES**

[Filed August 15, 1994, 11:24 a.m.]

The Department of Labor and Industries is hereby withdrawing the following proposed amended sections of chapter 296-306 WAC, Safety standards for agriculture: WAC 296-306-080 Guarding of hand-held portable power tools, 296-306-165 General requirements for all agricultural equipment, and 296-306-170 Auger conveying equipment.

These proposed changes were filed as WSR 94-12-095 on June 1, 1994, with public hearings held on July 12 and 13, 1994.

Mark O. Brown  
Director

#### **WSR 94-17-072**

#### **WITHDRAWAL OF PROPOSED RULES HORSE RACING COMMISSION**

[Filed August 15, 1994, 4:44 p.m.]

This memorandum will serve as notice that the Washington Horse Racing Commission wishes to withdraw the following filed rule changes: WSR 94-05-075, WAC 260-48-328; WSR 94-05-076, WAC 260-48-324; and WSR 94-05-077, WAC 260-48-322.

If you should have any questions, contact Bruce Batson or Patty Sorby at (206) 459-6462.

#### **WSR 94-17-074**

#### **PROPOSED RULES CENTRAL WASHINGTON UNIVERSITY**

[Filed August 15, 1994, 4:47 p.m.]

Original Notice.

**PROPOSED**

Title of Rule: WAC 106-08-001 Regular meetings; 106-08-002 Formal hearing policy, 106-08-040 Adjudicative proceedings open, 106-08-110 Service of process—Service upon parties, 106-08-230 Depositions and interrogatories in contested cases—Right to take, 106-08-260 Depositions and interrogatories in contested cases—Authorization, 106-08-290 Depositions and interrogatories in contested cases—Recordation, 106-08-300 Depositions and interrogatories in contested cases—Signing attestation and return, 106-08-310 Depositions and interrogatories in contested cases—Use and effect, 106-08-340 Depositions upon interrogatories—Interrogation, 106-08-350 Depositions upon interrogatories—Attestation and return, 106-08-400 Hearing officers, 106-08-410 Hearing procedures, 106-08-420 Duties of hearing officers, 106-08-430 Stipulations and admissions of record, 106-08-450 Continuances, 106-08-460 Rules of evidence—Admissibility criteria, 106-20-100 Organization—Operation—Information, 106-50-100 Address of rules coordinator, 106-72-005 Affirmative action policy statement, 106-72-015 Annual workforce analysis, 106-72-025 Nondiscrimination in delivery of services, 106-72-200 Procedures, rules, and regulations—Student services, 106-72-400 Affirmative action grievance procedure, 106-72-410 Informal grievance procedure, 106-72-440 Formal grievance procedure—Grievance committee, 106-72-510 Formal grievance procedure—Proceeding notice, 106-72-540 Adjudicative proceeding—Availability of necessary parties, 106-72-580 Adjudicative proceeding—Rights of parties, 106-72-600 Findings of grievance committee, and 106-72-610 Appeal procedure.

Purpose: WAC 106-08-001 to change meeting location for board of trustees; WAC 106-08-002 to change reference to statute regulating formal hearings; WAC 106-08-040 to add identifying information to the list of exemptions to open adjudicative proceedings; WAC 106-08-110 to remove sexist language from guidelines for service of process; WAC 106-08-230 to remove duplicate word from procedure for depositions and interrogatories; WAC 106-08-260 to remove sexist language from instruction defining authorization for contested depositions and interrogatories; WAC 106-08-290 to remove sexist language from guidelines governing recording depositions and interrogatories; WAC 106-08-300 to correct spelling and remove sexist language from procedure for signing and returning depositions and interrogatories; WAC 106-08-310 to remove sexist language from guidelines for use of depositions and interrogatories; WAC 106-08-340 to correct punctuation and remove sexist language from interrogation procedures for depositions; WAC 106-08-350 to remove sexist language from procedure for attestation and return of depositions; WAC 106-08-400 to change statutory reference and remove sexist language from guidelines for appointment of hearing officers; WAC 106-08-410 to change statutory reference for location of rules governing hearing procedures; WAC 106-08-420 to modify statutory reference for duties of hearing officers; WAC 106-08-430 to correct punctuation used in stipulations and admissions of record; WAC 106-08-450 to remove sexist language from procedure for request of continuance; WAC 106-08-460 to correct punctuation used in admissibility of evidence criteria; WAC 106-20-100 to correct addresses used to access operations and information; WAC 106-50-100 to modify address for rules coordinator; WAC 106-72-005 to redefine policy statement and clarify protected groups; WAC

106-72-015 to correct punctuation used to define protected workforce groups which will be analyzed annually; WAC 106-72-025 to clarify protected groups to be provided equal access to university sponsored programs and activities; WAC 106-72-200 to clarify protected groups of the student population to be provided equal access to student services; WAC 106-72-400 to redefine protected groups who will not be penalized or retaliated against for participation in complaint procedure; WAC 106-72-410 to adjust punctuation used within description of informal grievance procedure; WAC 106-72-440 to modify punctuation used within guidelines for formal grievance committee; WAC 106-72-510 to correct punctuation used within proceeding notice guidelines for formal grievance procedure; WAC 106-72-540 to make grammatical change within availability of necessary parties for an adjudicative proceeding; WAC 106-72-580 to correct punctuation used within description of rights of parties in an adjudicative proceeding; WAC 106-72-600 to correct punctuation used within directions for filing findings of grievance committee; and WAC 106-72-610 to correct punctuation used within outline of appeal procedure.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.35.120.

Summary: WAC 106-08-001 corrects meeting location for board of trustees; WAC 106-08-002 corrects reference to statute regulating formal hearings; WAC 106-08-040 adds identifying information to the list of exemptions to open adjudicative proceedings; WAC 106-08-110 removes sexist language from guidelines for service of process; WAC 106-08-230 removes duplicate word from procedure for depositions and interrogatories; WAC 106-08-260 removes sexist language from instruction defining authorization for contested depositions and interrogatories; WAC 106-08-290 removes sexist language from guidelines governing recording depositions and interrogatories; WAC 106-08-300 corrects spelling and remove sexist language from procedure for signing and returning depositions and interrogatories; WAC 106-08-310 removes sexist language from guidelines for use of depositions and interrogatories; WAC 106-08-340 corrects punctuation and remove sexist language from interrogation procedures for depositions; WAC 106-08-350 removes sexist language from procedure for attestation and return of depositions; WAC 106-08-400 corrects statutory reference and remove sexist language from guidelines for appointment of hearing officers; WAC 106-08-410 changes statutory reference for location of rules governing hearing procedures; WAC 106-08-420 modifies statutory reference for duties of hearing officers; WAC 106-08-430 corrects punctuation used in stipulations and admissions of record; WAC 106-08-450 removes sexist language from procedure for request of continuance; WAC 106-08-460 corrects punctuation used in admissibility of evidence criteria; WAC 106-20-100 corrects addresses used to access operations and information; WAC 106-50-100 to modifies address for rules coordinator; WAC 106-72-005 modifies language used to define groups protected by the university's affirmative action policy and eliminate barriers to equal employment opportunities; WAC 106-72-015 corrects punctuation used in defining protected group members who will receive an annual utilization analysis to identify underutilization; WAC 106-72-025 modifies language used to define programs and activities sponsored by the university subject to equal access; WAC 106-72-200

changes language used to define student services nondiscrimination procedures, rules, and regulations; WAC 106-72-400 adjusts language used to define groups protected by the affirmative action grievance procedure; WAC 106-72-410 corrects punctuation used within description of informal affirmative action grievance procedure; WAC 106-72-440 corrects punctuation used within description of formal affirmative action grievance procedure; WAC 106-72-510 corrects punctuation used within description of proceeding notice for formal grievance procedure; WAC 106-72-540 grammar correction within outline of availability of necessary parties for adjudicative proceeding; WAC 106-72-580 corrects punctuation used within description of rights of parties in an adjudicative proceeding; WAC 106-72-600 corrects punctuation used to outline procedure for filing findings of grievance committee; and WAC 106-72-610 corrects punctuation used within outline of affirmative action appeal procedure.

Reasons Supporting Proposal: WAC 106-08-001 provides public with correct location for meetings of board of trustees; WAC 106-08-002 complies with statute change; WAC 106-08-040 clarifies list of exemptions to open adjudicative proceedings; WAC 106-08-110 removes sexist language from guidelines for service of process; WAC 106-08-230 removes duplicate word from procedure for depositions and interrogatories; WAC 106-08-260 removes sexist language from instruction defining authorization for contested depositions and interrogatories; WAC 106-08-290 removes sexist language from guidelines governing recording depositions and interrogatories; WAC 106-08-300 corrects spelling and remove sexist language from procedure for signing and returning depositions and interrogatories; WAC 106-08-310 removes sexist language from guidelines for use of depositions and interrogatories; WAC 106-08-340 corrects punctuation and removes sexist language from interrogation procedures for depositions; WAC 106-08-350 remove sexist language from procedure for attestation and return of depositions; WAC 106-08-400 corrects statutory reference and removes sexist language from guidelines for appointment of hearing officers; WAC 106-08-410 changes statutory reference for location of rules governing hearing procedures; WAC 106-08-420 modifies statutory reference for duties of hearing officers; WAC 106-08-430 corrects punctuation used in stipulations and admissions of record; WAC 106-08-450 removes sexist language from procedure for request of continuance; WAC 106-08-460 corrects punctuation used in admissibility of evidence criteria; WAC 106-20-100 corrects addresses used to access operations and information; WAC 106-50-100 modifies address for rules coordinator; WAC 106-72-005 modifies language used to define groups protected by the university's affirmative action policy and eliminate barriers to equal employment opportunities; WAC 106-72-015 corrects punctuation used in defining protected group members who will receive an annual utilization analysis to identify underutilization; WAC 106-72-025 modifies language used to define programs and activities sponsored by the university subject to equal access; WAC 106-72-200 changes language used to define student services nondiscrimination procedures, rules, and regulations; WAC 106-72-400 adjusts language used to define groups protected by the affirmative action grievance procedure; WAC 106-72-410 corrects punctuation used within description of informal

affirmative action grievance procedure; WAC 106-72-440 corrects punctuation used within description of formal affirmative action grievance procedure; WAC 106-72-510 corrects punctuation used within description of proceeding notice for formal grievance procedure; WAC 106-72-540 Grammar corrections within outline of availability of necessary parties for adjudicative proceeding; WAC 106-72-580 corrects punctuation used within description of rights of parties in an adjudicative proceeding; WAC 106-72-600 corrects punctuation used to outline procedure for filing findings of grievance committee; and WAC 106-72-610 corrects punctuation used within outline of affirmative action appeal procedure.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Chapters 106-08, 106-20, and 106-50 WAC: Judy Miller, Rules Coordinator, President's Office, Central Washington University, 400 East 8th Avenue, Ellensburg, WA 98926-7502; and chapter 106-72 WAC, Nancy Howard, Affirmative Action Office, Central Washington University, 400 East 8th Avenue, Ellensburg, WA 98926-7497.

Name of Proponent: Nancy Howard, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Explanation of purpose of each rule was previously stated in the Purpose and Summary sections above. Anticipated effects for the rule changes are described below. WAC 106-08-001 correct address will be available to members of the public interested in attending meetings of the board of trustees; WAC 106-08-002 correct statutory reference is supplied; WAC 106-08-040 types of adjudicative proceedings open to the public are clarified; WAC 106-08-110 sexist language is corrected; WAC 106-08-230 duplicate word is eliminated; WAC 106-08-260 sexist language is corrected; WAC 106-08-290 sexist language is corrected; WAC 106-08-300 sexist language and spelling error corrected; WAC 106-08-310 sexist language is corrected; WAC 106-08-340 sexist language and punctuation corrected; WAC 106-08-350 sexist language corrected; WAC 106-08-400 statutory reference and sexist language changed; WAC 106-08-410 statutory reference changed; WAC 106-08-420 statutory reference changed; WAC 106-08-430 punctuation corrected; WAC 106-08-450 sexist language corrected; WAC 106-08-460 punctuation corrected; WAC 106-20-100 amended addresses and mailstops added and zip code corrected; WAC 106-50-100 amended address and mailstop added; WAC 106-72-005 affirmative action policy statement will be more easily understood with added clarification of protected groups; WAC 106-72-015 clarification of protected group members who will be involved in workforce analysis; WAC 106-72-025 any program or activity subject to nondiscrimination in delivery of services will be readily identifiable; WAC 106-72-200 clarification of individuals protected in all areas of student services; WAC 106-72-400 clarification of protected individuals who will not be penalized or retaliated against for participation in complaint procedure; WAC 106-72-410 punctuation corrected; WAC 106-72-440 punctuation corrected; WAC 106-72-510 punctuation corrected; WAC 106-72-540 grammatical error corrected; WAC 106-72-580 punctuation corrected; WAC 106-72-600

punctuation corrected; and WAC 106-72-610 punctuation corrected.

Proposal Changes the Following Existing Rules: Proposed rule changes will eliminate grammatical and punctuation errors, remove sexist language, change department and position names, change addresses, and conform with federal affirmative action language guidelines.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Compliance with the proposed rules will not cause businesses to lose sales or revenue and will have no impact on small businesses.

Hearing Location: Student Union Building (SUB) 103, on September 27, 1994, at 10:00 a.m.

Submit Written Comments to: Judy B. Miller, Rules Coordinator, FAX (509) 963-3206, by September 26, 1994.

Date of Intended Adoption: September 27, 1994.

August 11, 1994

Ivory V. Nelson  
President

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-08-001 Regular meetings.** The regular meetings of the board of trustees of Central Washington University shall be held ~~((quarterly))~~ in Room ~~((143))~~ 412 in ~~((Bouillon))~~ Barge Hall on the Central Washington University campus in Ellensburg, Washington.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-002 Formal hearing policy.** In each instance that a formal hearing is required by institutional policy or chapter ~~((28B-19))~~ 34.05 RCW, the provisions of WAC 106-08-002 through 106-08-999 shall be applicable.

AMENDATORY SECTION (Amending Order CWU AO 68, filed 10/31/91, effective 12/1/91)

**WAC 106-08-040 Adjudicative proceedings open.** All adjudicative proceedings shall be open to the public, with the exception of student, faculty, and administrative, civil service-exempt disciplinary proceedings unless the subject of the proceedings chooses an open proceeding.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-110 Service of process—Service upon parties.** The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or her or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-230 Depositions and interrogatories in contested cases—Right to take.** Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the

proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of ~~((of))~~ a complaint, application or petition. Depositions shall be taken only in accordance with this rule.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-260 Depositions and interrogatories in contested cases—Authorization.** A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the agency and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify ~~((him))~~ the person or the particular class or group to which ~~((he))~~ the person belongs. On motion of a party upon whom the notice is served, the agency may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice and in any manner and when so taken may be used as other depositions.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-290 Depositions and interrogatories in contested cases—Recordation.** The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under ~~((his))~~ the officer's direction and in ~~((his))~~ the officer's presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-300 Depositions and interrogatories in contested cases—Signing attestation and return.** (1) When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by ~~((him))~~ the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given ~~((therefor))~~ therefore; and the deposition may then be used as fully as though signed, unless on a motion to suppress the

agency holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn by him or her and that the deposition is a true record of the testimony given by the witness. ~~((He))~~ The officer shall then securely seal the deposition in an envelope endorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the agency for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges ~~((therefor))~~ therefore, the officer shall furnish a copy of the deposition to any party or to the deponent.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-310 Depositions and interrogatories in contested cases—Use and effect.** Subject to rulings by the agency upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the agency upon its own motion or the motion of any party. Except by agreement of the parties or ruling of the agency, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his or her witness by taking ~~((his))~~ a deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or her or any other party.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-340 Depositions upon interrogatories—Interrogation.** Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in WAC 106-08-250 the officer taking the same after duly swearing the deponent, shall read to ~~((him))~~ the deponent seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer, and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-350 Depositions upon interrogatories—Attestation and return.** The officer before whom interrogatories are verified or answered shall:

(1) Certify under ~~((his))~~ the officer's official signature and seal that the deponent was duly sworn by him or her, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither ~~((he))~~ the officer nor the stenographer ~~((, to his knowledge,))~~ is a party, privy to a party, or interested in the event of the proceedings, and

(2) Promptly send by registered or certified mail the original copy of the deposition and exhibits with ~~((his))~~ the officer's attestation to the agency, one copy to the counsel

who submitted the interrogatories and another copy to the deponent.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-400 Hearing officers.** In each instance that a formal hearing is required by institutional policy or chapter ~~((28B-19))~~ 34.05 RCW, and upon receipt of a request for a formal hearing filed in accordance with chapter ~~((28B-19))~~ 34.05 RCW, the ~~((chairman, vice-chairman))~~ chair, vice-chair, or another member of the board of trustees, on the basis of longevity and in the preceding order, may appoint one or more hearing officers, not to exceed three for any one hearing, to preside over, conduct and make proposals for decisions, including findings of fact and conclusions of law, in each instance, and shall afford an opportunity for a formal hearing after not less than ten days notice and provide such individual requesting formal hearing with notice of the hearing in accordance with the provisions of chapter ~~((28B-19))~~ 34.05 RCW.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-410 Hearing procedures.** Each hearing shall be conducted in the manner provided for in these rules and in chapter ~~((28B-19))~~ 34.05 RCW.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-420 Duties of hearing officers.** (1) All hearing officers appointed in accordance with WAC 106-08-400 shall conduct hearings in the same manner and shall have the same authority as provided in hearings by the board of trustees as set forth in these rules and in chapter ~~((28B-19))~~ 34.05 RCW: *Provided*, That hearing officers shall only make proposals for decisions.

(2) The proposals for decisions and findings of fact and conclusions of law shall be forthwith served upon the parties and transmitted to the board of trustees, together with a record of the proceeding. Within thirty days of service of such proposal for decisions, any party adversely affected may file exceptions, and thereafter all parties may present written argument to the board of trustees, which shall consider the whole record or such portions as may be cited by the parties, and after such review the board shall announce its decision and final action to be taken.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-430 Stipulations and admissions of record.** The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) Upon whom binding. Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated,

upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument, or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) **Withdrawal.** Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the agency that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

**AMENDATORY SECTION** (Amending Order 3244, filed 12/8/71)

**WAC 106-08-450 Continuances.** Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his or her knowledge, notify the agency of said desire, stating in detail the reasons why such continuance is necessary. The agency, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For good cause shown, the agency may grant such a continuance and may at any time order a continuance upon its motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the agency may in its discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

**AMENDATORY SECTION** (Amending Order 3244, filed 12/8/71)

**WAC 106-08-460 Rules of evidence—Admissibility criteria.** Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the agency is the best evidence reasonably obtainable, having due regard for its necessity, availability, and trustworthiness. In passing upon the admissibility of evidence, the agency shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

**AMENDATORY SECTION** (Amending Order CWU AO 69, filed 11/12/91, effective 12/13/91)

**WAC 106-20-100 Organization—Operation—Information.** (1) **Organization.** Central Washington University is established in Title 28B RCW as a public institution of higher education. The institution is governed by a seven-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) **Operation.** The administration office is located at the following address:

Business Office  
Central Washington University  
400 East 8th Avenue  
Ellensburg, WA 98926-7481

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Educational operations are also located at the following addresses:

CWU Lynnwood ((CWU)) Center  
20000 68th Avenue West SKB  
Lynnwood, WA 98036

~~((South Seattle CWU Center~~  
~~6000 16th Avenue SW~~  
~~Seattle, WA 98106))~~

CWU SeaTac Center  
2450 South 142nd St  
SeaTac, WA 98188

CWU Steilacoom ((CWU)) Center  
9401 Farwest Drive SW  
Tacoma, WA 98498

CWU Yakima ((CWU)) Center  
P.O. Box 1647  
16th Avenue and Nob Hill Blvd  
Yakima, WA 98907

(3) **Information.** Additional and detailed information concerning ~~((the))~~ educational offerings may be obtained from the catalog, copies of which are available at the following address:

~~((Admissions Office))~~ Academic Services  
Central Washington University  
400 East 8th Avenue  
Ellensburg, WA 98926-7463

**AMENDATORY SECTION** (Amending Order CWU AO 69, filed 11/12/91, effective 12/13/91)

**WAC 106-50-100 Address of rules coordinator.** The rules coordinator for this institution shall have an office in the following location:

President's Office  
Central Washington University  
400 East 8th Avenue  
Ellensburg, WA 98926-7501

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

**AMENDATORY SECTION** (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-005 Affirmative action policy statement.** Central Washington University is committed to affirmative action for Asians, Blacks, Hispanics, Native Americans, women, persons forty years of age or older, persons of disability, ~~((and))~~ disabled veterans and Vietnam-era veterans. This commitment is expressed through the university's efforts to eliminate barriers to equal employment opportunity and improve employment opportunities encountered by these protected groups.

Furthermore, as an equal opportunity employer Central Washington University will:

(1) Recruit, hire, train, and promote persons in all job titles, without regard to race, color, (~~religion, creed, age, national origin, disabled or Vietnam era veteran status, the presence of any physical, mental, or sensory handicap, marital status, sexual orientation, or sex except where a bona fide occupational qualification exists~~) creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran.

(2) (~~Insure~~) Ensure that all personnel actions such as compensation, benefits, transfers, terminations, layoffs, return from layoff, reductions in force (RIF), university-sponsored training, education, tuition assistance, and social and recreation programs, will be administered without regard to race, color, (~~religion, sex, age, national origin, creed, marital status, or the presence of any physical, mental or sensory handicap~~) creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-015 Annual workforce analysis.** (1) The affirmative action office will conduct an annual workforce analysis for each academic department and a separate utilization analysis for protected group members (i.e., minorities, women, Vietnam-era and disabled veterans, persons of disability, and persons over the age of forty in each major job group. The university will set forth specific goals and timetables where underutilization is identified. Underutilization is defined as having fewer protected group members in a particular job than would reasonably be expected by their availability. (Higher Education Guidelines, Executive Order 11246.)

(2) The university and each organizational unit will make every possible effort to recruit and employ qualified minorities and women to fill vacancies in order to achieve its goals, searching for personnel in areas and channels previously unexplored to the extent necessary to overcome underutilization. Before each vacancy can be officially filled, a designee of the affirmative action office or the personnel services office must certify that the appropriate recruitment and hiring procedures have been followed.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-025 Nondiscrimination in delivery of services.** Central Washington University will provide equal access to all programs for all students on the basis of merit without regard to race, color, (~~religion, sex, age, national origin, or the presence of any sensory, physical, or mental handicap~~) creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran.

No person will be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by the university including, but not limited to, admissions, academic programs, student employment, counseling and guidance services,

financial aid, recreational activities, and intercollegiate athletics.

Programs may be developed by the university, however, for special student populations as affirmative action measures to overcome the effects of past discrimination.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-72-200 Procedures, rules, and regulations—Student services.** It is the goal of this university to create and maintain all student services which are responsible to the needs and desires of all students and which reflect a policy of nondiscrimination. In all areas of student services, students are to be treated as individuals without regard for race, (~~religion, color, national origin, sex, age, or physical disability~~) color, creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-400 Affirmative action grievance procedure.** (1) A person who believes he or she has been discriminated against by Central Washington University because of race, color, (~~ethnic background, sexual orientation, religion, national origin, sex, physical or mental handicap, or Vietnam era or disabled veteran~~) creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran status is encouraged to utilize the grievance procedures provided by Central Washington University. There are informal and formal means of addressing complaints through the affirmative action office. These should be used as soon as possible after the alleged act of discrimination. No individual shall be penalized or retaliated against in any way by the university community for his or her participation in this complaint procedure.

(2) All persons who seek the advice and assistance of the affirmative action office shall have explained to them the informal and the formal grievance procedures available to them through the university as well as the existence of external complaint procedures available through state and federal agencies. They shall also receive a copy of the affirmative action grievance procedure.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-410 Informal grievance procedure.** Informal review and consultative processes are highly desirable means of resolving problems. Use of those methods by individuals (e.g., students, employees, applicants) at the lowest possible level within the university is strongly encouraged.

(1) Individuals who believe that they have been the target of discrimination by Central Washington University are encouraged to discuss the matter initially with their department chair, dean, administrative supervisor, or department head. Students are encouraged to discuss the matter with the appropriate department chair, dean, or the vice-president for student affairs. The matter may be concluded

by mutual consent at this point. However, complainants should feel free to bring the alleged act of discrimination to the attention of the director of affirmative action at any time.

(2) Any person may contact the affirmative action office for informal discussion, advice, and assistance. The affirmative action director or a designee will assist the complainant(s) in determining whether there exists any relationship of the complaint to civil rights legislation and the university's affirmative action program.

(3) With the consent of the complainant, there may be facilitation or informal intervention by the affirmative action director or a designee. Discussion of the grievance by the affirmative action director or a designee with the immediate supervisor of the respondent may follow the visit to the affirmative action office by the complainant. The discussion between the director of affirmative action and the immediate supervisor shall be confidential. The complainant may choose to participate in this discussion at his/her option. At this time it shall be the option of the director of affirmative action to notify the respondent's next higher supervisory authority of the complaint.

(4) All discussions held under this informal procedure shall have the goal of resolving the matter without the necessity of entering into a formal complaint procedure.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-72-440 Formal grievance procedure—Grievance committee.** An affirmative action grievance committee shall be appointed annually by the president and shall consist of five individuals representing the various university constituencies, including minority group members and both men and women. The committee shall be made up of one administrator, two faculty members, and two civil service employees and shall select its own chair. If a complainant is a student and so requests, two students may be substituted by the president for a like number of existing members of the committee. Members of the affirmative action grievance committee shall remove themselves from the case if they deem themselves biased or personally interested in its outcome.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-510 Formal grievance procedure—Proceeding notice.** If probable cause is found, a proceeding will be held.

(1) The chair of the committee shall establish a date for the proceeding. A notice establishing the date, time, and place of the proceeding shall be provided the parties not more than ten working days from the issuance of the probable cause or no cause decision. The composition of the proceeding committee shall be provided also.

(2) The proceeding shall be held not less than fifteen working days from the mailing of the notice of proceeding unless all of the parties, with the consent of the chair, agree to shorten the time to less than fifteen days.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-540 Adjudicative proceeding—Availability of necessary parties.** The parties and any others the affirmative action grievance committee (~~deems~~) deem necessary to the proceedings shall make themselves available to appear at the proceeding unless they can verify to the committee that their absence is unavoidable.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-580 Adjudicative proceeding—Rights of parties.** (1) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to examine and cross-examine witnesses.

(2) No individual shall be compelled to divulge information in any form which she/he could not be compelled to divulge in, or in connection with, superior court proceedings.

(3) Any legal opinion or interpretation given to the grievance committee by the parties may be shared with all parties to the case.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-600 Findings of grievance committee.** The affirmative action grievance committee shall file its findings and recommendations with the president, the affirmative action director, the complainant, and the respondent within fifteen working days after the conclusion of the proceeding. If the findings and recommendations of the affirmative action grievance committee are acceptable to the complainant and the respondent, the president may direct implementation of the recommendations.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-72-610 Appeal procedure.** (1) If the complainant or respondent objects to the findings and recommendations and wishes to appeal, a written appeal may be submitted to the president within ten working days from the date the report is delivered to the complainant and the respondent. The appeal must specify in detail the findings, recommendations, or other aspects of the report or decision to which exception is taken, as well as the reasons for the exceptions and the desired corrective action after consideration of the appeal by the president.

(2) After considering an appeal, the president shall issue a written decision to the parties involved within ten working days of receipt of the appeal. The decision of the president will not be further appealable within the university.

WSR 94-17-076

PROPOSED RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed August 15, 1994, 4:49 p.m.]

Original Notice.

Title of Rule: WAC 106-140-010 Business sales, 106-140-011 Business sales—Restrictions, 106-140-020

Advertising—Advertising in recognized student and faculty publications, 106-140-021 Advertising—Advertising on bulletin boards, 106-140-023 Advertising rates—Student publications, 106-140-031 Publicity and literature—Outdoor signs, 106-140-032 Publicity and literature—bulletin boards, 106-140-035 Publicity and literature—Use of tables, 106-140-040 Selling on campus, 106-140-050 Soliciting and selling of published materials, 106-140-051 Soliciting and selling of published materials—Exceptions, 106-140-052 Soliciting and selling of published materials—Prohibitions, 106-140-110 Telephone services—Long distance calls, 106-140-111 Telephone services—Requests for repairs, 106-140-112 Telephone services—Approval of installations, 106-140-113 Telephone services—Right to restrict or modify services, 106-140-130 Prohibition of smoking, 106-140-131 Building key—Authority to issue, 106-140-133 Responsibility for expenses resulting from failure to return keys, 106-140-160 Use of university mailing and stationery services, 106-140-401 Facilities scheduling and use, 106-140-600 Entertainment policy, 106-140-605 Entertainment—Approval required, 106-140-632 Entertainment—Damages bond—Responsibilities of sponsor, 106-140-660 Authority of athletic director to administer athletic events, 106-140-670 Authority of ((~~dean of students~~)) vice-president for student affairs to administer recreation program, 106-276-005 Definitions, 106-276-010 Definition of public record, 106-276-030 Description of central and field organization at Central Washington University, 106-276-040 General course and method of decision-making, 106-276-060 Designation of public records officers, 106-276-070 Availability for public inspection and copying or reproduction of public records, 106-276-080 Requests for public records, 106-276-090 Charges for copying or reproduction, 106-276-100 Determination regarding exempt records, and 106-276-110 Review of denials of public records requests.

Purpose: WAC 106-140-010 to amend punctuation and clarify terminology; WAC 106-140-011 to correct grammar and specify that business sales must comply with commercial activity policies of the university; WAC 106-140-020 to correct punctuation; WAC 106-140-021 to revise punctuation, position title, and sexist language; WAC 106-140-023 to correct punctuation; WAC 106-140-031 to modify punctuation; WAC 106-140-032 to correct numerical references; WAC 106-140-035 to revise punctuation; WAC 106-140-040 to modify grammar, punctuation, and titles; eliminate sexist language; clarify control of vending machines; and define where violations should be reported; WAC 106-140-050 to correct grammar and punctuation; WAC 106-140-051 to clarify terminology and adjust punctuation; WAC 106-140-052 to amend punctuation; WAC 106-140-110 to change title and clarify violation details; WAC 106-140-111 to modify grammar and department title; WAC 106-140-112 to clarify approval procedure for installation of telephones; WAC 106-140-113 to modify department title; WAC 106-140-130 to correct agency designation; WAC 106-140-131 to adjust punctuation; WAC 106-140-133 to change position title; WAC 106-140-160 to adjust punctuation; WAC 106-140-401 to modify sexist language and delete outdated procedural reference; WAC 106-140-600 to specify departments maintaining entertainment policies; WAC 106-140-605 to change position title and correct sexist language; WAC 106-140-632 to correct punctuation; WAC 106-140-

660 to adjust punctuation; WAC 106-140-670 to change position title, correct sexist language, and adjust punctuation; WAC 106-276-005 to amend punctuation; WAC 106-276-010 to modify punctuation and make APA-mandated wording changes; WAC 106-276-030 to correct grammar, sexist language, punctuation, and position titles and clarify division reporting structure; WAC 106-276-040 to modify reference to Administrative Procedure Act, change non-APA wording, adjust grammar, and title designation; WAC 106-276-060 to clarify responsibility for and access to public records and grammatical changes; WAC 106-276-070 to correct punctuation and clarify procedure for inspection and copying of public records; WAC 106-276-080 to modify procedure for request of public records; WAC 106-276-090 to correct grammar and punctuation and clarify policy governing charges for copying or reproduction of public records; WAC 106-276-100 to correct sexist language and spelling; and WAC 106-276-110 to clarify process concerning review of public records request denial, correct grammar, and modify sexist and non-APA language.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.35.120.

Summary: WAC 106-140-010 clarification of exceptions to business sales on university property and punctuation adjustment; WAC 106-140-011 commercial activities policies of the university will regulate business activities; WAC 106-140-020 punctuation adjustment in regulation governing advertising in student and faculty publications; WAC 106-140-021 punctuation, position title, and elimination of sexist language changes concerning advertising on bulletin boards; WAC 106-140-023 adjustments to punctuation included in student publication advertising regulation; WAC 106-140-031 punctuation correction in publicity and literature for outdoor signs; WAC 106-140-032 change from numerical to worded citation within bulletin board publicity and literature; WAC 106-140-035 punctuation adjustment within use of tables for publicity and literature; WAC 106-140-040 clarification of vending machine jurisdiction, sexist language elimination, grammatical corrections, and title and violation reporting changes involving selling on campus; WAC 106-140-050 grammatical and punctuation changes within soliciting and selling of published materials; WAC 106-140-051 clarification of wording and punctuation adjustment within exceptions to soliciting and selling of published materials; WAC 106-140-052 punctuation change within prohibitions to soliciting and selling of published materials; WAC 106-140-110 correction of agency designation and violation clarification for long distance telephone service; WAC 106-140-111 change of department title for location of telephone services; WAC 106-140-112 clarification of procedure for installation of telephone service; WAC 106-140-113 clarification of title for department within right to restrict or modify telephone services; WAC 106-140-130 correction of agency designation within regulation prohibiting smoking; WAC 106-140-131 adjustment of punctuation within regulation granting authority to issue building keys; WAC 106-140-133 modification of position title for individual who will determine expenses caused by failure to return keys; WAC 106-140-160 adjustment of punctuation within use of university mailing and stationery services regulation; WAC 106-140-401 elimination of sexist language and reference to outdated procedure for scheduling and use of facilities; WAC 106-

140-600 addition of other locations for maintenance of entertainment policy; WAC 106-140-605 change of position title and removal of sexist language for entertainment approval policy; WAC 106-140-632 punctuation adjustment for regulation governing entertainment damages bond; WAC 106-140-660 punctuation change for authority of athletic director to administer athletic events; WAC 106-140-670 change of position title for individual granted authority to administer recreation program and elimination of sexist language; WAC 106-276-005 punctuation adjustment for public records definitions; WAC 106-276-010 punctuation and APA language adjustment for definition of public record; WAC 106-276-030 grammar, sexist language, and position title changes; addition of clarifying information concerning university organization; WAC 106-276-040 change of statute reference, language modifications reflecting APA changes, and internal wording adjustments for general course and method of decision-making; WAC 106-276-060 deletion of outdated procedures for designation of public records officers and changes to punctuation; WAC 106-276-070 changes to punctuation and clarification of procedure for public inspection and copying or reproduction of public records; WAC 106-276-080 modification of procedure for request of public records; WAC 106-276-090 adjustments to grammar and punctuation and clarification of policy governing charges for copying or reproduction of public records; WAC 106-276-100 elimination of sexist language and spelling adjustment; and WAC 106-276-110 clarification of public records denial process, grammatical correction, and elimination of sexist and non-APA language.

**Reasons Supporting Proposal:** WAC 106-140-010 language clarification needed to describe exceptions to business sales on university property and punctuation adjustment for accuracy; WAC 106-140-011 commercial activities policies of the university will regulate its business activities and punctuation adjusted for accuracy; WAC 106-140-020 punctuation adjusted for clarity; WAC 106-140-021 changes amending punctuation, position title, and eliminating sexist language are necessary for accuracy; WAC 106-140-023 punctuation adjustments for accuracy; WAC 106-140-031 punctuation correction for clarity; WAC 106-140-032 numerical citations changed to words for clarity; WAC 106-140-035 punctuation change for accuracy; WAC 106-140-040 clarification of vending machine jurisdiction, sexist language elimination, grammatical corrections, title and violation reporting changes necessary for clarity; WAC 106-140-050 grammatical and punctuation changes for accuracy; WAC 106-140-051 wording clarification and punctuation corrections needed for clarity; WAC 106-140-052 grammatical and punctuation changes essential for accuracy; WAC 106-140-110 agency designation adjustment and long distance telephone services regulations clarified; WAC 106-140-111 department title adjusted consistent with current use; WAC 106-140-112 procedure for installation of telephone service defined; WAC 106-140-113 department title amended consistent with current designation; WAC 106-140-130 agency designation adjusted to reflect current designation; WAC 106-140-131 punctuation modified for accuracy; WAC 106-140-133 modification of position title necessary for clarity; WAC 106-140-160 punctuation correction for accuracy; WAC 106-140-401 elimination of sexist language and removal of outdated procedure required for clarity;

WAC 106-140-600 addition of other locations for maintenance of entertainment policy required to reflect current procedure; WAC 106-140-605 position title change and removal of sexist language essential for accuracy; WAC 106-140-632 punctuation change needed for accuracy; WAC 106-140-660 punctuation change necessary for clarity; WAC 106-140-670 change of position title and removal of sexist language necessary for accuracy; WAC 106-276-005 punctuation adjustment necessary for accuracy; WAC 106-276-010 punctuation and Administrative Procedure Act language adjustment necessary for clarity; WAC 106-276-030 grammatical, sexist language, position title changes, and addition of clarifying information needed for accuracy; WAC 106-276-040 change of statute reference, language modifications reflecting Administrative Procedure Act changes, and internal wording adjustments essential for accuracy; WAC 106-276-060 deletion of outdated procedures, amendment of sexist language, and grammatical changes necessary for accuracy; WAC 106-276-070 punctuation changes and procedural revision for clarity; WAC 106-276-080 clarification of procedure to request public records; WAC 106-276-090 clarity provided through grammatical correction and inclusion of additional criteria for assessing charges for copying or reproduction of public records; WAC 106-276-100 elimination of sexist language and spelling correction for improved accuracy; and WAC 106-276-110 clarity provided through grammatical correction, procedural revision, and elimination of sexist and non-Administrative Procedure Act language.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Rich Corona, Business Manager, Central Washington University, Ellensburg, 98926-7481, (509) 963-2323.

**Name of Proponent:** Rich Corona, public.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** Explanation and purpose of each rule were previously stated in the Purpose and Summary sections above. Anticipated effects for the rule changes are described below. WAC 106-140-010 exceptions to business sales on university property and punctuation adjustment provided; WAC 106-140-011 restrictions to business sales defined; WAC 106-140-020 punctuation error corrected; WAC 106-140-021 punctuation, position title, and elimination of sexist language changed for clarity; WAC 106-140-023 adjustments to punctuation included for accuracy; WAC 106-140-031 punctuation correction provided; WAC 106-140-032 change of numerical citation to words for improved readability; WAC 106-140-035 punctuation corrected for accuracy; WAC 106-140-040 clarification of vending machine jurisdiction, sexist language elimination, grammatical corrections, and title changes for improved rule clarity; WAC 106-140-050 grammar and punctuation changed for accuracy; WAC 106-140-051 term clarified and punctuation corrected for improved readability; WAC 106-140-052 punctuation changed for accuracy; WAC 106-140-110 agency designation corrected and terminology clarified for improved readability; WAC 106-140-111 department title changed consistent with current use; WAC 106-140-112 authority clarified for installation of telephone service; WAC 106-140-113 department title changed for clarity; WAC 106-140-130 agency designation

corrected to reflect current designation; WAC 106-140-131 punctuation adjusted for accuracy; WAC 106-140-133 position title corrected to reflect current usage; WAC 106-140-160 punctuation amended for clarity; WAC 106-140-401 elimination of sexist language and outdated procedure for improved clarity; WAC 106-140-600 entertainment policy available at additional locations; WAC 106-140-605 change of position title and removal of sexist language for accuracy; WAC 106-140-632 punctuation adjusted for accuracy; WAC 106-140-660 punctuation corrected for improved readability; WAC 106-140-670 position title changed and sexist language eliminated for improved clarity; WAC 106-276-005 punctuation adjusted for accuracy; WAC 106-276-010 punctuation and Administrative Procedure Act language changes adjusted for improved readability; WAC 106-276-030 changes to grammar, sexist language, and position title in addition to university organization detail provided for clarity; WAC 106-276-040 change of statute reference, Administrative Procedure Act and grammatical wording modifications, and designation of volume containing internal rules and regulations corrected for accuracy; WAC 106-276-060 simplification of public records officer designation for clarity; WAC 106-276-070 punctuation adjustment and clarification of person to contact for public records accessibility provided; WAC 106-276-080 request for public records procedure clarified; WAC 106-276-090 expanded definition of policy governing charges for copying or reproduction of public records furnished; WAC 106-276-100 elimination of sexist language and spelling adjustment for clarity; and WAC 106-276-110 process detailing review of public records request denial in addition to elimination of sexist and non-Administrative Procedure Act language clarified.

Proposal Changes the Following Existing Rules: Proposed rule changes will eliminate grammatical and punctuation errors, remove sexist language, change department and position titles and institution designation, and clarify procedures and policies.

Has a small business economic impact statement been prepared under chapter 19.85 RCW? No. Compliance with the proposed rules will not cause businesses to lose sales or revenue and will have no impact on small businesses.

Hearing Location: Samuelson Union Building (SUB) 103, on September 27, 1994, at 1 p.m.

Submit Written Comments to: Judy B. Miller, Rules Coordinator, FAX (509) 963-3206, by September 26, 1994.

Date of Intended Adoption: September 27, 1994.

August 11, 1994  
Ivory V. Nelson  
President

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-140-010 Business sales.** The soliciting, selling, exposing for sale, or offering to sell of any goods, services, articles, wares or merchandise of any nature whatsoever, within the boundaries of Central Washington University property is prohibited except by written permission of the board of trustees, president, or his designee: *Provided*, That this section shall not apply to any otherwise legal private, personal, noncommercial sales between individuals where no general or public solicitation, exposure

for sale or offer to sell is involved, or to the soliciting, selling, exposing for sale, or offering to sell of individual books, newspapers, magazines, pamphlets, and similar published materials.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-140-011 Business sales—Restrictions.** Central Washington University property and facilities may not be used for the activities set forth in WAC 106-140-010 unless such activities serve the purposes and needs of the university and are sponsored by a university department, agency, or recognized organization((§)). Such activities ~~((should only be permitted where they complement the services provided by local businesses))~~ must be in compliance with the commercial activity policies of the university.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-140-020 Advertising—Advertising in recognized student and faculty publications.** Advertising in publications of the university and its recognized student or faculty organizations or on university-operated radio or television broadcasts is permitted within the requirements of journalistic policies, prices, rules, and regulations established by each program.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-140-021 Advertising—Advertising on bulletin boards.** Advertising in order of priority, by students, university employees, and recognized organizations thereof on bulletin boards is approved but shall be subject to regulation by the ~~((dean of students))~~ vice-president for student affairs or his or her designated representative with respect to priority when there is a lack of space, and to the size and duration of the posting. This section applies to bulletin boards located at the following places:

Location	Users
(1) Samuelson Union Building Nature of advertisements: Activities of the sponsoring organization((§)) only.	Student government activities Campus-sponsored groups Campus-sponsored events
(2) Mitchell Hall Nature of advertisements: Activities of the sponsoring organization only.	Student government activities Campus-sponsored groups Campus-sponsored events
(3) Bookstore Nature of advertisements: Activities of the sponsoring organization only.	All recognized campus organizations and students.
(4) Any additional ASC bulletin board space which may be provided by the university or by a recognized organization.	

PROPOSED

Nature of advertisements: All recognized campus  
 Activities of the sponsoring organization only. organizations.

(5) Residence halls  
 Nature of advertisements: All recognized campus  
 Activities of the sponsoring organization only. organizations.

Advertising by other than Central Washington University affiliated or recognized groups is not permitted at any time on university property and will be removed upon discovery.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-023 Advertising rates—Student publications.** The following rules shall be followed regarding advertising rates in student publications:

- (1) Display advertising rates shall be appropriately and publicly announced prior to each year's publication period.
- (2) Rates shall bear reasonable relationship to prevailing commercial standards and shall be based upon current economic conditions, publication financial requirements, and competitive situations.
- (3) Differentials in display advertising rates shall be permitted based upon frequency and amount of advertising by advertisers and upon classification of advertisements, such as "local" or "national."
- (4) Classified advertising rates, appropriately set and properly announced, shall be on the basis of cost per line.
- (5) Closing dates for receipt of advertising material shall be set according to current mechanical publication requirements.
- (6) Acceptability of advertisements shall be determined prior to each year's publication period and based upon current state law, other university rules and regulations, and commonly accepted practices and mores.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-031 Publicity and literature—Outdoor signs.** These signs may include banners, posters, stick signs, sandwich boards, or other types of signs. Any sign causing destruction of property will be removed upon discovery.

- (1) Student activity signs approved by the scheduling center may be placed anywhere on the major walkways or malls immediately adjacent to the Samuelson Union Building.
- (2) Stick signs and banners or posters may be posted in the immediate area of Commons and Holmes dining hall entrances. Signs in these areas will be limited to two feet by three feet in size. Pep banners or any other large signs to be posted in the immediate area of Commons or Holmes dining hall entrances must receive specific approval of the scheduling center and the director of food services.
- (3) For Central Washington University student election campaigns, other areas such as the west end of Black Hall or the east end of Hertz Hall may be designated by the election committee subject to the approval of the university official responsible for that area.

(4) All signs, banners, and posters on the physical property immediately surrounding dormitories must be approved by the scheduling center and housing manager.

(5) Signs shall not be posted on trees or doors anywhere on campus; any so placed may be removed and destroyed by Central Washington University and Central Washington University may charge the group or individual responsible for such sign placement for the labor required to restore the premises.

(6) Outdoor signs shall be removed within thirty-six hours after an event.

(7) If signs and debris are not removed by the individuals or groups responsible for their erection within thirty-six hours after an event, after warning the individual or group, the university may take steps to remove the debris, litter, or material and charge the group or individual responsible for such erection, installation, or placement, for the labor required to restore the premises to the original condition.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

**WAC 106-140-032 Publicity and literature—Bulletin boards.** Posting on bulletin boards for regularly scheduled meetings shall not be earlier than three days before an event; posters for major activities such as speakers and dances shall not be placed on bulletin boards until ~~((7))~~ seven days before the event. All posters shall be removed within ~~((36))~~ thirty-six hours after the event. Maximum allowable size of any sign is 12 x 18 inches; any sign in excess of the stated size may be removed at any time.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

**WAC 106-140-035 Publicity and literature—Use of tables.** Representatives of organizations recognized by the associated students of Central may arrange for use of literature tables through the scheduling office. Such tables shall be used only for literature from students, faculty, or departments.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-040 Selling on campus.** Selling within the boundaries of Central Washington University property may be permitted in the manner and at the locations as set forth below:

- (1) University housing:
  - (a) The selling of ~~((food))~~ items in vending machines is controlled by and administered through the office of the director of auxiliary services, excepting those in the student union building, which are under the control of the student union building administration.
  - (b) Residents in university housing are allowed to sell or to offer services on commission with a special permit from the director of auxiliary services or ~~((his))~~ designee. Students may request such a permit only for their assigned room or housing unit ~~((only since))~~ because door-to-door selling is not allowed on campus.
- (2) Other campus areas, as follows:

PROPOSED

(a) Selling by individual students or by recognized organizations in classroom buildings, administrative buildings, or service buildings is not allowed without special permission that must be obtained from the vice-president for business and financial affairs or ~~((his))~~ designee not less than five business days prior to the date the requested activity is to take place.

(b) The university athletic committee regulates the selling policy at university athletic events. Applications for permission to sell at such events shall be made to the university athletic director or ~~((his))~~ designee.

(c) The ~~((SUB-facilities-council))~~ Samuelson Union board regulates selling by individuals and groups in the Samuelson Union Building. Applications for permission to sell in the Samuelson Union Building shall be made to the ~~((dean-of-students))~~ vice-president for student affairs or ~~((his))~~ designee through the scheduling center. Off-campus vendors may rent table space in the union building for a maximum of two days (five if ware fairs are included) per academic quarter. Requests for exceptions to this regulation will be made to the ~~((dean-of-students))~~ vice-president for student affairs or ~~((his))~~ designee.

(3) Violations of the foregoing on any university property should be reported promptly to the ~~((dean-of-students))~~ vice-president for business and financial affairs except for Samuelson Union Building which should be reported to the vice-president for student affairs.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-050 Soliciting and selling of published materials.** The personal, noncommercial soliciting, selling, exposing for sale, or offering to sell by ~~((an))~~ a person or persons, of any books, newspapers, magazines, pamphlets, and similar published materials shall be permitted within the boundaries of Central Washington University property, provided that such published materials are not already available for sale at the university, and shall be subject to regulation by the university president or his designee as to the time, place, and manner thereof. Applications for permission to solicit or sell under this policy shall be submitted to the president or his designee twenty-four hours prior to the time such use of the university facilities is desired. The president or his designee shall establish the time, place, and manner that such soliciting and selling shall occur within the boundaries of university property. All rules and regulations, orders or directives adopted by the president or his designee pursuant to this section shall be promulgated.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

**WAC 106-140-051 Soliciting and selling of published materials—Exceptions.** WAC 106-140-050 shall not apply to otherwise legal private sales between individuals where no general or public solicitation, exposure for sale, or offer to sell is involved.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

**WAC 106-140-052 Soliciting and selling of published materials—Prohibitions.** The soliciting, selling, exposing for sale, or offering to sell of any material in violation of Washington state law is prohibited.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-110 Telephone services—Long distance calls.** Personal long distance calls may not be charged to any university telephone number; any individual doing so shall pay for the cost of the toll charge, plus an additional penalty charge established by the university. Long distance telephone calls may be placed from ~~((college))~~ university telephones by charging the call to a nonuniversity telephone number or to a credit card.

~~((Repeated))~~ Violation(s) of this section may result in disciplinary action.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-111 Telephone services—Requests for repairs.** All requests for repair of university telephones are to be made with ~~((the))~~ university ~~((telephone-office))~~ telecommunication services.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-112 Telephone services—Approval of installations.** Telephones ~~((may be installed on the Central Washington University campus only with the approval of the director of auxiliary services or his designee))~~ in all administrative and academic buildings of the university may only be installed with the approval of the manager of telecommunication services.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-113 Telephone services—Right to restrict or modify services.** The university reserves the right at any time it deems necessary to restrict or change:

- (1) The telephone services,
- (2) Access to controlled long distance networks,
- (3) The hours of having operators on duty,
- (4) The amounts and types of information it will make available to the public through ~~((the telephone office))~~

telecommunication services.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72, effective 7/20/72)

**WAC 106-140-130 Prohibition of smoking.** Smoking is prohibited in ~~((college))~~ university buildings except campus living facilities and designated areas.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)**WAC 106-140-131 Building key—Authority to issue.**

(1) Only department chairs and administrative heads may authorize issuance of submaster, building entrance, or individual room keys for their departments to faculty, staff, administrators, students, contractors, vendors, or service agents.

(2) Only deans, vice-presidents, the director of auxiliary services, and the director of physical plant are authorized to issue building masters for their respective operational areas.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-133 Responsibility for expenses resulting from failure to return keys.** (1) The administrative head authorizing issuance of keys to contractors, vendors, or service agents will be responsible for the return of the keys to the lock shop as scheduled, and if the keys are not returned as scheduled, will be required to pay the cost of recombining work necessary to retain building security and function as determined by the director of ~~((physical plant))~~ facilities management.

(2) The department responsible for the issuance of keys may be billed the cost of recombining work necessary to restore security when faculty, staff, administrators, or students fail to return keys to the key shop. The work required to restore security will be determined by the director of ~~((physical plant))~~ facilities management for state-funded facilities and by the director of auxiliary services for auxiliary service facilities. The responsible department chair or administrative head will be informed of the cost estimate prior to the rekeying process.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-160 Use of university mailing and stationery services.** No one may employ university stationery, services (mail, duplicating, equipment, etc.), and supplies for personal use or for organizations not sponsored solely by the university.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)**WAC 106-140-401 Facilities scheduling and use.**

The coordinator of the university scheduling center shall have authority for approving and scheduling the use of the following facilities:

(1) Classrooms (lecture and seminar) and certain specified conference rooms within academic facilities: *Provided*, That scheduling of these facilities by academic departments for academic purposes shall have priority over other uses;

(2) Samuelson Union Building facilities;

(3) Limited housing and dining hall facilities, except that such facilities are made available only through the director of auxiliary services or ~~((his))~~ the director's designee. ~~((Policies and procedures which individuals and organizations must follow in scheduling the use of facilities are provided in the Central Washington University Facilities~~

~~Use Policy which is maintained in the scheduling center in the Samuelson Union Building. In addition, use of university facilities must comply with the provisions of WAC 106-140-410 through 106-140-528.))~~

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-600 Entertainment policy.** The entertainment policy for Central Washington University shall be maintained by the director of student activities, except for those for university housing which shall be maintained by the director of housing services and the director of residence living. All entertainment as defined in WAC 106-140-601 shall be presented in accordance with this policy and in accordance with the provisions of WAC 106-140-602 through 106-140-632.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-605 Entertainment—Approval required.** All entertainment, except athletic events administered by academic departments and events sponsored through the university office of recreation and intramurals must have the signed approval of the ~~((dean of students))~~ vice-president for student affairs or ~~((his))~~ designee.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-632 Entertainment—Damages bond—Responsibilities of sponsor.** Officially recognized organizations and private entities may be required to furnish Central Washington University with a certificate of insurance or other satisfactory proof that such organization or private entity has purchased reasonable broad form insurance coverage (e.g., \$1,000,000 liability coverage and \$250,000 property damage coverage for use of Nicholson Pavilion) for the entertainment event presented by such organization or private entity, of which Central Washington University is the sole beneficiary. The following shall be required of all officially recognized organizations and private entities presenting entertainment:

(1) Each organization or private entity shall provide the scheduling office with a complete list of all the officers, agents, and representatives of the organization, including full names, local addresses, and permanent addresses of each.

(2) Each organization or private entity shall be responsible for the admissions, attendance, and crowd control in the university facilities during the time reserved for their organization.

(3) Each organization or private entity assumes responsibility for all violations of campus regulations and policies, state law, and federal law which occur in connection with the use of the facilities and shall hold the university harmless from any claims or liability for any act or failure to act on the part of the organization.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-660 Authority of athletic director to administer athletic events.** The athletic director of Central Washington University shall establish reasonable admission fees, rules, and regulations regarding attendance and crowd control at athletic events at Central Washington University. Advance notice of such admissions fees, rules, and regulations regarding attendance and crowd control at athletic events at Central Washington University will be provided to interested parties, whenever possible, by the athletic director.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-670 Authority of (~~dean of students~~) vice-president for student affairs to administer recreation program.** The (~~dean of students~~) vice-president for student affairs or (~~his~~) designee may establish reasonable admission charges, schedules, rules, and regulations regarding uses, attendance, and crowd control at Nicholson Pavilion and Pool, and admission charges will be assessed for university employees and their immediate families during such periods. Advance notice of such charges, schedules, rules, and regulations shall be provided to interested parties, whenever possible, by the (~~dean of students~~) vice-president or (~~his~~) designee.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-276-005 Definitions.** As used in the provisions of this chapter, the following definitions shall apply wherever the following words are used:

(1) "Request for a public record" means a written request submitted on a proper CWU public records request form for a public record, a review of public records, or a copy or reproduction of a public record.

(2) "Students in public schools" means all past, present, and future students enrolled at Central Washington University.

(3) "Vital governmental interest" includes, but is not limited to, matters affecting national security; the selection of a site or the purchase of real estate when publicity regarding such consideration would cause a likelihood of increased price.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-276-010 Definition of public record.** (1) A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by Central Washington University, regardless of the physical form or characteristics: *Provided,*

*however,* That in accordance with RCW 42.17.310, the following personal and other records are exempt from the definition of public record:

(a) Personal information in any files maintained for students in public schools and the information, data, and records subject to the student records policy, WAC 106-172-700 through 106-172-799.

(b) Personal information in any files maintained for patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(c) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(d) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(e) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies 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.

(f) Information revealing the identity of persons 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: *Provided,* That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: *Provided further,* That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(g) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(h) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(i) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(j) 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 an agency in connection with any agency action.

(k) Records which are relevant to a controversy to which an agency 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.

(l) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(m) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(2) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a ~~((hearing))~~ proceeding with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Any response refusing, in whole or in part, inspection of any public record shall include 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 59, filed 11/7/86)

**WAC 106-276-030 Description of central and field organization at Central Washington University.** (1) Central Washington University is located on a campus in ~~((and near))~~ the city of Ellensburg, Washington. This campus comprises the central headquarters for all operations of the university; any "field" activities of the university are administered by personnel located on the campus at Ellensburg. The university is governed by a board of trustees appointed by the governor; such board meets at regular intervals, as provided in WAC 106-08-001. The board employs a president, ~~((his))~~ the president's assistants, members of the faculty and other employees. It establishes such organizational units as are necessary to carry out the purposes of the university, provides the necessary property, facilities, and equipment and promulgates such rules, regulations, and policies as are necessary to the administration of the university.

(2) The board of trustees, either directly or by delegation, has caused to be created various administrative, academic, and support divisions to enable the university to discharge its obligations. Academic matters ~~((and student affairs))~~ are the concern of the provost and vice-president for academic affairs; business and physical planning functions are the concern of the vice-president for business and financial affairs; ~~((university services are the concern of the executive assistant to the president))~~ matters related to student services are the concern of the vice-president for student affairs; the vice-president for university advancement oversees matters related to the internal and external affairs of the university and fund raising from private sources. These offices report to the president of the university.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-276-040 General course and method of decision-making.** (1) The formal procedures for decision-making at the university are governed by the board of trustees through rules promulgated by it in accordance with the requirements of chapter ~~((28B-19))~~ 34.05 RCW, the ~~((Higher Education))~~ Administrative Procedure Act ~~((HEAPA))~~ (APA). Accordingly, all rules, orders or directives, or regulations of the university which affect the relationship of the general public with the institution, or the relationship of particular segments of the university, such as students, faculty, or other employees, with the university or with each other,

(a) The violation of which subjects the person to a penalty or administrative sanction; or

(b) Which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional ~~((hearings))~~ proceedings; or

(c) Which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; are implemented through the procedures of the ~~((HEAPA))~~ APA and appear in Title 106 WAC, provided, however, that in accordance with RCW ~~((28B-19-020(2)))~~ 34.05.220, the university reserves the right to promulgate as internal rules not created or implemented in accordance with the ~~((HEAPA))~~ APA, the following: Rules, regulations, orders, statements, or policies relating primarily to the following: Standards for ~~((admissions))~~ admission; academic advancement, academic credits, graduation, and the granting of degrees; tuition and fees, scholarships, financial ~~((aids))~~ aid, and similar academic matters; employment relationships; fiscal processes; or matters concerning only the internal management of an institution and not affecting private rights or procedures available to the general public; and such matters need not be established by rule adopted under ~~((HEAPA))~~ APA unless otherwise required by law. Internal rules and regulations to the extent not already set forth in the university's published catalogs and handbooks shall be collected in a general university ~~((handbook))~~ policies manual, a copy of which shall be maintained on file in the university library and be available to the public.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-276-060 Designation of public records officers.** (1) In accordance with the requirements of chapter 42.17 RCW, insofar as such initiative requires state agencies to adopt and enforce reasonable rules and regulations to provide full public access to official divisions while yet protecting the same from damage and to prevent excessive interference with essentials of the agency, all public records at the university shall be in the charge of persons holding positions as records officers.

(2) Overall responsibility for coordinating responses to requests for examination of public records shall be the responsibility of the person known as the "public records officer." The person holding such position will be headquartered in Mitchell Hall at the university. The exact location and name of the public records officer may be determined by

inquiry at the office of the president of the university. The public records officer shall also be responsible for compiling and maintaining the index required by chapter 42.17 RCW.

(3) ~~((For purposes of this chapter, the custody of the university's records shall be deemed divided into the following divisions:~~

- ~~(a) Office of the president;~~
- ~~(b) Office of the vice president for academic affairs;~~
- ~~(c) Office of the vice president for business and financial affairs;~~

~~(d) Office of the dean of students. The above designated division head shall be deemed custodian of the records in the possession or control of agencies, departments, officers and employees of his division and responsible for the care and custody of records within his division even though such person is not in actual possession or control of such records. Such division heads shall be known as the university "records custodians."~~

~~(4))~~ In ~~((any))~~ cases where a question arises as to whether a given public record is ~~((a))~~ the responsibility of one records custodian or another, the determination of such ministerial responsibility shall for the purposes of this chapter be made by the public records officer, or the president of the university.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-276-070 Availability for public inspection and copying or reproduction of public records.** (1) Public records shall be available for inspection, copying, and reproduction during the customary office hours of the university. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, unless the person making the request and the university, acting through the public records officer ~~((or a records custodian))~~, agree on a different time.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-276-080 Requests for public records.** In accordance with chapter 42.17 RCW the requirements 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 are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer ~~((or any other of the persons designated by this chapter as a custodian of certain university records))~~, per WAC 106-276-060. Such request shall include the following:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made; and

(c) If the matter requested is referenced within the current index maintained by the university records officer, a reference to the requested record as it is described in such current index;

(d) If the requested matter is not identifiable by reference to the university records current index, a statement that succinctly describes the record requested;

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the university "public records officer" ~~((or records custodian,))~~ or that individual's designee, to assist the member of the public in succinctly identifying the public record requested.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-276-090 Charges for copying or reproduction.** (1) No fee shall be charged for inspection of public records. The university may impose a reasonable charge for providing copies or reproductions of public records ~~((and))~~ for ~~((the))~~ use by any person of agency equipment to copy or reproduce public records~~((s))~~ and for any excessive time expended by a state employee in researching the requested records, as determined by the public records officer. Such charges shall not exceed the amount necessary to reimburse the university for its actual costs incident to such copying or reproduction.

(2) No record shall be copied by photostatic process or otherwise reproduced until and unless the person requesting the copying or reproduction of the public record has tendered payment for such copying or reproduction to the records official from whom the public record was obtained, or to any person designated by such records official.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-276-100 Determination regarding exempt records.** (1) The university reserves the right to determine that a public record requested in accordance with the procedures of this chapter is exempt under the provisions of RCW 42.17.310. Such determination may be made in consultation with any of the records officers of the university, president of the university, or an assistant attorney general assigned to the university.

(2) Responses to requests for records must be made promptly. For the purpose of these rules, a prompt response occurs if the person requesting the public record is notified within one business day as to whether or not ~~((his))~~ the request for a public record will be granted or denied.

(3) No denial of a request for public records shall be valid unless accompanied by a written statement, signed by the public records officer or ~~((his))~~ designee, specifying the specific reasons ~~((therefor))~~ therefore.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-276-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record ~~((or his duly authorized representative))~~ shall petition for prompt review of such decision by tendering to the president's office a written request for a review of such denial. Such written request by a person ~~((or his duly authorized representative))~~ demanding

prompt review shall specifically reference the written statement by the university denying that person's request for a public record.

(2) Within two business days after receiving the written request by a person (~~(or his duly authorized representative)~~) petitioning for prompt review of a decision denying a public record, the president of the university or any (~~(of his designees)~~) designee, which for the purposes of this section may include the public records officer (~~(or the records custodians)~~), shall consider such petition.

(3) During the course of the two business days in which the president or (~~(his)~~) designee reviews the decision of the public records officer denying the request for a public record, the president or (~~(his)~~) designee may conduct (~~(an informal hearing)~~) a brief adjudicative proceeding. During the course of such (~~(informal hearing)~~) brief adjudicative proceeding, the president or (~~(his)~~) designee may require that the person requesting the public record (~~(or his duly authorized representative)~~) appear at a reasonable time and place located on the campus and further explain and identify the exact nature of the public record (~~(he)~~) the person is seeking. Failure by the person requesting the review (~~(hearing or his duly authorized representative)~~) proceeding to appear at such (~~(informal hearing)~~) brief adjudicative proceeding shall be deemed a waiver of that person's right to insist upon completion of the review of (~~(his)~~) the request within two business days. If the petitioner requesting review (~~(or his duly authorized representative)~~) does appear at such (~~(informal hearing)~~) brief adjudicative proceeding, then the period for review by the university shall be extended to a period not exceeding twenty-four hours after such person requesting review (~~(or his duly authorized representative)~~) has appeared before the president or (~~(his)~~) designee.

(4) During the course of the (~~(informal hearing)~~) brief adjudicative proceeding conducted by the president or (~~(his)~~) designee under this section, the (~~(hearing)~~) presiding officer shall consider the obligations of the university (~~(fully)~~) to comply fully with the intent of chapter 42.17 RCW insofar as it requires providing public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 and the requirement of RCW 42.17.290 insofar as it requires the university to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details.

**WSR 94-17-078A**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed August 15, 1994, 4:53 p.m.]

Original Notice.

Title of Rule: WAC 388-265-1275 Protective payment—AFDC or GA parenting or pregnant minor.

Purpose: Implements a E2SHB 2798 section passed in 1994 regular session which adds new section to chapter 74.12 RCW. It requires the department evaluate the living

situations of all AFDC or GAS clients who are pregnant or parents and seventeen years of age or younger. If the minor chooses not to live in an appropriate living situation as determined by the department, the minor will be required to be paid through a protective payee.

Statutory Authority for Adoption: Chapter 74.12 RCW.  
Statute Being Implemented: Chapter 74.12 RCW.

Summary: Creates an additional criteria for the establishment of a protective payee. Pregnant or parenting teens will be required to be paid through a protective payee if the minor chooses no to live in an appropriate living situation as determined by the department.

Reasons Supporting Proposal: Implement requirements of the welfare system reform legislation E2SHB 2798 enacted in the 1994 regular session.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Brinkman, Division of Income Assistance, 438-8309.

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 new policy affects only fifty applications per month statewide.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on September 27, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by September 13, 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 September 20, 1994.

Date of Intended Adoption: September 28, 1994.

August 15, 1994

Dewey Brock, Chief  
Office of Vendor Services

**NEW SECTION**

**WAC 388-265-1275 Protective payment—AFDC or GA parenting or pregnant minor.** (1) The department may use protective payment for cases in which the client is:

(a) (~~(Under eighteen)~~) Seventeen years of age or younger; and

(b) Unmarried; and

(c) Either pregnant or has a dependent child.

(2) The department shall establish a protective payment plan based on a determination made by the department that the client is not living in an appropriate living situation. Appropriate living situations include:

(a) Place of residence maintained by the client's parent, legal guardian, or other adult relative as their own home; or

(b) As determined by the department other appropriate supportive living arrangement supervised by an adult which,

((as determined by the department,)) is maintained as a family setting.

(3) Notwithstanding subsection (2) of this section, if the client is not living in an appropriate living situation, as determined by the department, the department may waive the establishment of a protective payment plan if the client demonstrates the ability to manage funds adequately.

(4) The department shall select a protective payee following the criteria under WAC 388-265-1150.

(5) The department shall provide the client with written notice of protective payment as described under WAC 388-265-1550.

**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 94-17-079**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed August 15, 1994, 4:54 p.m.]

Original Notice.

Title of Rule: WAC 388-49-500 Income—Deductions.

Purpose: Incorporates Sections 13921 and 13922 of the Mickey Leland Childhood Hunger Relief Act (Public Law 103-66). 13921 provides an income deduction before shelter cost, for legally obligated child support payments by a household member for a person not a member of the payor household. 13922 provides a deduction for child care of \$200 for each dependent child one year of age or younger and \$175 for each other dependent.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Provides an income deduction of \$200 per month for each dependent child one year of age or younger and \$175 per month for each other dependent. Allows an income deduction, before shelter cost, for legally obligated child support payments by a household member for a person not a member of the payor household.

Reasons Supporting Proposal: 1993 Mickey Leland Act amended the Food Stamp Act by changing the dependent care deduction and establishing an income deduction for child support payments.

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, Public Law 103-66.

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 revision impacts the food stamp program and is not business related.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on September 27, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by September 13, 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 September 20, 1994.

Date of Intended Adoption: September 28, 1994.

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

AMENDATORY SECTION (Amending Order 3738, filed 5/26/94, effective 7/1/94)

**WAC 388-49-500 Income—Deductions.** (1) The department shall allow the following deductions when computing net income:

(a) A standard deduction of one hundred thirty-one dollars per household per month;

(b) An earned income deduction of twenty percent of gross earned income except as provided in WAC 388-49-640(8);

(c) A dependent care deduction of the actual amount incurred not to exceed ~~((one hundred sixty dollars per))~~ two hundred dollars for each dependent age one year old or younger and one hundred seventy-five dollars for each other dependent when care is necessary for a household member to:

(i) Seek, accept, or continue employment; or

(ii) Attend training or education preparatory to employment.

(d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars incurred or anticipated to be incurred by an elderly or disabled household member;

(e) A deduction for legally obligated child support paid for a person who is not a member of the household;

(f) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, medical, child support, and dependent care deductions. The shelter deduction shall not exceed two hundred thirty-one dollars; ~~((and~~

~~((f)))~~ (g) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) A household's shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if the:

(i) Household intends to return to the home;

(ii) Current occupants, if any, are not claiming shelter costs for food stamp purposes; and

(iii) Home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home substantially damaged or destroyed due to a natural disaster;

(c) The standard utility allowance when a household incurs any separate utility charges for heating or cooling costs. A household may incur a separate utility charge when the household:

- (i) Has not yet received a billing for utilities;
- (ii) Is billed monthly by the landlord for actual usage as determined through individual metering; or
- (iii) Shares residence and utility costs with other persons, in which case the deduction is for the household's prorated share of the standard allowance.

(d) Actual utility costs rather than the standard utility allowance if the household is:

- (i) Not entitled to the standard utility allowance; or
- (ii) Requesting use of actual utility bills. A monthly telephone standard shall be allowed for households incurring telephone expenses if the household is not entitled to claim the standard utility allowance.

(e) A shelter amount of one hundred thirty-seven dollars when all household members are homeless as specified under WAC 388-49-020(36) and the household incurs or expects to incur:

- (i) Monthly shelter costs no greater than one hundred thirty-seven dollars; or
- (ii) Unverified shelter costs exceeding one hundred thirty-seven dollars.

(3) A household may switch between actual utility costs and the standard utility allowance:

- (a) At each recertification; and
- (b) One additional time during each twelve-month period following the initial certification action.

(4) The department shall provide excess medical or shelter deductions effective with supplemental security income (SSI) eligibility when households:

- (a) Become categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150 after a food stamp application;
- (b) Receive food stamps as a nonassistance household until becoming categorically eligible; or
- (c) Become categorically eligible after denial of nonassistance food stamps.

(5) The department shall not provide a deduction for that portion of a deductible expense, described under this section, paid by an excluded:

- (a) Reimbursement; or
- (b) Vendor payment, except for Low Income Home Energy Assistance Act (LIHEAA) payments.

(6) The department shall verify:

- (a) Dependent care costs including changes, except in prospective budgeting; and
- (b) Incurred and anticipated medical expenses and the reimbursement amounts resulting in a deduction only at application, recertification, and when the household reports a change in medical expenses.

(c) Actual shelter costs for homeless households when such costs exceed the amount in subsection (2)(e) of this section.

(7) If medical reimbursement cannot be verified, the department shall certify the household without allowing the deduction ~~(, except in prospective budgeting.~~

~~(8) The department shall not verify anticipated changes in estimated medical expenses when the changes actually occur).~~

Proposed

**WSR 94-17-082**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed August 15, 1994, 4:57 p.m.]

Original Notice.

Title of Rule: WAC 388-250-1250 Standards of assistance—Need standards.

Purpose: Updates the standard of need to determine the amount necessary for persons to maintain a minimum, but adequate, standard of living. This standard is used to determine eligibility for various public assistance programs.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Provide standards for field staff to determine eligibility for various programs.

Reasons Supporting Proposal: The department annually updates the need standard of public assistance recipients to determine the amount necessary to maintain a minimum but adequate standard of living.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Brinkman, Division of Income Assistance, 438-8309.

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. The need standard is used to determine eligibility for various public assistance programs. The standard must be updated every year to reflect the changes in costs of the items used to determine need. The change in need does not change the grant amounts.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on September 27, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by September 13, 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 September 20, 1994.

Date of Intended Adoption: September 28, 1994.

August 15, 1994

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3729, filed 4/6/94, effective 5/7/94)

**WAC 388-250-1250 Standards of assistance—Need standards.** (1) Effective September 1, ~~((1993))~~ 1994, the department shall determine the statewide monthly need standard for a household with an obligation to pay shelter to be:

PROPOSED

Recipients in Household	Need Standard
<del>(1</del>	<del>\$ 739</del>
<del>2</del>	<del>935</del>
<del>3</del>	<del>1,158</del>
<del>4</del>	<del>1,361</del>
<del>5</del>	<del>1,569</del>
<del>6</del>	<del>1,781</del>
<del>7</del>	<del>2,056</del>
<del>8</del>	<del>2,276</del>
<del>9</del>	<del>2,500</del>
<del>10 or more</del>	<del>2,716))</del>
<del>1</del>	<del>\$ 752</del>
<del>2</del>	<del>951</del>
<del>3</del>	<del>1,178</del>
<del>4</del>	<del>1,385</del>
<del>5</del>	<del>1,596</del>
<del>6</del>	<del>1,811</del>
<del>7</del>	<del>2,092</del>
<del>8</del>	<del>2,315</del>
<del>9</del>	<del>2,543</del>
<del>10 or more</del>	<del>2,763</del>

(2) Effective September 1, (~~1993~~) 1994, the department shall determine a household with shelter provided at no cost, except as described under WAC 388-250-1200, to be:

Recipients in Household	Need Standard
<del>(1</del>	<del>\$ 449</del>
<del>2</del>	<del>569</del>
<del>3</del>	<del>705</del>
<del>4</del>	<del>828</del>
<del>5</del>	<del>955</del>
<del>6</del>	<del>1,084</del>
<del>7</del>	<del>1,251</del>
<del>8</del>	<del>1,385</del>
<del>9</del>	<del>1,522</del>
<del>10 or more</del>	<del>1,653))</del>
<del>1</del>	<del>\$ 459</del>
<del>2</del>	<del>581</del>
<del>3</del>	<del>720</del>
<del>4</del>	<del>846</del>
<del>5</del>	<del>975</del>
<del>6</del>	<del>1,107</del>
<del>7</del>	<del>1,278</del>
<del>8</del>	<del>1,415</del>
<del>9</del>	<del>1,554</del>
<del>10 or more</del>	<del>1,689</del>

**WSR 94-17-087**  
**WITHDRAWAL OF PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed August 16, 1994, 4:15 p.m.]

The Washington State Gambling Commission wishes to withdraw a WAC rule from the original notice filed on July 20, 1994, WSR 94-16-009: WAC 230-20-685 Commercial amusement games—Wager and prize limitations.

This request for withdrawal is in conjunction with the request of the petitioner, Music Vend Distributing Company, 1562 4th Avenue, South, Seattle, WA 98134.

Frank Miller  
 Director  
 Washington State Gambling Commission

Dear Frank,

At the Friday, July 15 meeting of the Gambling Commission we petitioned the commission to change WAC 230-20-685 to read:

WAC 230-20-685 Commercial amusement games - Wager and prize limitations. For locations authorized under WAC 230-04-138 (1)(g), (i), (j), or (k) where school-aged minors are allowed to play, the following limitations shall apply.

(1) Prize limitations. No prize offered shall exceed a cost to the operator of two hundred dollars.

(2) Consideration. The maximum wager for play shall not exceed fifty cents.

I deeply appreciate the commissions action of filing this petition for discussion, but respectfully request that the petition be withdrawn. Some questions were voiced by several commissioner that I feel I will not be able to adequately address in time for the next commission meeting. I would like to reserve the option of re-petitioning the commission later this year, or possible early 1995.

Thank you again for your attention to this matter.

Sincerely,

Dale R. Walker  
 General Manager  
 Music Vend Distributing

Sharon M. Tolton  
 Assistant Director  
 Special Operations Division

**WSR 94-17-089**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed August 16, 1994, 4:20 p.m.]

Original Notice.

Title of Rule: WAC 230-04-190 Issuance of license, 230-04-199 Class R recreational card games conducted by a bona fide charitable or bona fide nonprofit organization, 230-04-201 Fees, WAC 230-04-202 Fees—Bona fide charitable/nonprofit organizations, 230-04-203 Fees—Commercial stimulant and other business organizations, 230-04-204 Fees—Individuals, 230-08-017 Control of gambling equipment—Use of identification and inspection services stamps, 230-12-090 Problem gambling informational sign must be posted, 230-20-700 Coin or token activated amusement games—Standards, 230-30-072 Punchboard and pull tab inventory and retention requirements, 230-30-075 Punchboard and pull tab retention restrictions—Minimum percentage of prizes ((for certain gambling activities)) available, 230-30-998 Punchboard and pull tab retention requirements—Test, and 230-46-100 Bona fide charitable/

nonprofit organizations—Limited social card games without obtaining a license—Conditions.

Purpose: WAC 230-04-190, housekeeping changes to accompany requested increases to fee changes to applicable rules. Clarifies two-part payment plan and adds provision for twenty-five dollar administrative fee for two-part payment plan; WAC 230-04-199, repealer, companion action for implementation of new section WAC 230-46-100 which authorizes limited social card games for charitable/nonprofit organizations without obtaining a license; WAC 230-04-201, repealer, companion action to implementation of new sections which consolidate fees by type of licensee, WAC 230-04-202, new section will set forth fees for charitable/nonprofit organizations, WAC 230-04-203, new section will set forth fees for businesses, WAC 230-04-204, new section will set forth fees for individuals, WAC 230-08-017, change to increase fees from \$.25 to \$.26 on identification and inspection services stamps, WAC 230-12-090, new section to comply with legislative requirement in recognition of problem gambling. Provides for signing of 1-800 number in licensed facilities; WAC 230-20-700, amendment allows coin or token activated commercial amusement games to have an acceptor to include paper money in addition to a coin acceptor capable of taking money for one play. Provides that all games utilizing paper money acceptors that do not return change shall clearly disclose that fact to the consumer; WAC 230-30-072 rule change requires charitable and nonprofit organizations to retain series for four months and commercial stimulant licensees to retain series for two months following the last day of the month in which it was removed from play; WAC 230-30-075, rule change clarifies punchboard/pull tab prize restrictions by adding subsection (4) that will not allow series to be sold in the state if the series offers prizes for purchasing the last ticket or punch which exceeds \$100.00 or the highest prize offered, whichever is less; WAC 230-30-998, repealer, companion action to changes incorporated in WAC 230-30-072; and WAC 230-46-100, new section authorizes charitable or nonprofit organizations to conduct limited card games on their premises without obtaining a license.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: WAC 230-04-190, housekeeping changes to accompany requested increases to fee changes to applicable rules. Clarifies two-part payment plan and adds provision for twenty-five dollar administrative fee for two-part payment plan; WAC 230-04-199, repealer, companion action for implementation of new section WAC 230-46-100 which authorizes limited social card games for charitable/nonprofit organizations without obtaining a license; WAC 230-04-201, repealer, companion action to implementation of new sections which consolidate fees by type of licensee; WAC 230-04-202, new section will set forth fees for charitable/nonprofit organizations; WAC 230-04-203, new section will set forth fees for businesses; WAC 230-04-204, new section will set forth fees for individuals; WAC 230-08-017, change to increase fees from \$.25 to \$.26 on identification and inspection services stamps; WAC 230-12-090, new section to comply with legislative requirement in recognition of problem gambling. Provides for signing of 1-800 number in licensed facilities; WAC 230-20-700, amendment allows coin or token activated commercial amusement games to have an

acceptor to include paper money in addition to a coin acceptor capable of taking money for one play. Provides that all games utilizing paper money acceptors that do not return change shall clearly disclose that fact to the consumer; WAC 230-30-072, rule change requires charitable and nonprofit organizations to retain series for four months and commercial stimulant licensees to retain series for two months following the last day of the month in which it was removed from play; WAC 230-30-075, rule change clarifies punchboard/pull tab prize restrictions by adding subsection (4) that will not allow series to be sold in the state if the series offers prizes for purchasing the last ticket or punch which exceeds \$100.00 or the highest prize offered, whichever is less; WAC 230-30-998, repealer, companion action to changes incorporated in WAC 230-30-072; and WAC 230-46-100, new section authorizes charitable or nonprofit organizations to conduct limited card games on their premises without obtaining a license.

Name of Agency Personnel Responsible for Drafting: Shanna Lingel, Rules Coordinator, Lacey, 438-7685; Implementation: Frank L. Miller, Director, Lacey, 438-7640; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 extension 369.

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: Proposed amendments to WAC 230-04-190 are housekeeping changes to accompany restructure of fee schedule and clarify two-part payment plan. Repeal of WAC 230-04-201 and new sections WAC 230-04-202, 230-04-203 and 230-04-204 consolidate the fee schedules for licensees by license type. Repeal of WAC 230-04-199 and new section WAC 230-46-100 authorize limited social card games for charitable/nonprofit organizations. Proposed amendment to WAC 230-08-017 increases fees from \$.25 to \$.26 on identification and inspection services stamps. New section WAC 230-12-090 to comply with legislative requirement, provides for signing of 1-800 number in licensed facilities. Proposed amendment to WAC 230-20-700 allows coin or token activated amusement games to have an acceptor to include paper money in addition to a coin acceptor. Repeal of WAC 230-30-998 and proposed changes to WAC 230-30-072 require charitable/nonprofit organizations to retain punchboard/pull tab series for four months and commercial stimulant licensees for two months following the last day of the month in which it was removed from play. Proposed changes to WAC 230-30-075 clarifies punchboard/pull tab prize restrictions prohibiting sale of series in Washington state if prizes are offered for purchase of last ticket which exceed \$100.00 or the highest prize offered, whichever is less.

Proposal Changes the Following Existing Rules: Repeal of WAC 230-04-199, 230-04-201 and 230-30-998. New sections WAC 230-04-202, 230-04-203 and 230-04-204 consolidate fee schedule by license type. New section WAC 230-12-090 requires signing of 1-800 number in licensed facilities. New section WAC 230-46-100 authorizes charitable/nonprofit organizations to conduct limited card games without a license. Amendments to WAC 230-094-190 are housekeeping changes to accompany increases to fee

schedules and clarifies two-part payment plan. Amendments to WAC 230-08-017 increase fees from \$.25 to \$26 on identification and inspection services stamps. Changes to WAC 230-20-700 allow coin or token activated commercial amusement games to include paper money acceptor in addition to coin acceptor. Amendments to WAC 230-30-072 require charitable/nonprofit organizations to retain punchboard/pull tab series for four months, commercial stimulant licensees for two months following the last day of the month removed from play. Amendment to WAC 230-30-075 clarifies punchboard/pull tab prize restrictions by prohibiting sale of series of prizes are offered for purchase of last ticket which exceed \$100 or the highest prize offered, whichever is lower.

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: Icicle Inn/Best Western, 505 State Highway 2, Leavenworth, WA 98826, on October 14, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Shanna Lingel by October 12, 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 October 12, 1994.

Date of Intended Adoption: October 14, 1994.

August 16, 1994  
Sharon M. Tolton  
Assistant Director

**AMENDATORY SECTION** (Amending Order 229, filed 10/29/91, effective 11/29/91)

**WAC 230-04-190 Issuance of license—Expiration—Restrictions.** (1) Charitable and nonprofit organizations and agricultural fairs. The commission may issue a license to qualified bona fide charitable or nonprofit organizations or to qualified agricultural fairs to operate each of the following activities upon a specified location:

- (a) Bingo;
- (b) Raffles;
- (c) Amusement games;
- (d) Punchboards and pull tabs; ~~((and))~~
- (e) Social card~~((s-))~~ games; and
- ~~((2))~~ (f) Fund raising events as defined in RCW 9.46.0233

~~((The commission may issue a license to a bona fide charitable or bona fide nonprofit organization defined in RCW 9.46.0209, other than))~~ : Provided, That any agricultural fair ((defined therein, to)) authorized under the provisions of chapters 15.76 or 36.37 RCW is prohibited from conducting fund raising events.

~~((3))~~ (2) Commercial ((location)) amusement games ((license)). The commission may issue a separate license to ~~((commercial business operators of))~~ any person to operate

amusement games at one or more of the locations listed in WAC 230-04-138.

~~((4))~~ (3) Commercial stimulant card games. The commission may issue a license to any person((s)) operating a business primarily engaged in the selling of items of food or drink for consumption on the premises to allow a specified portion of a specified premises to be used by persons to play authorized card games.

~~((5))~~ (4) Public card room employee. The commission may issue a license to any person to perform duties in a public card room.

~~((6))~~ (5) Commercial stimulant punchboards and pull tabs. The commission may issue a license to a person operating a business primarily engaged in the selling of items of food or drink for consumption on the premises to operate punchboards and pull tabs upon specified premises.

~~((7))~~ (6) Manufacturers and distributors of gambling equipment and paraphernalia. The commission may issue a separate or combination license to the following:

(a) Manufacturers of punchboards, pull tabs, ~~((and))~~ devices for the dispensing of pull tabs, bingo equipment, and other gambling equipment, supplies, and paraphernalia; and

(b) Distributors of punchboards, pull tabs, devices for the dispensing of pull tabs, bingo equipment, and any gambling equipment, supplies, or paraphernalia for use in connection with ~~((licensed fund raising events))~~ authorized activities.

~~((8))~~ (7) Representatives of manufacturers or distributors. The commission may issue a separate license to a representative of a manufacturer or distributor to engage in the sale and distribution of gambling equipment and paraphernalia.

~~((9))~~ (8) Recreational gaming activity permit. The commission may issue a permit to an organization that has been in existence for at least six months to conduct a recreational gaming activity as defined by WAC 230-02-505.

~~((10))~~ (9) License expiration. Each such license shall be valid for one year from the date that it is issued: Provided, That((=)) license expiration dates may be adjusted by commission staff to schedule workload. Organizations licensed for more than one activity may have all expiration dates adjusted to end on the same day.

~~((a) All annual licenses for punchboard and pull tab and Class D and above bingo shall be issued with an expiration date adjusted to expire on March 31, June 30, September 30, or December 31. Punchboard and pull tab licenses shall expire on the above date that is closest to the license issuance date and does not exceed one year. Class D and above bingo licenses shall expire on the above date that is closest to licensee's fiscal year end plus at least six months. All other applicants or licensees may request specific license expiration dates to correspond with the above dates.))~~ Whenever license expiration dates are adjusted under this provision, the required fee shall be prorated by the commission. The prorated fees shall be computed on a monthly basis (i.e., one-twelfth of the annual payment per month) and subtracted from the regular annual fee. A prorated fee will be based on the number of whole months remaining upon approval of a license. For ~~((the))~~ purposes of ~~((this proration))~~ computing fees under this section, any part of a month in which the activity is ~~((licensed))~~ authorized to be operated shall be deemed to be a whole month

~~((when computing an annual fee))~~. Any difference between the required fee which exceeds twenty dollars, shall be refunded to the applicant. Specific expiration dates are as follows:

~~((b))~~ (a) Licenses issued to conduct any authorized activity in connection with and upon the site of a qualified agricultural fair, qualified community-wide civic festival, qualified world's fair, or qualified civic center shall be valid only for the duration of the fair or festival, or, in the case of an activity at a civic center, for the seasons during which the civic center is operating and open to the public. In no event shall such license exceed one calendar year(-);

~~((e) Notwithstanding the provisions of (a) of this subsection,)~~ (b) A license issued to conduct a raffle in connection with a qualified agricultural fair, qualified community-wide civic festival or qualified world's fair shall be in effect from the date the license was issued through the conclusion of the fair or festival(-);

~~((d))~~ (c) A license issued to conduct a card tournament shall be valid only for the duration of the tournament, but in no event shall exceed ten consecutive days(-);

~~((e))~~ (d) A license issued to conduct a fund raising event shall be valid only for ((one year from the date issued but the event (or events) permitted under the license shall be held only at)) the place and time set forth in the application or otherwise approved by the commission. The number of events permitted under the license in any calendar year is subject to the limitations set out in RCW 9.46.0233 defining a fund raising event(-): Provided, That a fund raising event license shall allow an organization to have possession of gambling equipment authorized for use at a fund raising event for a period of one year beginning on the day of the event and to rent such for up to four occasions per year to other organizations licensed to operate fund raising events;

~~((f))~~ (e) A license issued to an individual shall be valid for a period of one year from the date of employment or issuance, whichever occurs first: Provided, a bingo game manager license shall expire as set out in WAC 230-04-145.

~~((g))~~ (10) If any licensee fails to submit a properly completed application and all applicable fees prior to the normal expiration date, the license shall expire and the operation of the applicable activity must immediately cease. When a license expires, a new application must then be submitted and a pre(-)licensing evaluation/investigation to the extent deemed necessary by the director will be completed prior to granting a license: Provided, That if a properly completed renewal application and fees are received at the commission headquarters office within the fourteen ((14))- day period following the expiration date, the commission may reinstate the license using normal renewal procedures. Reinstating a license under this provision does not, in any case, grant authority to operate the activity during the period between the normal expiration date and the date of reinstatement.

(11) The commission may allow an applicant renewing an annual license or applying for an additional license to pay the license fee in two payments under the following conditions:

(a) The license fee is at least eight hundred dollars;

(b) The applicant pays an administrative processing fee of twenty-five dollars plus one-half of the annual license fee at the time of application or renewal;

~~((h))~~ (c) Licenses ((approved)) issued under the ((six month)) two-payment plan shall be issued with an expiration date ((of six months from the license approval date or the original license expiration date, whichever is applicable. Upon receipt and validation of)) as determined by subsection (9) of this section and a second-half payment due date. If the second-half payment ((, a licensee may be granted a second license for an additional six month period. Second half payments must be received by the commission on or before the due date)) is received on or before the due date, the license will remain in effect until the expiration date. If the licensee fails to submit the second-half ((of the fee)) payment(((s) as established by WAC 230-04-201)) prior to the ((expiration)) due date, the license shall expire(-) and all operations of the activity must stop; and

(d) Gross gambling receipts during the first-half payment period must not exceed fifty percent of the authorized class limitation for annual gross gambling receipts. Licensees whose gross gambling receipts exceed fifty percent of the authorized level shall be required to upgrade to the appropriate license class as required by WAC 230-04-260 and pay the full upgrade fee, plus twenty-five dollars.

(12) Conditions of license issuance. All activities so licensed are licensed subject to compliance with all of the applicable provisions of chapter 9.46 RCW, including any amendments thereto, all applicable rules and regulations passed by the commission, all other applicable laws of the United States, the state of Washington and all political subdivisions of the state of Washington which include but are not limited to the following:

- (a) Business licenses or permits;
- (b) Health certificates;
- (c) Fire inspections;
- (d) Use and occupancy permit; and
- (e) Liquor license or permit.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-04-199	Class R recreational card games conducted by a bona fide charitable or bona fide nonprofit organization.
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#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-04-201	Fees.
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**NEW SECTION**

**WAC 230-04-202 Fees—Bona fide charitable/nonprofit organizations.** Bona fide charitable and nonprofit organizations shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

<u>LICENSE TYPE</u>		<u>DEFINITION</u>	<u>FEE</u>
1.	AMUSEMENT GAMES	(Fee based on annual gross gambling receipts)	
*	Class A	Premises only	\$ 50
	Class B	Up to \$ 10,000	\$ 50
	Class C	Up to \$ 25,000	\$ 265
	Class D	Up to \$ 50,000	\$ 425
	Class E	over \$ 50,000	\$ 745
* Allows a charitable or nonprofit organization to enter into a contract with class "B" or above commercial amusement game licensee to locate and operate amusement games on their premises.			
2.	BINGO GROUP	(Fee based on annual gross gambling receipts)	
I	Class A	Up to \$ 15,000	\$ 50
	Class B	Up to \$ 50,000	\$ 155
	Class C	Up to \$ 100,000	\$ 315
	Class D	Up to \$ 300,000	\$ 850
	Class E	Up to \$ 500,000	\$ 1,430
II	Class F	Up to \$1,000,000	\$ 2,870
	Class G	Up to \$1,500,000	\$ 4,150
	Class H	Up to \$2,000,000	\$ 5,530
	Class I	Up to \$2,500,000	\$ 6,910
	Class J	Up to \$3,000,000	\$ 8,300
III	Class K	Up to \$3,500,000	\$ 9,310
	Class L	Up to \$4,000,000	\$ 10,640
	Class M	Over \$4,000,000	\$ 11,970
3.	CARD GAMES		
	Class A	General (Fee to play charged)	\$ 530
	Class B	Limited card games - hearts, rummy, mah-jongg, pitch, pinochle, and cribbage (Fee to play charged)	\$ 155
	Class C	Tournament only - no more than ten consecutive days per tournament	\$ 50
	Class D	General (No fee to play charged)	\$ 50
4.	FUND RAISING EVENTS		
	Class A	One event - not more than 24 consecutive hours	\$ 315
	Class B	One event - not more than 72 consecutive hours	\$ 530
	Class C	Additional participant in joint event (not lead organization)	\$ 155
	Class D	Fund Raising Event Equipment Distributor - rents or leases equipment for fund raising event or recreational gaming activity for no more than ten times per year*	\$ 210
	Class E	Fund Raising Event Equipment Distributor - rents or leases equipment for fund raising event or recreational gaming activity more than ten times per year	\$ 530

\* Charitable and nonprofit organizations licensed to conduct fund raising events may rent their equipment up to four occasions during the term of the license without getting licensed as a distributor.

PROPOSED

PROPOSED

5.	PUNCHBOARDS/ PULL TABS	(Fee based on annual gross gambling receipts)	VARIANCE*	
	Class A	Up to \$ 50,000	\$ 5,000	\$ 505
	Class B	Up to \$ 100,000	\$ 5,000	\$ 900
	Class C	Up to \$ 200,000	\$ 10,000	\$ 1,700
	Class D	Up to \$ 300,000	\$ 10,000	\$ 2,470
	Class E	Up to \$ 400,000	\$ 10,000	\$ 3,190
	Class F	Up to \$ 500,000	\$ 10,000	\$ 3,850
	Class G	Up to \$ 600,000	\$ 10,000	\$ 4,470
	Class H	Up to \$ 700,000	\$ 10,000	\$ 5,030
	Class I	Up to \$ 800,000	\$ 10,000	\$ 5,530
	Class J	Up to \$ 1,000,000	\$ 20,000	\$ 6,280
	Class K	Up to \$ 1,250,000	\$ 25,000	\$ 6,970
	Class L	Up to \$ 1,500,000	\$ 25,000	\$ 7,610
	Class M	Up to \$ 1,750,000	\$ 25,000	\$ 8,140
	Class N	Up to \$ 2,000,000	\$ 25,000	\$ 8,620
	Class O	Over \$ 2,000,000	Nonapplicable	\$ 9,470
* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: <i>Provided</i> , That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.				
6.	RAFFLES	(Fee based on annual gross gambling receipts)		
	Class A	Up to \$ 5,000		\$ 50
	Class B	Up to \$ 10,000		\$ 155
	Class C	Up to \$ 25,000		\$ 315
	Class D	Up to \$ 50,000		\$ 530
	Class E	Up to \$ 75,000		\$ 850
	Class F	Over \$ 75,000		\$ 1,270
7.	SEPARATE PREMISES BINGO	Per occasion (See WAC 230-04-300)		\$ 25
8.	PERMITS			
	AGRICULTURAL FAIR-BINGO	(See WAC 230-04-191)		\$ 25
	RECREATIONAL GAMING ACTIVITY (RGA)	(See WAC 230-25-330 and WAC 230-02-505)		\$ 50
9.	CHANGES			
	NAME	(See WAC 230-04-310)		\$ 25
	LOCATION	(See WAC 230-04-320)		\$ 25
	FRE	(Date or time) (See WAC 230-04-325)		\$ 25
	LICENSE CLASS DUPLICATE	(See WAC 230-04-260)		\$ 25
	LICENSE	(See WAC 230-04-290)		\$ 25
10.	SPECIAL FEES			
	INVESTIGATION REPLACEMENT IDENTIFICATION	(See WAC 230-04-240)		As required
	STAMPS	(See WAC 230-30-016)		\$ 25
	EXCEEDING LICENSE CLASS	(See WAC 230-04-260)		As required
	REVIEW, INSPECTION AND/OR EVALUATION.			

OF EQUIPMENT,  
PARAPHERNALIA,  
SERVICES, OR  
SCHEMES

(See WAC 230-08-017)

As required

11.	SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$ 25
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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 230-04-203 Fees—Commercial stimulant and other business organizations.** All persons seeking to operate gambling activities at business locations shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

	LICENSE TYPE	DEFINITION	FEE
1.	CARD GAMES		
	Class B	Limited card games - hearts, rummy, pitch, pinochle, mah-jongg, and/or cribbage (Fee to play charged)	\$ 155
	Class C	Tournament only, no more than ten consecutive days per tournament.	\$ 155
	Class D	General (No fee to play charged)	\$ 50
	Class E	General (Fee to play charged)	
	E-1	One table only	\$ 370
	E-2	Up to two tables	\$ 635
	E-3	Up to three tables	\$ 1,060
	E-4	Up to four tables	\$ 2,120
	E-5	Up to five tables	\$ 3,190

2.	COMMERCIAL AMUSEMENT GAMES	(Fee based on annual gross gambling receipts)	
*	Class A	Premises only ** \$250/100	
	Class B	Up to \$ 50,000	\$ 370
	Class C	Up to \$ 100,000	\$ 950
	Class D	Up to \$ 250,000	\$ 2,120
	Class E	Up to \$ 500,000	\$ 3,720
	Class F	Up to \$ 1,000,000	\$ 6,380
	Class G	Over \$ 1,000,000	\$ 7,980

\* Allows a business that is qualified under WAC 230-04-138 (1)(f), (g), (h), (i), or (j) to enter into a contract with a class "B" or above commercial amusement game licensee to locate and operate amusement games upon their premises.

\*\* Provides for a fee reduction of \$150 when: Renewing an annual license; Applying for an additional license(s) at the same premises; and/or Applying for multiple licenses at the same premises.

	PUNCHBOARDS/ PULL TABS	(Fee based on annual gross gambling receipts)	VARIANCE*	
	Class A	Up to \$ 50,000	\$ 5,000	\$ 505
	Class B	Up to \$ 100,000	\$ 5,000	\$ 900
	Class C	Up to \$ 200,000	\$ 10,000	\$ 1,700
	Class D	Up to \$ 300,000	\$ 10,000	\$ 2,470
	Class E	Up to \$ 400,000	\$ 10,000	\$ 3,190
	Class F	Up to \$ 500,000	\$ 10,000	\$ 3,850
	Class G	Up to \$ 600,000	\$ 10,000	\$ 4,470
	Class H	Up to \$ 700,000	\$ 10,000	\$ 5,030
	Class I	Up to \$ 800,000	\$ 10,000	\$ 5,530

Class J	Up to \$ 1,000,000	\$ 20,000	\$ 6,280
Class K	Up to \$ 1,250,000	\$ 25,000	\$ 6,970
Class L	Up to \$ 1,500,000	\$ 25,000	\$ 7,610
Class M	Up to \$ 1,750,000	\$ 25,000	\$ 8,140
Class N	Up to \$ 2,000,000	\$ 25,000	\$ 8,620
Class O	Over \$ 2,000,000	Nonapplicable	\$ 9,470

\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: *Provided*, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

4.	DISTRIBUTOR	(Fee based on annual gross sales of gambling related supplies and equipment)	
(a)	Class A	Nonpunchboard/pull tab only	\$ 530
	Class B	Up to \$ 250,000	\$ 1,060
	Class C	Up to \$ 500,000	\$ 1,590
	Class D	Up to \$ 1,000,000	\$ 2,120
	Class E	Up to \$ 2,500,000	\$ 2,760
	Class F	Over \$ 2,500,000	\$ 3,400

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.

(b)	FUND RAISING EVENT EQUIPMENT DISTRIBUTOR		
	Class A	Rents or leases equipment for fund raising event or recreational gaming activity up to 10 times per year.	\$ 210
	Class B	Rents or leases equipment for fund raising event or recreational gaming activity more than 10 times per year.	\$ 530

5.	MANUFACTURER	(Fee based on annual gross sales of gambling related supplies and equipment)	
	Class A	Machines only	\$ 530
	Class B	Up to \$ 250,000	\$ 1,060
	Class C	Up to \$ 500,000	\$ 1,590
	Class D	Up to \$ 1,000,000	\$ 2,120
	Class E	Up to \$ 2,500,000	\$ 2,760
	Class F	Over \$ 2,500,000	\$ 3,400

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification, quality control inspection for additional activities or product lines, and renewal of licenses when travel cost is incurred to complete the investigation.

7.	PERMITS		
	AGRICULTURAL FAIR/ SPECIAL PROPERTY BINGO		
	Class A	One location and event only (See WAC 230-04-191)	\$ 25
	Class B	Annual permit for specified different events and locations (See WAC 230-04-193)	\$ 155
	RECREATIONAL GAMING ACTIVITY RGA	(See WAC 230-02-505 and WAC 230-25-330)	\$ 50

8.	CHANGES		
	NAME	(See WAC 230-04-310)	\$ 25

LOCATION	(See WAC 230-04-320)	\$ 25
BUSINESS CLASSIFICATION	(Same owners) (See WAC 230-04-340)	\$ 50
LICENSE CLASS	(See WAC 230-04-260)	
	New class fee, less previous fee paid, plus	\$ 25
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 25
OWNERSHIP OF STOCK	(See WAC 230-04-340)	\$ 50
LICENSE TRANSFERS	(See WAC 230-04-125, WAC 230-04-340, and WAC 230-04-350)	\$ 50

PROPOSED

9. SPECIAL FEES		
INVESTIGATION IDENTIFICATION AND INSPECTION SERVICES STAMPS	(See WAC 230-04-240)	As required
QUALITY CONTROL INSPECTION FEES	(See WAC 230-08-017)	As required
REPLACEMENT OF IDENTIFICATION STAMPS	(See WAC 230-30-030)	As required
EXCEEDING LICENSE CLASS	(See WAC 230-30-016)	\$ 25
REVIEW, INSPECTION AND/OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-04-260)	As required
	(See WAC 230-08-017)	As required
10. SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$ 25

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**NEW SECTION**

**WAC 230-04-204 Fees—Individuals.** Individuals shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, or when assessed the cost of special investigation procedures for by the commission:

LICENSE TYPE	DEFINITION	FEE
1. BINGO GAME MANAGER	Original	\$ 155
	Renewal	\$ 75
	Change of Employer	\$ 75
2. DISTRIBUTOR'S REPRESENTATIVE	Original	\$ 210
	Renewal	\$ 130
	Change of Employer	\$ 50
3. MANUFACTURER'S REPRESENTATIVE	Original	\$ 210
	Renewal	\$ 130
4. PUBLIC CARD ROOM EMPLOYEE	Original	\$ 155
	Renewal	\$ 75
5. OTHER FEES		
CHANGE OF NAME	(See WAC 230-04-310)	\$ 25
DUPLICATE LICENSE		

REPLACEMENT  
OUT OF STATE  
RECORDS INQUIRY

(See WAC 230-04-290)

\$ 25

(See WAC 230-04-240)

As required

**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 WSR 94-01-033, filed 12/6/93, effective 1/6/94)

**WAC 230-08-017 Control of gambling equipment—**  
**Use of identification and inspection services stamps.** To ensure gambling equipment is used only as authorized, manufacturers, distributors, and operators shall maintain close control over all gambling equipment in their possession. Each transfer of such equipment shall be documented by completing an invoice or other written record setting forth the information required by WAC 230-08-040. Identification and inspection services stamps obtained from the commission shall be used to identify gambling equipment and shall be permanently and conspicuously affixed to all equipment and devices designated by the commission. Once attached, identification and inspection services stamps shall not be removed, disfigured, or otherwise tampered with by any person. These stamps shall be attached and controlled in the following manner:

(1) Identification and inspection services stamps shall be attached to the following gambling equipment and devices:

- (a) Punchboards and pull tab series;
- (b) Pull tab dispensing devices;

(c) Disposable bingo cards: *Provided*, That this requirement applies to cards shipped for use in Washington state after December 31, 1993. All inventory on hand at the distributor and operator level at the close of business on December 31, 1993, shall be exempt from this requirement; and

(d) Other gambling equipment or devices, as determined by the director.

(2) Identification and inspection services stamps shall only be sold to and attached by licensed manufacturers or commission staff: *Provided*, That a licensed owner of controlled gambling equipment may purchase and attach stamps per WAC 230-30-018;

(3) The fee charged for identification and inspection services stamps shall be set by the commission at a level sufficient to fund regulation and control of gambling equipment. Fees shall be as set out below:

(a) Punchboards and pull tabs - (~~twenty-five~~) twenty-six cents;

(b) Pull tab dispensing devices - (~~twenty-five~~) twenty-six cents;

(c) Disposable bingo cards:

(i) Sets of individual cards or sheets of cards - (~~twenty-five~~) twenty-six cents;

(ii) Collations of cards - one dollar and six cents;

(d) Other equipment or devices - the actual cost of inspection or approval, as determined by the director.

(4) Identification stamps shall only be affixed to gambling equipment or devices in such a manner as to

assure reasonable inspection without obstruction. If equipment is enclosed or packaged within protective materials, the stamps shall be readily visible for inspection without removal of any portion of the protective packaging: *Provided*, That when more than one device is packed in a shipping carton, this requirement shall not apply if the identification and inspection services stamp numbers of all devices contained in the carton are printed or otherwise noted on the outside of the carton. Stamps and records entry labels shall be affixed in the following manner:

(a) Punchboards - On the reverse side in an area that will not obstruct removal of punches: *Provided*, That if sufficient space is not available on the reverse side, the records entry labels may be wrapped around and/or partially attached to the edge of a punchboard in a manner that will not obstruct display of prizes available or other information required by rules of the commission;

(b) Pull tabs - On the face or reverse side of the flare. If placed on the face, then they must be in an area that will not obstruct prizes available or any other information required by rules of the commission; and

(c) Pull tab dispensing devices - On the outside of the main body, in an area that is not normally removed and replaced, and in a manner that will not obstruct the view of the pull tabs available for play. The records entry labels shall not be affixed to dispensing devices and may be discarded; and

(d) Disposable bingo cards - On the packing label attached to the outside of the shipping carton. Records entry labels shall be attached to the packing slip: *Provided*, That when a set or collation of cards is packed in more than one shipping carton, the stamp shall be attached to carton number one and the stamp number imprinted on all remaining shipping cartons.

(5) Identification and inspection services stamps shall not be attached to gambling equipment or devices that do not comply with rules of the commission. If a piece of equipment or a device requires specific commission approval, stamps shall not be affixed prior to such approval; and

(6) Any person requesting commission staff review, inspection, and/or evaluation of equipment, paraphernalia, services, or schemes related to licensed gambling activities shall reimburse the commission the cost to conduct such. If the requestor is currently licensed, there will be no assessment of cost for the first hour of service. A deposit of estimated cost may be required prior to performance of such service.

#### NEW SECTION

**WAC 230-12-090 Problem gambling informational sign must be posted.** The legislature recognizes that some individuals in Washington State are problem or compulsive gamblers. Because the state promotes and regulates gambling through the activities of the lottery commission, horse racing commission and gambling commission, the state has the responsibility to continue to provide resources for the

support of services for problem and compulsive gamblers. RCW 9.46.071 requires that the lottery commission, horse racing commission and gambling commission shall jointly develop informational signs concerning problem and compulsive gambling, and the signs shall be placed in establishments of gambling licensees, horse racing licensees and lottery retailers.

All gambling commission licensees shall adequately post the problem and compulsive gambling informational signs in locations of their establishments which are in patron traffic areas, i.e., entrances and exits and/or points of sale. Additional signs may be posted in less conspicuous areas such as restrooms, lounges, etc. The informational signs will be provided to the licensee by the gambling commission and will contain the toll-free hotline number for the Washington State Council on Problem Gambling.

If a licensee fails to adequately post the problem and compulsive gambling informational signs in their establishments, they may be fined \$50.00 for the first violation, \$100.00 for the second violation and \$200.00 for each violation noted thereafter.

AMENDATORY SECTION (Amending WSR 94-01-036, filed 12/6/93, effective 1/6/94)

**WAC 230-20-700 Coin or token activated amusement games—Standards.** (1) All coin or token activated amusement games operated at locations authorized under WAC 230-04-138 (1)(f), (g), (i), (j), (k), or (l) must have nonresettable coin-in meters, the removal or disconnection of which stops the play of the machine. The meter must be certified as accurate to within plus or minus 1 coin or token in 1,000 plays.

(2) All coin or token activated amusement games must have a coin acceptor capable of taking money for one play and may have an additional acceptor to include paper money. All games utilizing paper money acceptors that do not return change shall clearly disclose that fact to the consumer.

AMENDATORY SECTION (Amending Order 250, filed 3/16/94, effective 4/16/94)

**WAC 230-30-072 Punchboard and pull tab inventory and retention requirements.** Each punchboard and pull tab series purchased or otherwise obtained by an operator shall be controlled and accounted for in the following manner:

(1) Each operator shall closely monitor punchboard and pull tab series purchased to assure that all Washington state identification and inspection service stamp numbers are correctly entered in all records and each device purchased is recorded. The following control procedures apply:

(a) At the time a punchboard or pull tab series is delivered, each operator will assure that all purchase invoice data is correctly recorded by the distributor by comparing the actual Washington state identification and inspection services stamp number attached to each punchboard and pull tab series to the number recorded on the purchase invoice;

(b) All purchases of punchboards or pull tab series shall be recorded on a standard distributor's invoice, which will be used by the operator as a record to account for the punchboard or pull tab series between the time it is purchased and removed from play. Each invoice shall include

space for the operator to either attach a records entry label or enter the Washington state identification and inspection services stamp number and the date the device was placed out for play: *Provided*, That in lieu of the distributor's invoice recording system, licensees may use a separate inventory record to account for purchases and uses of punchboards and pull tabs. Entries required to be made by the distributor on the purchase invoice shall be entered by the operator on the alternative inventory record at the time devices are received. The inventory record may be manually maintained or generated from a computer data base. If generated from a computer data base, all requirements relating to computer data base records and printouts, as set out in WAC 230-08-010 (6) and (7) shall be followed. Inventory records shall include space for the following entries for each punchboard or pull tab series purchased or otherwise obtained:

(i) Distributor's name;  
 (ii) Invoice number;  
 (iii) Date of purchase;  
 (iv) Name of the punchboard or pull tab series;  
 (v) Date placed into play;  
 (vi) The Washington state identification and inspection services stamp number entered by the distributor at the time of purchase; and

(vii) The Washington state identification and inspection services stamp number entered by the operator by attaching a records entry label at the time placed into play: *Provided*, That a computer generated facsimile of the number may be imprinted on the inventory record in lieu of a records entry label;

(c) At the time a punchboard or pull tab series is placed into play, each operator shall record in the allotted space on the distributor's invoice or the inventory record the following:

(i) Date placed into play; and  
 (ii) Washington state identification and inspection services stamp number by attaching a records entry label: *Provided*, That a computer generated facsimile of the number may be imprinted on the inventory record in lieu of a records entry label.

(d) If a device is returned to a distributor for any reason, including commission required recall, the operator shall record the date, invoice or credit memo number, and "returned" on the original purchase invoice or inventory log in the spaces allotted for "date-in-play" and "records entry label";

(2) Each punchboard or pull tab series which is removed from operation, together with the prize flare, all unplayed tabs, and all winning punches or tabs, shall be retained by the operator (~~for at least four months following the last day of the month in which it was removed from play~~). The board, unplayed tabs, flare, and all winning punches or tabs shall remain available for inspection, on the licensed premises, by commission agents and/or local law enforcement and taxing agencies: *Provided*, That devices may be stored off premise if they are produced for inspection upon demand(??);

(a) Charitable and nonprofit organizations shall retain these items for a period of at least four months following the last day of the month in which it was removed from play.

(b) Commercial stimulant licensees shall retain these items for a period of at least two months following the last day of the month in which it was removed from play.

(c) In addition to administrative actions that may be pursued, any licensee that fails to comply with the conditions and limitations set forth above or misstates gross gambling receipts by more than one-half percent may be required, by the director and at the director's discretion, after a brief adjudicated proceeding, to retain the records set forth above for six months. The six-month alternative may be required for a period of up to one year.

(d) For purposes of determining gross gambling receipts for compliance with this rule, any difference between recorded and audited gross gambling receipts noted by commission staff, will be applied to an entire year (twelve months) by multiplying the amount recorded by a ratio that is computed by dividing the audited amount by the recorded amount. Prior to applying this ration, the recorded amount shall be increased for punchboard or pull tab series that are not recorded in the monthly record. The gross gambling receipts for unrecorded boards or series shall be the maximum possible, computed by multiplying the total number of chances available times the price per chance.

(3) Each punchboard or pull tab series which is not placed out for public play or returned to the distributor or manufacturer from whom it was originally purchased, must be retained on the licensed premises and made available for inspection by commission agents and/or local law enforcement and taxing agencies: *Provided*, That devices may be stored off premise if they are produced for inspection upon demand;

(4) Each punchboard or pull tab series which is deemed by the operator to be defective or unplayable, for any reason, shall not be returned to the distributor or manufacturer without approval from the commission. If it is found to be defective after it has been placed out for play, all other rules apply and it must be recorded as required by WAC 230-08-010: *Provided*, That the retention time required by subsection (2) above may be shortened by the commission upon inspection and written release by a commission agent.

AMENDATORY SECTION (Amending Order 236, filed 1/22/93, effective 2/22/93)

**WAC 230-30-075 Punchboard and pull tab prize restrictions—Minimum percentage of prizes ~~((for certain gambling activities))~~ available.** No operator shall put out for play and no distributor or manufacturer ~~((of punchboards and pull tabs))~~ shall sell or otherwise provide to any person in this state, or for use in this state, any punchboard or pull tab series that ~~((does not contain the following minimum percentage in prizes))~~:

(1) ~~((Punchboards—a minimum of sixty percent respecting each punchboard placed out for public play.~~

(2) ~~((Pull tabs—a minimum of sixty percent respecting each series of pull tabs placed out for public play.~~

(3) ~~For~~) Does not offer prizes that are equal to or greater than sixty percent of the total gross receipts available from the punchboard or pull tab series: *Provided*, That for the purposes of determining the percentage of prizes offered on any punchboard, or in any pull tab series ~~((under this section))~~, total merchandise prizes shall be computed at the

amount actually paid therefor by the licensed operator plus fifty percent of that actual cost.

~~((4) Single cash prizes on punchboards/pull tabs shall not exceed:))~~ (2) Offers a single prize that exceeds:

(a) Five hundred dollars in cash; or

(b) ~~((Effective July 1, 1993,))~~ A merchandise prize, or combination merchandise prize, for which the operator has ~~((not))~~ expended more than five hundred dollars.

~~((5))~~ (3) Has multiple winners on an individual pull tab or punch ~~((shall not))~~ that combined values exceed the single cash or merchandise prize limit in subsection ~~((4))~~ (2) of this section.

(4) Offers prizes for purchasing the last ticket or last punch that exceeds one hundred dollars or the highest prize offered, whichever is less.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-30-998 Punchboard and pull tab retention requirements—Test.

#### NEW SECTION

**WAC 230-46-100 Bona fide charitable/nonprofit organizations—Limited social card games without obtaining a license—Conditions.** Bona fide charitable or nonprofit organizations may permit the playing of social card games on their premises when the following conditions are met:

(1) No person is charged, directly or indirectly, more than one dollar in cash, goods, or services to play in card games permitted on the premises in any calendar day;

(2) Only bona fide members and guests of the organization are permitted to play in the card games;

(3) Only bona fide members of the organization who are not compensated for such services are permitted to perform any work or service in support of such card games; and

(4) Card games must be played according to the requirements of WAC 230-40-015 and limited to the following games:

- (a) Hearts;
- (b) Rummy;
- (c) Pitch;
- (d) Pinochle;
- (e) Cribbage; and
- (f) Bridge.

WSR 94-17-100

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 17, 1994, 1:31 p.m.]

Original Notice.

Title of Rule: WAC 246-360-990 Transient accommodation fee.

Purpose: To reduce licensing fees as a result of chapter 250, Laws of 1994.

Statutory Authority for Adoption: RCW 43.70.110 and 43.70.250.

Statute Being Implemented: Chapter 70.62 RCW.

Summary: This amendment results from statutory changes (EHB 2555) and rules adopted by the State Board of Health to implement those changes. The cost of regulating transient accommodations will be reduced and therefore fees will be reduced.

Name of Agency Personnel Responsible for Drafting: Leslie Baldwin, P.O. Box 47852, Olympia, WA 98501, (206) 705-6788; Implementation and Enforcement: Kathy Stout, P.O. Box 47852, Olympia, WA 98501, (206) 705-6788.

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: As a result of amendments to the transient accommodation licensing law, program cost will be reduced. This rule action will reduce fees accordingly.

Proposal Changes the Following Existing Rules: This amendment changes the fee structure and reduces fees.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Costs to licensees will be reduced.

Hearing Location: Department of Health, 2725 Harrison Avenue N.W., Olympia, WA (next to Ben Franklin Craft Store), on September 27, 1994, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by September 27, 1994, TDD (206) 664-0064, or (800) 525-0127, (206) 705-6788.

Submit Written Comments to: Ann Foster, Rules Coordinator, P.O. Box 47890, Olympia, WA 98504, by September 26, 1994.

Date of Intended Adoption: October 3, 1994.

August 17, 1994  
Bruce Miyahara  
Secretary

**AMENDATORY SECTION** (Amending Order 312, filed 10/21/92, effective 11/21/92)

**WAC 246-360-990 ((Transient accommodations licensing and inspection)) Fees.** (((1) The annual license and survey fee shall be:

Size of Facility (No. of Rooms)	License Fee
3 - 4	\$ 102
5 - 10	\$ 118
11 - 24	\$ 140
25 - 49	\$ 243
50 - 74	\$ 330
75 - 99	\$ 440
100 - 199	\$ 560
200 - 399	\$ 690
over 400	\$ 800

(2) The fee for new facilities constructed during the year shall be prorated as shown below based upon the date of application:

(3) The fee for a change in ownership or name of a facility shall be fifty dollars.

Size of Facility (No. of Rooms)	Prorated License Fee											
	J	F	M	A	M	J	J	A	S	O	N	D
3 - 4	102	94	85	77	68	60	51	43	34	26	17	9
5 - 10	118	109	99	89	79	69	60	50	40	30	20	10
11 - 24	140	128	117	105	93	82	70	58	47	35	23	12
25 - 49	243	222	202	182	162	141	121	101	81	61	40	20
50 - 74	330	303	275	248	220	193	165	138	110	83	55	28
75 - 99	440	404	367	330	294	257	220	184	147	110	74	37
100 - 199	560	514	467	420	374	327	280	234	187	140	94	47
200 - 399	690	633	575	518	460	403	345	288	230	173	115	58
over 400	800	734	667	600	534	467	400	334	267	200	134	67

(4) Persons planning to convert an existing structure to a transient accommodation shall:

(a) Request a feasibility survey by the department to determine modifications required to meet chapter 246-360 WAC, and

(b) Pay a nonrefundable fee of one hundred dollars for the department conducted feasibility survey.

(5) Licenses not renewed by January fifteenth of each calendar year shall be considered past due. The department shall charge a late fee of twenty-five dollars for each two months a license is past due.

(6) For transient accommodations in noncompliance with chapter 246-360 WAC, there shall be a one hundred fifty dollar fee assessed for the third survey and three hundred dollars for each additional survey in any calendar year. (1) The licensee or applicant shall:

(a) Submit an annual fee according to the following schedule:

NUMBER OF LODGING UNITS	FEE
3 - 10	\$ 55
11 - 49	\$110
50 - over	\$160

(b) Submit a transition fee of forty-five dollars for any license renewed in 1995;

(c) Submit an additional fee of fifty dollars for an amended license due to changing the number of lodging units or the name of the transient accommodation;

(d) Submit an additional one hundred fifty dollars when billed by the department for:

(i) A third on-site visit resulting from a licensee's or applicant's failure to adequately respond to a statement of deficiencies; and

(ii) A complete on-site survey resulting from a substantiated complaint.

(2) The department shall refund fees only when all the following conditions are met:

(a) A prospective new owner applies for initial licensure prior to taking ownership as required by WAC 246-360-020 (4)(b);

(b) Transfer of ownership is not finalized;

(c) The applicant requests a refund in writing; and

(d) The department receives the fee and the request for refund in the same biennium.

WSR 94-17-116  
PROPOSED RULES  
INSURANCE COMMISSIONER  
[Filed August 17, 1994, 3:04 p.m.]

Original Notice.

PROPOSED

Title of Rule: Special liability insurance report required annually.

Purpose: Update requirements and exemptions for insurers that file special liability insurance reports and to conform rule to amended statute.

Other Identifying Information: Insurance Commissioner Matter No. 94-21.

Statutory Authority for Adoption: RCW 48.02.060, 48.05.390.

Statute Being Implemented: RCW 48.05.380, 48.05.390.

Summary: The amendments update requirements and exemptions for insurers that file special liability insurance reports.

Reasons Supporting Proposal: The amendments conform the rule to amendments to the statute enacted by the 1994 legislature.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lee Barclay, Olympia, Washington, (206) 586-3685.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule sets forth requirements for and exemptions from filing the special liability insurance report. The amendments exempt certain kinds of insurers which will have no date to report.

Proposal Changes the Following Existing Rules: The amendment exempts certain kinds of insurers from filing the special liability insurance report and repeals three sections containing forms which no longer apply. The replacement form will not be part of the rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule will have minor or negligible impact, as set forth at RCW 19.85.060(2). In fact, many insurers will no longer be required to prepare special liability insurance reports; and this will have a net beneficial economic impact.

Hearing Location: Insurance Building, 14th and Water, 2nd Floor Conference Room, Olympia, WA 98504-0255, on September 29, 1994, at 9:30 a.m.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, FAX (206) 586-3535, by September 28, 1994.

Date of Intended Adoption: September 29, 1994.

August 17, 1994  
Krishna Fells  
Chief of Staff  
for Deborah Senn  
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 88-16, filed 12/28/88)

**WAC 284-07-010 Special liability insurance report required annually.** (1) Pursuant to RCW 48.05.380, each insurer authorized to write property and casualty insurance in the state of Washington shall record and report its Washington state loss and expense experience and other data, as required by RCW 48.05.390, on ~~((Form A, Form B, and~~

~~Form C, as set forth in WAC 284-07-014, 284-07-024, and 284-07-026, respectively)) a form issued by the commissioner.~~

(2) Each such insurer shall complete the form~~((s))~~ in accordance with the definitions and instructions on the form~~((s))~~.

(3) Each such insurer shall submit ~~((these))~~ this report~~((s))~~ to the insurance commissioner annually. The report~~((s))~~ covering the period ending December 31 of each year must be submitted no later than May 1 of the following year.

(4) Insurers not licensed to write general casualty insurance are exempt from the requirement to submit this report.

(5) Upon the written request of a professional reinsurer which never writes business on a direct basis, the commissioner may grant such reinsurer a permanent exemption from the requirement to submit this report.

(6) With respect to products liability data, the commissioner finds that comparable information is included in the annual statement required by RCW 48.05.250. Therefore, products liability data shall not be reported on the form required by this section.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-07-014	Form A for loss and expense exhibit.
WAC 284-07-024	Form B for reporting paid and unpaid losses.
WAC 284-07-026	Form C for reporting closed and open claims.

**WSR 94-17-118**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Institutions)

[Filed August 17, 1994, 4:47 p.m.]

Supplemental Notice to WSR 94-16-072.

Title of Rule: New chapter 275-57 WAC, Community mental health programs and repealing chapter 275-56 WAC, Community mental health programs.

Purpose: Removes cumbersome and burdening regulations that draw resources from the delivery of direct services to mental health consumers. Meets mandates of consumers, advocates, and family members for a stronger voice in governance and quality improvement activities of the mental health system.

Statutory Authority for Adoption: Chapter 71.24 RCW.  
Statute Being Implemented: Chapter 71.24 RCW.

Summary: Removes large number of cumbersome and burdening regulations which draw resources from direct services. Gives consumers and advocates a greater voice in how services are delivered, and through the ombudsman function and the quality review team, oversight in the quality of services delivered.

Reasons Supporting Proposal: Mental Health Division has, in response to RSNs and providers' requests, rewritten the community mental health rules. Allows for more flexible services, allows RSNs, PHPs and providers to streamline service delivery. Changes necessary to conform to law and federal regulations. Consumer, family member, and advocate requests allow greater involvement.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Hanig, Mental Health Division, 586-6766.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law Title XIX Waiver and SSB 6547.

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? Yes. A copy of the statement may be obtained by writing to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, 14th Avenue and Franklin Street, Olympia, WA 98504, phone (206) 902-7536, or FAX (206) 586-8487.

#### Small Business Economic Impact Statement (SBEIS)

Chapter 275-57 WAC is proposed to replace chapter 275-56 WAC, regulating counties, regional support networks, mental health prepaid health plans, and licensed community mental health providers.

Chapter 275-57 WAC represents a comprehensive review and revision of current WAC and was generated partly in response to regulatory reform initiatives of the governor. As such, a large number of existing WAC requirements have been scaled back or deleted, including:

1. Many biennial plan requirements were deleted.
2. Specific requirements for RSNs to "coordinate services" were removed.
3. Many fiscal requirements were deleted. There are no longer any sections on provider fiscal requirements. Instead, there are general rules for RSNs to follow.
4. RSNs no longer have to submit a budget.
5. RSNs no longer have to perform a biennial audit of providers.
6. Several resource management requirements (i.e., access points, assignment of case managers within three days, and development of an ISP) were deleted.
7. The section on applicable licensing standards was deleted.
8. Rules requiring providers to develop policy and procedure were deleted.
9. Rules requiring providers to establish and document activities of a governing board were deleted.
10. Requirements specifying hours of clinical supervision were deleted.
11. Requirement requiring the hire of a clinical director at each agency was deleted.
12. Requirements for forty hours of annual training for clinicians and thirty hours of training for crisis volunteers were deleted.
13. The section on facility characteristics was deleted.

14. Requirements for weekend and evening services were deleted.

15. Many of the intake and evaluation requirements were deleted.

16. The requirements for individualized service plans and individualized treatment plans were collapsed together and about half of the requirements were deleted.

17. The section on transfers and continuity of care was deleted.

18. The section on medication storage was deleted.

19. The section on extraordinary occurrences (i.e., incident reports) was deleted.

20. The section on record retention and destruction was deleted.

21. The section requiring written service descriptions was deleted.

22. The section on emergency services was deleted. Parts of it were included under the crisis response system.

23. The section on preadmission screening requirements was deleted.

24. The section on outpatient services was deleted.

25. The section on day treatment services was deleted.

26. The section on consultation and education services was deleted.

27. Almost all of the requirements for case management services were deleted.

28. All six sections and their specific requirements on residential services were deleted. These were replaced with a single brief section.

Chapter 275-57 WAC also expands the role of consumers and family members in RSN governance, monitoring of services and the provision of services. As such, chapter 275-57 WAC promotes a customer-oriented regulatory environment.

Industry Involvement in Drafting the Rules: The mental health division convened a drafting committee which met for over a year to draft these rules. The committee was comprised of representatives from: Consumer advocacy groups; family advocacy groups; trade associations; county government; and special population advocates.

A list of representatives is attached as Appendix A [no information supplied by agency].

The committee developed numerous drafts and three of these drafts were disseminated through a five hundred person mailing list to the entire mental health community. Hundreds of comments were received from community mental health centers, regional support networks and advocates. Each comment was reviewed by mental health division staff and many were incorporated into the next draft.

Industries Affected: The two entities affected by this WAC are: Regional support networks (RSNs) and licensed providers or community mental health centers. RSNs constitute local, county government. Licensed providers may be listed with the Department of Revenue (DOR) either under SIC number 8322: Individual and Family Social Services or 8049: Offices and Clinics of Health Practitioners, Not Elsewhere Classified.

Total number of all types of businesses addressed under this WAC is: 102 licensed providers.

The mental health division estimates that over 50% of all licensed providers are businesses with 50 or fewer employees.

Addresses of Businesses: See Appendix B for a complete list of licensed providers and regional support networks.

These proposed rules affect a small fraction of the total industry under the codes 8322 and 8049, but does affect 100% of all licensed community mental health providers, the majority of which employ fewer than 50 FTEs. For this reason, we are filing a small business economic impact statement.

As noted previously, chapter 275-57 WAC was issued in conjunction with the governor's initiative in regulatory reform. A number of new requirements were added over

and above existing chapter 275-56 WAC. Conversely, many requirements in chapter 275-56 WAC were deleted. During the drafting of the WAC, constant reference was made to the economic impact of proposed regulation. While industry representatives asserted more regulations could have been deleted, the mental health division believes that additional deletions would have compromised consumer health or safety. Table 1 shows comparative impact of the WAC changes. The left column shows items in chapter 275-56 WAC which were not included in chapter 275-57 WAC. The right column shows new additions to chapter 275-57 WAC.

TABLE 1: COMPARISON OF REQUIREMENTS

TABLE 1: COMPARISON OF REQUIREMENTS

DELETIONS FROM EXISTING WAC 275-56	ADDITIONS IN PROPOSED WAC 275-57
Mental health professional definition requires less documentation.	Mental health professional definition is slightly more restrictive. (Possible small fiscal impact.)
	Waivers now require review by Ombuds staff and quality review team. However, balancing this is that waivers may now be applied under more circumstances. (Small fiscal impact.)
Some RSN biennial plan requirements	
	RSN advisory board must be 51% comprised of consumers and family members. (No fiscal impact.)
Specific requirements for RSNs to "coordinate services".	
Many fiscal requirements. There are no longer any sections on provider fiscal requirements. Instead, there are general rules for RSNs to follow.	
RSNs no longer have to submit a budget.	
RSNs no longer have to perform a biennial audit of providers.	
Several resource management requirements (i.e., access points, assignment of case managers within 3 days, and development of an ISP) were deleted.	Some resource management activities are further specified. This is necessary in light of managed care requirements. (Fiscal impact unclear as these are largely activities required for managed care systems.)
	RSNs now specifically required to develop housing. This is occurring already in almost all RSNs. (Moderate fiscal impact on RSNs.)
	Previously, only Prepaid Health Plans (PHPs) were required to develop Ombuds and Quality Review Team services. This WAC speeds up the implementation of these requirements by requiring them to be established in all RSNs. (While this is not a new requirement to this WAC, the two programs have been established

PROPOSED

	only within the last year. Much of the cost of establishing the program has been borne by the Mental Health Division. However, there will be moderate administrative costs associated with greater consumer/advocate scrutiny of services.)
The section on applicable licensing standards	More categories of licensing are available now, including "Deemed Status" which accepts licensing or accreditation by other entities (e.g., JCAHO, etc.) (Should create small savings.)
Rules requiring providers to develop policy and procedure	
Rules requiring providers to establish and document activities of a governing board	
Requirements specifying hours of clinical supervision	Allows for inclusion of certain staff as mental health specialists previously not covered. (May create moderate savings, especially in rural and small agencies)
Requirement requiring the hire of a clinical director at each agency	
Requirements for 40 hours of annual training for clinicians and thirty hours of training for crisis volunteers	Establishes orientation requirements for new staff. While hours of training were deleted, the new WAC defines specific training areas to be covered annually. This change was made in response to Legislative Budget Committee evaluation of the system revealing poorly trained case managers. (Moderate fiscal impact due to increased time spent in training and documentation of same.)
The section on facility characteristics.	
Requirements for weekend and evening services	
Many of the intake and evaluation requirements	Staff can provide verbal version of consumer rights. (No impact likely)
The requirements for individualized service plans and individualized treatment plans were collapsed together and about half of the requirements were deleted.	Plans must be reviewed every 180 days, instead of the previous 90 day requirement. (Will result in substantial savings in agencies by cutting in half the amount of time spent in re-doing plans.)

PROPOSED

PROPOSED

DELETIONS FROM EXISTING WAC 275-56	ADDITIONS IN PROPOSED WAC 275-57
	However, this will be partially offset by increased consumer input and individualizing of plans.)
The section on transfers and continuity of care	
The section on medication storage.	
The section on extraordinary occurrences (i.e., incident reports	
The section on record retention and destruction	
The section requiring written service descriptions	
The section on emergency services. Parts of it were included under the crisis response system.	
The section on preadmission screening requirements	
The section on outpatient services	Brief intervention services were inserted in place of outpatient services. However, this WAC allows for a streamlined intake evaluation, resulting in savings to agencies. (Minor savings, if any.)
The section on day treatment services	
The section on consultation and education services	
Almost all of the requirements for case management services	
All six sections and their specific requirements on residential services. These were replaced with a single brief section.	
	Medical services now required to solicit and document medication side effects. (Small fiscal impact with additional costs.)
	In-home services established, which will allow greater RSN flexibility. May result in modest savings at the RSN level.)
	Consumer/Advocate Run services established. (Should have no fiscal impact or result in modest savings.)

While it is difficult to gauge the costs of each of the regulations, Table 1 indicates a net reduction in costs to licensed providers. Requirements in twenty-nine areas were eliminated from the existing WAC. The new WAC adds several requirements; however, nearly seven of these may result in further savings. Three new requirements will result in small additional costs to providers or RSNs. Three to four new requirements will result in moderate additional costs. In light of this, the economic impact of this chapter will be savings to small businesses providing community mental health services.

**Mitigation Provisions Considered for Small Agencies:** As noted above, the entire chapter may result in savings to all agencies over current practices. Small agencies will particularly benefit from certain provisions: The ability to designate certain nonprofessionals as mental health professionals and mental health specialists. Such individuals may not have had graduate school education but have demonstrated unusual ability and/or experience in the field; reduced administrative requirements (e.g., policy and procedures, service descriptions, etc.) will eliminate burdens from small agencies; and the decreased emphasis on establishing separate program cost centers will make it easier for small agencies to provide services more flexibly.

**Presolicitation and Research Efforts:** Convened a drafting committee with representation from key industry groups and constituencies. Drafting committee met one to two times per month for a year.

Distributed five drafts to the mental health community and sought comments from community members. Hundreds of comments were received, reviewed and many were incorporated in subsequent drafts.

Mental health division staff met with interested constituents and trade groups to discuss concerns with the new WAC.

**Cost Comparison of Proposed and Current WAC:** As noted in Table 1, it appears that the new WAC results in significant savings for providers which more than offset increases from new expectations.

**Hearing Location:** OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on September 27, 1994, at 10:00 a.m.

If you need sign language assistance, contact Office of Vendor Services by September 13, 1994, TDD 753-4595 or SCAN 234-4595.

**Assistance for Persons with Disabilities:** Contact Office of Vendor Services by September 13, 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 September 20, 1994.

**Date of Intended Adoption:** September 27, 1994.

August 17, 1994  
 Rosemary Carr  
 for Dewey Brock, Chief  
 Office of Vendor Services

**Chapter 275-57 WAC**  
**COMMUNITY MENTAL HEALTH PROGRAMS**

**NEW SECTION**

**WAC 275-57-010 Purpose and authority.** The purpose of chapter 275-57 WAC is to implement a locally-managed community mental health program to help people experiencing mental disorders retain or gain respected and productive positions in their community or, when appropriate, to achieve and maintain their optimal level of functioning. This chapter replaces chapter 275-56 WAC and establishes rules and regulations for regional support networks (RSNs), prepaid health plans (PHPs), licensed service providers, information, accountability, contracts, and services. The department's legal authority for adopting this chapter is chapter 71.24 RCW.

(1) Compliance with the rules and regulations for RSN duties shall be phased in according to the contract with the department. The department shall apply all rules and regulations in this chapter pertaining to RSNs to non-RSN counties, unless noted otherwise. Rules and regulations for RSNs are specified in sections 050 through 170 of this chapter.

(2) Compliance with the rules and regulations for PHP duties shall be phased in according to the contract with the department. PHPs shall also be certified as an RSN or licensed as a provider. Rules and regulations for PHPs are specified in sections 150 through 260 of this chapter. If the PHP is not an RSN, sections 070 through 120 shall also apply to the PHP.

(3) Rules and regulations for licensed service providers which provide services under contract to a PHP or RSN are specified in sections 030 and 270 through 450 of this chapter.

(4) Rules and regulations for licensed providers which do not contract with either an RSN or PHP are specified in sections 030, 270 through 380, and applicable services as described in sections 400 through 450.

**NEW SECTION**

**WAC 275-57-020 Definitions.** (1) "**Acutely mentally ill**" means a condition limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020(2) or in the case of a child, as defined in RCW 71.34.020(12);

(b) Being gravely disabled as defined in RCW 71.05.020(1) or, in the case of a child, as defined in RCW 71.34.020(8); or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020(3) or, in the case of a child, as defined in RCW 71.34.020(11).

(2) "**Allied service providers**" means providers of social services not licensed under this chapter, but serving RSN consumers. These include, but are not limited to, child and family services, alcohol and substance abuse services, vocational rehabilitation services, developmental disability services, and schools.

(3) "**Certified marriage and family therapist**" means a person certified to practice marriage and family therapy under RCW 18.19.130.

(4) "**Certified mental health counselor**" means a person certified to practice mental health counseling under RCW 18.19.120.

(5) "**Certified social worker**" means a person certified to practice social work under RCW 18.19.110.

(6) "**Child**" means a person seventeen years of age or younger.

(7) "**Chronically mentally ill adult**" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months.

(8) "**Clinical services**" means those direct age and culturally appropriate consumer services which either:

(a) Assess a consumer's condition, abilities, or problems; or

(b) Provide therapeutic interventions which are designed to ameliorate psychiatric symptoms and improve a consumer's functioning.

(9) "**Consumers**" means persons, couples, or families who are eligible to or are receiving clinical, coordinative, or support services.

(10) "**Consultation**" means review and recommendations regarding the job responsibilities, activities, or decisions of administrative, clinical or clerical staff, contracted employees, volunteers, or students by persons with appropriate knowledge and experience to make recommendations.

(11) "**Crisis**" means a situation where a person is acutely mentally ill or experiencing serious disruption in cognitive, volitional, psychosocial, or neurophysiological functioning.

(12) "**Cultural competence**" means a set of congruent behaviors, attitudes, and policies that come together in a system or agency and enable that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates at all levels the importance of language and culture, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, expansion of cultural knowledge and adaptation of services to meet culturally unique needs.

(13) "**Department**" means the department of social and health services.

(14) "**Disabled**," for the purposes of this chapter only, means an individual with a developmental disability, serious physical impairment, or sensory impairment.

(15) "**Elderly**" means a person sixty years of age or older.

(16) "**Employment services**" means supported employment, transitional work, placement in competitive employment, and other work-related services that result in persons with a mental illness becoming engaged in meaningful and gainful full-time or part-time work.

(17) "**Enrolled recipient**" means, for purposes of a prepaid health plan (PHP), a person eligible for Medicaid

services, and eligible to receive community mental health rehabilitation services.

(18) "**Fair hearing**" means an adjudicative proceeding as defined under chapter 34.05 RCW.

(19) "**Gravely disabled**" means a condition where a person, as a result of a mental disorder:

(a) Is in danger of serious physical harm resulting from a failure to provide for such person's essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning;

(i) Evidenced by repeated and escalating loss of cognition or volitional control over such person's actions; and

(ii) Is not receiving such care as is essential for such person's health or safety.

(20) "**Individualized plan**" means a plan developed by the provider in collaboration with the consumer and others providing supports to the consumer. The individualized plan:

(a) Is developed with the consumer and people who know the consumer best;

(b) Focuses on and enhances consumer strengths as defined by the consumer;

(c) Is flexible and responsive to the consumer's changing needs; and

(d) Focuses on meeting those basic needs that persons of similar age, gender, and culture have.

(21) "**Integrated work setting**" means a setting which offers regular contact with nondisabled coworkers and includes social interaction and integration at the work site.

(22) "**Licensed provider**" means an agency licensed by the department under this chapter.

(23) "**Limited-English proficient**" means persons applying for or receiving services from the department or its contractors who have difficulty understanding what an English speaking staff person says or who have trouble being understood by the English speaking staff person.

(24) "**Mental disorder**" means organic, mental, or emotional impairment having substantial adverse effect on an person's cognitive or volitional functions.

(25) "**Mental health professional**" means:

(a) A physician or osteopath licensed under chapter 18.57 or 18.71 RCW, who is board eligible in psychiatry;

(b) A psychologist licensed under chapter 18.83 RCW;

(c) A psychiatric nurse, which means a registered nurse licensed under chapter 18.88 RCW and having at least two years' experience in the direct treatment of mentally ill persons;

(d) A person having at least a masters degree in behavioral sciences, social work, nursing sciences, or related field from an accredited college or university and having at least two years' experience in the direct treatment of mentally ill persons;

(e) A mental health counselor, social worker, or marriage and family therapist certified under chapter 18.19 RCW and having at least two years' experience in the direct treatment of mentally ill persons; or

(f) A person otherwise qualified to perform the duties of a mental health professional but does not meet the requirements listed in (a) through (e) of this subsection, where the department has granted an exception to such requirements upon review of a written request by the RSN or PHP involved.

(26) "**Minority**" or "**ethnic minority**" or "**racial/ethnic groups**" means any of the following general population groups:

(a) African American; or

(b) An American Indian or Alaskan native, which includes:

(i) An enrolled Indian:

(A) A person enrolled or eligible for enrollment in a recognized tribe;

(B) A person determined eligible to be found Indian by the secretary of the interior; and

(C) An Eskimo, Aleut, or other Alaskan native.

(ii) A Canadian Indian: A person being a member of a treaty tribe, Metis community, or nonstatus Indian community from Canada.

(iii) An unenrolled Indian: A person considered Indian by a federally or nonfederally recognized Indian tribe or off reservation Indian/Alaskan native community organization;

(c) Asian or Pacific Islander; or

(d) Hispanic.

(27) "**Nonclinical services**" means those services designed to support the consumer and facilitate community living and do not require licensing under this chapter. Nonclinical services include, but are not limited to:

(a) Peer support and advocacy;

(b) Assistance accessing or locating services;

(c) Help with daily living; and

(d) Provision of transportation.

(28) "**Prepaid health plan (PHP)**" means an organization that provides and/or pays for Medicaid mental health services provided to an eligible enrolled consumer for a prepaid capitated rate under the terms of a department contract.

(29) "**Priority populations**" means:

(a) Acutely mentally ill adults and children;

(b) Chronically mentally ill adults;

(c) Severely emotionally disturbed children; or

(d) Seriously disturbed adults and children at risk of becoming acutely or chronically mentally ill, or seriously emotionally disturbed, as determined by the RSN at their sole discretion.

(30) "**Primary care provider (PCP)**" means a person with primary responsibility for implementing the individualized plan for community mental health rehabilitation services with the enrolled recipient.

(31) "**Provider**" means licensed provider as defined under this chapter.

(32) "**Regional support network (RSN)**" means a county authority or group of county authorities recognized by the secretary that enter into joint operating agreements to contract with the secretary under this chapter.

(33) "**Research**" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, by scientific research organization, or by a graduate student currently enrolled in an advanced academic degree curriculum, with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This shall not include program evaluation conducted for internal monitoring or review purposes.

(34) "**Seriously disturbed person**" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to oneself or others as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in RCW 71.05.020, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(35) "**Severely emotionally disturbed child**" means a child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a mentally ill or inadequate caretaker;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(36) "**Substantial gainful activity**" means work involving significant physical or mental activities done for pay or profit. For the purposes of this chapter only, substantial gainful activity also means:

(a) For children, the ability to productively participate in educational activities;

(b) For elderly, retired persons, the ability to manage retirement income and activities of daily living; and

(c) For persons disabled due to physical impairment, the ability to manage disability income and activities of daily living.

(37) "**Supervision**" means regular monitoring of the administrative, clinical, or clerical work performance of staff, students, volunteers, or contracted employees by persons with the authority to give direction and require change.

(38) "**Supported employment**" means competitive employment in an integrated work setting with ongoing support services and reasonable accommodations for persons

with mental illness, for whom competitive employment has not traditionally occurred or which has been interrupted.

(39) "**Transitional employment**" means competitive work in an integrated setting for persons with mental illness who may need support services (but not necessarily job skill training services) and reasonable accommodations, provided either at the work site or away from the work site. The job placement may not necessarily be a permanent employment outcome for the person.

(40) "**Tribal authorities**," for the purposes of this chapter and RCW 71.24.300, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary of the department insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.

(41) "**Underserved**" means persons who are:

(a) Minorities;

(b) Children;

(c) Elderly;

(d) Disabled; and

(e) Low-income persons.

#### NEW SECTION

**WAC 275-57-030 Waiver of rules.** (1) An RSN, PHP, licensed provider or applicant subject to the provisions of this chapter may seek a waiver of any requirement of this chapter by completing and submitting forms furnished by the department. The RSN, PHP, licensed provider, or applicant shall ensure the waiver request includes:

(a) The specific section for which the waiver is being requested;

(b) A description of the hardship or opportunity for service improvement to be addressed by the waiver;

(c) A description of the plan to achieve compliance, or to implement, test, and report results of a possible service improvement;

(d) Duration requested for the waiver;

(e) For agencies contracting with an RSN or PHP, a statement by the RSN or PHP recommending approval for the request;

(f) Recommendations, if any, from the quality review team or ombuds staff, as defined in sections 150 and 160 of this chapter; and

(g) A description of how consumers shall be notified of changes made as a result of the waiver.

(2) Upon receipt of a request for waiver, the department shall consider:

(a) Impact on accountability, accessibility, efficiency, consumer satisfaction, and quality of care;

(b) Degree of noncompliance sought; and

(c) Whether the requirement is also in statute and therefore may not be waived.

(3) The department shall respond to the waiver request in writing within thirty days of receipt of the request.

(a) If the waiver is granted, the department shall issue a notice which includes:

(i) Section or subsection waived;

(ii) Conditions;

(iii) Duration of the waiver which shall in no case extend past the date of renewal of the agency license or RSN certification;

(iv) Notification that the waiver shall be subject to review and possible renewal, if requested.

(b) If the department denies the waiver, the department shall ensure the notice includes reasons for the decision.

(4) The RSN, PHP, licensed provider, or applicant may appeal the denial of a waiver request to the secretary in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

#### NEW SECTION

**WAC 275-57-040 Department responsibilities and duties.** The department shall:

(1) Comply with duties as specified under chapter 71.24 RCW;

(2) Coordinate state mental health policy and advocate to promote age and culturally competent services for consumers;

(3) Maintain minimum service delivery standards. Under such standards, the department shall license and certify providers and certify RSNs. In licensing and certification reviews, the department shall:

(a) Coordinate reviews with other audits and inspections of the state and RSNs to minimize overlap and duplication of effort;

(b) Evaluate the effectiveness of local processes which address consumer satisfaction, enable consumer needs to be met, and provide for prudent expenditure of public funds; and

(c) Have reasonable access at reasonable times to the records of RSNs, PHPs, and licensed providers.

(4) Establish and implement outcome-based contracts with RSNs and PHPs;

(5) Develop and implement an outcome-based plan in collaboration with consumers, families, RSNs, providers, and diverse communities. The department shall ensure the plan is periodically reviewed and resources applied toward its implementation;

(6) Be designated as the county authority if a county or RSN fails to significantly meet contractual requirements or minimum standards or chooses not to exercise responsibilities under RCW 71.24.045;

(7) Be designated as the PHP if:

(a) An RSN or provider is not available to serve as the PHP; or

(b) The department can administer community mental health rehabilitation services more efficiently and cost effectively than other available RSNs or providers without loss of quality of care. Evidence that it would be more efficient and cost effective than other available RSNs or providers includes, but is not limited to, lower administrative costs, lower unit cost for comparable services, higher productivity, and increased service quality.

(8) Implement policies to maximize system efficiency and resources which go to services. The department shall assess new policies in terms of intended results and cost-effectiveness;

(9) Advocate for cross-system collaboration and sharing of resources for consumers served by multiple systems;

(10) Support and promote technical assistance, community education, stigma reduction, training and research; and

(11) Maintain an effective, internal quality improvement process to assess and improve the above requirements of this section.

#### NEW SECTION

**WAC 275-57-050 Regional support networks—General responsibilities and duties.** The RSN shall:

(1) Comply with duties as specified under chapter 71.24 RCW.

(2) Identify the single point of responsibility to administer and provide community mental health services to priority populations;

(3) Provide resource management services, as described in section 110 of this chapter;

(4) Provide, or ensure the provision of, crisis response services as described in section 390 of this chapter;

(5) Provide, or ensure the provision of, a full array of brief intervention and community support services, including residential services, as described in sections 400 through 450, and 470 of this chapter;

(6) Meet the terms of the state department contract;

(7) Require its contractors and their subcontractors to comply with applicable requirements of the contract with the department;

(8) Contract for clinical services only with licensed service providers or providers licensed under chapters 18.57, 18.71, 18.83 or 18.88 RCW. If the department notifies the RSN of a provider's failure to attain or maintain licensure, the RSN shall terminate its contract with that provider;

(9) Operate as a licensed provider only when:

(a) Another provider is not available to provide the mental health services; or

(b) The RSN demonstrates to the department that it can provide the mental health services more efficiently and cost effectively than other available providers without loss of quality of care. Evidence that it would be more efficient and cost effective than other available providers includes, but is not limited to:

(i) Lower administrative costs;

(ii) Lower unit cost for comparable services;

(iii) Higher productivity; and/or

(iv) Increased service quality.

(10) Notify the department of observations indicating that providers may not be in compliance with licensing requirements. The RSN shall maintain written report of its evaluations and audits of providers for department inspection;

(11) Allow the department reasonable access at reasonable times to RSN records;

(12) Collaborate with and make reasonable efforts to obtain and use nonclinical resources in the community to maximize services to consumers; and

(13) Educate the community regarding mental illness to diminish stigma.

NEW SECTION

**WAC 275-57-060 Regional support networks—Recognition and certification.** (1) A county or group of counties desiring recognition as a regional support network (RSN) shall submit to the department:

- (a) A statement of intent for recognition as an RSN;
  - (b) Documentation showing a total RSN population greater than forty thousand;
  - (c) For RSNs of more than one county, or RSNs encompassing tribal authority or authorities, documentation of interlocal agreements, including:
    - (i) Identification of a single authority;
    - (ii) Assignment of all responsibilities to specified parties; and
    - (iii) Participation by tribal authorities in the agreement, where applicable; and
  - (d) A preliminary plan completed according to departmental guidelines;
- (2) Within thirty days of application, the department shall provide written response either:
- (a) Recognizing the RSN; or
  - (b) Denying recognition and stating the reasons for denial under subsection (1) of this section.
- (3) The department's recognition and initial certification of an RSN shall depend on the RSN meeting the standards for planning and provision of services specified in this chapter.
- (4) The department shall conduct a survey to renew RSN certification before each biennial contract between the department and the RSN.

NEW SECTION

**WAC 275-57-070 Regional support networks—Penalties for noncompliance.** The department may impose penalties on RSNs for noncompliance.

- (1) An RSN's failure to provide the department with requested data, statistics, schedules, or information; filing of fraudulent reports; or failure to meet contractual terms may result in the following actions, under the RSN's contract with the department:
- (a) Withholding payment;
  - (b) Financial penalties;
  - (c) Suspension, revocation, limitation, or restriction of certification;
  - (d) Refusal to grant certification; or
  - (e) Other departmental action under chapter 71.24 RCW.
- (2) The department shall deny partial or full funding to RSNs based solely on findings of substantial noncompliance with the terms of the RSN's contract.

NEW SECTION

**WAC 275-57-080 Regional support networks—Governance and community accountability.** The RSN shall ensure services are responsive in an age and culturally appropriate manner to the mental health needs of its community, within available resources. The RSN shall:

- (1) Establish a governance structure which includes, where applicable, representation from tribal authorities, consistent with chapter 71.24 RCW.
- (2) Appoint an RSN advisory board which shall:

- (a) Be broadly representative of the demographic character of the region and the mentally ill persons served. By December 31, 1995, fifty-one percent of the members of the advisory board will include:

- (i) Consumers or past consumers of public mental health services; and

- (ii) Family or foster family members of consumers, including parents of emotionally disturbed children.

- (b) Review and comment on plans, budgets, and policies developed by the RSN to implement the requirements of chapter 71.24 RCW and this chapter. The RSN advisory board shall forward its comments to the RSN governance body and elected officials responsible for the mental health program;

- (3) Develop and implement an outcome-based biennial plan in accordance with department guidelines. In developing the plan, the RSN shall:

- (a) Seek and incorporate input concerning service needs and priorities from community stakeholders, including:

- (i) Consumers;
- (ii) Family members;
- (iii) Culturally diverse communities and tribal authorities;

- (iv) Social service agencies;

- (v) Organizations representing persons with a disability; and

- (b) Identify trends and address service gaps, including specialized services for underserved groups.

- (4) Periodically review the biennial plan and ensure resources are applied in support of its goals and outcomes.

NEW SECTION

**WAC 275-57-090 Regional support networks—Financial management.** (1) The RSN shall prudently manage public resources and shall employ accounting procedures that:

- (a) Are consistent with applicable state and federal requirements and generally accepted accounting principles (GAAP); and

- (b) Enable accurate reporting of revenues and expenditures in a form as issued by the department.

- (2) The RSN shall require specific accounting and auditing procedures from agencies contracting with the RSN to ensure the RSN shall meet its reporting requirements to the department. The RSN may choose not to apply these accounting and auditing requirements to agencies when:

- (a) The contractor is a small contractor, as defined by the RSN, and the RSN is able to account for the expenditure of such funds;

- (b) RSN payments to a contractor are below a specified proportion of the contractor's total receipts, as determined by the RSN; or

- (c) The contract reimbursement mechanisms are specifically tied to units of service or episodes of care, and pricing has been competitively determined or is comparable to prices paid by other purchasers of comparable services.

- (3) The RSN shall expend funds received by the department in accordance with its contract with the department. The RSN shall not expend funds received by the department for any purpose other than those purposes that are intended to achieve:

(a) The performance and outcome terms of its contract with the department; and

(b) Compliance with the requirements of this chapter and chapters 275-54 and 275-55 WAC, chapters 71.05, 71.24, and 71.34 RCW, and the intentions of the State Appropriations Act.

(4) The RSN shall deliver and/or purchase goods and services prudently. The RSN shall comply with this requirement by:

(a) Purchasing all services consistent with state or county procurement procedures;

(b) Employing contract reimbursement mechanisms which ensure payments are tied to outcome and performance requirements in the RSN's contract with the department;

(c) Employing reimbursement pricing strategies which result in the highest level of desired performance, outcome and quality for the least cost. Examples of reimbursement pricing strategies which meet this requirement include:

(i) Competitive pricing, in which proposed prices for a specific package of services are compared among many providers;

(ii) Actuarial analysis, in which capitated payment levels are determined through analysis of comparative service and payment databases; and

(iii) Zero-based cost analysis, in which the price of a package of services is developed by determining the reasonable cost of the components required to deliver that package of services.

(5) The RSN shall manage assets of the RSN under applicable state and federal requirements and generally accepted accounting principles (GAAP) and under the following additional specific requirements:

(a) Assets of the RSN include all property, equipment, vehicles, buildings, capital reserve funds, operating reserve funds, risk reserve funds, or self insurance funds.

(b) Interest accrued on funds stated in this section shall be accounted for and retained for use by the RSN for purposes in subsection (3) of this section;

(c) Property, equipment, vehicles, and buildings shall be properly inventoried with a physical inventory conducted at least every two years. Proceeds from the disposal of any assets shall be retained by the RSN for purposes in subsection (3) of this section.

#### NEW SECTION

**WAC 275-57-100 Regional support network—Awareness of services.** The RSN, or its designee, shall:

(1) Maintain listings of services in telephone and other public directories of the service area. The RSN, or its designee shall prominently display listings for crisis services in telephone directories;

(2) Publish and disseminate brochures and other materials or methods for describing services and hours of operation that are appropriate for all individuals, including those who may be visually impaired, limited-English proficient, or unable to read.

(3) Post and make information available to consumers regarding the ombuds service, under section 160 of this chapter, and local advocacy organizations that may assist consumers in understanding their rights.

#### NEW SECTION

**WAC 275-57-110 Regional support networks—Resource management.** The RSN shall establish mechanisms which maximize access to and use of mental health services, and ensure people receive appropriate levels of care. The RSN shall:

(1) Develop, implement, and enforce culturally competent written criteria for admissions, placements, transfers, and discharges to and from:

(a) Brief intervention services;

(b) Community support services, including residential services; and

(c) Inpatient services funded by the department or RSN, including:

(i) State hospitals;

(ii) Community psychiatric hospital services; and

(iii) Free standing evaluation and treatment facilities.

(2) Regularly manage utilization through a process independent of direct service providers. The RSN shall collect and analyze data regarding which consumers receive brief intervention and community support services. The RSN shall take measures to ensure:

(a) Providers implement the criteria described in subsection (1) of this section.

(b) Consumers in need of brief intervention and community support services receive medically necessary services;

(c) Consumers in brief intervention and community support services receive sufficient but not excessive services;

(d) Services are appropriate to the needs of the person and address:

(i) Age;

(ii) Culture; and

(iii) Disability.

(e) Consumers whose needs are not met through routinely available services receive flexible, individualized services, including consumer-operated services, if appropriate.

(3) Provide resource management services for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment (EPSDT) program as specified in contract with the department.

(4) Develop and implement formal agreements with inpatient services funded by the department or RSN (i.e., state psychiatric hospitals, local evaluation and treatment facilities, and other local inpatient psychiatric facilities) regarding:

(a) Referrals;

(b) Admissions; and

(c) Discharges, including RSN responsibility for discharge planning for consumers residing at the state hospitals.

(5) Identify a single person with primary responsibility for implementation of each consumer's individualized plan. The consumer shall have the right to choose a primary care provider from the primary care providers available.

(6) Ensure access to seven-day-a-week, twenty-four-hour-a-day availability of information regarding mentally ill adults and children receiving services and their individualized plans to county-designated mental health professionals, evaluation and treatment facilities, and others as determined

by the RSN and consistent with section 360 of this chapter, confidentiality of consumer information.

(7) Specify in contract the delegation of the duties described in this section when such duties are assigned to a subcontractor.

#### NEW SECTION

**WAC 275-57-120 Regional support networks—Management information.** RSNs and their subcontractors shall report required management information to the department. To this end, the RSN shall operate an information system and ensure information for persons receiving mental health services funded by public dollars is reported to the state mental health information system, according to departmental guidelines.

(1) The department and the RSN shall use the mental health information system for state-wide and/or RSN management reports and for locating case managers.

(2) The department, RSN, and provider shall maintain confidentiality of information contained in the mental health information system according to this chapter and chapters 70.02, 71.05 and 71.34 RCW.

(a) The RSN shall ensure all RSN, county, or provider staff having access to the mental health information systems are instructed in the confidentiality requirements.

(b) The RSN, county, or provider shall maintain on file a statement signed by the staff acknowledging understanding and agreement to abide by these requirements.

(c) The department shall ensure violation of confidentiality of information shall result in appropriate disciplinary or civil action, as described in chapter 71.05 RCW.

#### NEW SECTION

**WAC 275-57-130 Regional support networks—Staff qualifications.** The RSN shall employ and retain respectful, effective staff. To this end, the RSN shall:

(1) Maintain job descriptions with qualifications for each position. Staff shall have education, experience, or skills relevant to job requirements; and

(2) Provide orientation and ongoing training in the skills pertinent to the position and the treatment population, including age and culturally competent consultation with consumers, families, and community members.

#### NEW SECTION

**WAC 275-57-140 Regional support networks—Housing.** The RSN shall actively promote consumer access to, and choice in, safe, decent, and affordable housing, which is integrated into the community and appropriate to the age, culture, and residential needs of the person. The RSN shall:

(1) Designate staff knowledgeable in and responsible for housing-development activities;

(2) Maintain an inventory of housing stock for consumers;

(3) In cooperation or partnership with interested parties and financial institutions, promote access to and use of community housing available to consumers, including:

(a) Ownership or leases by the RSN or its providers;

(b) Agreements between landlords and the RSN or its providers;

(c) Securing HUD Section 8 or other rental subsidies, including rental subsidies provided directly by the RSN;

(d) Loans or grants for low-income or special need housing by federal, state or local funding sources; or

(e) Other means.

(4) Emphasize housing:

(a) With less than nine units;

(b) Which provides for maximum integration of consumers into the community and avoids concentration of individuals with severe and persistent mental illness in a single location.

#### NEW SECTION

**WAC 275-57-150 Regional support networks and prepaid health plans—Quality improvement.** The RSN or PHP shall establish a process responsive to the demographic character of the RSN or PHP to improve service quality and promote customer satisfaction.

(1) **Quality Improvement Process.** The RSN or PHP shall develop and implement a quality improvement process as approved by the department and set forth in the terms of the contract between the department and the RSN or PHP.

(2) **Quality Review Team.** The RSN or PHP shall:

(a) Establish and maintain a quality review team responsive to the demographic character of the RSN and as set forth in the terms of the contract between the department and the RSN or PHP. The department and RSN or PHP shall include representatives of consumer and family advocate organizations when revising contract terms regarding the requirements of this section; and

(b) Take measures to assure the quality review team can fairly and independently execute the team's duties.

(3) The quality review team shall:

(a) Regularly review provider and RSN or PHP performance; and

(b) Meet with interested consumers and family members, allied service providers, and persons reflecting the age and ethnic diversity of the RSN to:

(i) Determine whether services are accessible and address the needs of consumers; and

(ii) Work with interested consumers, service providers, the RSN or PHP, and the department to resolve identified problems.

#### NEW SECTION

**WAC 275-57-160 Regional support networks and prepaid health plans—Ombuds service.** The RSN or PHP shall establish a service responsive to the age and demographic character of the region to assist and advocate for consumers with complaints and grievances concerning services.

(1) The RSN or PHP shall establish an independent ombuds service, as set forth in this section and contract between the department and the RSN or PHP. The department and RSN or PHP shall include representatives of consumer and family advocate organizations when revising contract terms regarding the requirements of this section.

(2) The RSN or PHP shall ensure the ombuds service:

(a) Is independent of service provision;

(b) Receives consumer, family member, and other interested party complaints and assists in the complainant's

resolution with the consumer's consent, at the lowest possible level;

(c) For the purposes of outreach and resolving complaints, has access to consumers, service sites, and records relating to the consumer. The RSN or PHP shall ensure access to records is contingent upon written consent as described under this chapter; and

(d) Intercedes on behalf of consumers and family members and, at the consumer's request, in the complaint and grievance process.

(3) The ombuds service staff shall:

(a) Be accessible to all persons;

(b) Involve other persons, at the consumer's request;

(c) Assist consumers in the pursuit of informal resolution of complaints;

(d) If necessary, continue to assist the consumer through the grievance and, if applicable, fair hearing processes; and

(e) Maintain confidentiality consistent with this chapter.

#### NEW SECTION

**WAC 275-57-170 Regional support networks and prepaid health plans—Consumer grievances.** The RSN or PHP shall establish an age and culturally appropriate process for consumers to pursue grievances. To this end, a consumer or enrolled recipient aggrieved by a decision of an RSN, PHP or the department shall have the right to a fair hearing, as required under chapter 388-08 WAC. The RSN or PHP shall establish a grievance process which:

(1) Is published and made known to consumers who are current or potential users of community mental health rehabilitation services in a readily understandable language and manner;

(2) Give consumers the opportunity to report grievances, and have the grievances investigated, and resolved promptly;

(3) Ensures retaliation, formal or informal, against a grievant does not occur;

(4) Ensures the retention of full records of all grievances in confidential files, separate from the grievant's case records, for five years from completion of the grievance process;

(5) Ensures the availability of ombuds service staff to assist grievants at all levels of the grievance and fair hearing processes;

(6) May progress through levels as established by the RSN or PHP, beginning at the provider level and ending at the RSN or PHP governance board or the board's designee. The RSN or PHP shall:

(a) Ensure the entire process, from the written request for grievance up to the request for fair hearing, shall not exceed thirty days. If the consumer orally reports a grievance, the RSN or PHP shall promptly refer the consumer to the ombuds service for assistance in writing the request; and

(b) Notify the grievant in writing of the reason for the decision and the right to request a fair hearing;

(7) Allows the participation of other persons, at the grievant's choice; and

(8) Allows the grievant to request a fair hearing when the grievance concerns eligibility, enrollment or disenrollment, or the medical necessity for services, and when the:

(a) Grievance decision is adverse to the grievant;

(b) RSN or PHP does not respond, in writing, within thirty days from the date the grievant submitted the grievance in writing; or

(c) RSN or PHP denies an enrolled recipient urgently needed community mental health rehabilitation services and the enrolled recipient files a grievance in writing.

#### NEW SECTION

**WAC 275-57-180 Prepaid health plans—Purpose.** For contracts effective on or after October 1, 1993, the department may contract with prepaid health plans (PHPs) to:

(1) Provide community mental health rehabilitation services directly to an enrolled recipient; or

(2) Arrange for an enrolled recipient to receive community mental health rehabilitation services according to the contract between the department and a PHP.

#### NEW SECTION

**WAC 275-57-190 Prepaid health plans—Eligible consumers.** (1) The department shall enroll a Medicaid recipient in a PHP when the person resides in the PHP's contracted service area. The community services office (CSO) shall designate a person's residence in the Title XIX eligibility record.

(2) An enrolled recipient requesting or receiving medically necessary nonemergency community mental health rehabilitation services shall request and receive such services from the assigned PHP.

#### NEW SECTION

**WAC 275-57-200 Prepaid health plans—Exemptions.** (1) The department shall not require a person to enroll or continue enrollment in a PHP when the person has good cause for exemption.

(2) A person requesting an exemption from enrolling in the designated PHP shall file a request with the department. The department shall, in writing, timely notify the person of the exemption decision and the reasons for the decision.

(3) The person may request a fair hearing when the person is not satisfied with the department's decision regarding exemption.

#### NEW SECTION

**WAC 275-57-210 Prepaid health plans—Enrolled recipient's choice of primary care provider.** (1) Each enrolled recipient receiving nonemergency community mental health rehabilitation services shall have a primary care provider (PCP). For an enrolled recipient with an assigned case manager, the PCP shall be the case manager.

(2) An enrolled recipient requesting or receiving community mental health rehabilitation services shall have the right to choose a PCP from the available PCP staff in the PHP.

(3) A PHP shall assign an enrolled recipient to a PCP when the enrolled recipient requests community mental health rehabilitation services and does not choose a PCP in the PHP.

(4) A person enrolled in a PHP shall have the right to change the person's PCP:

- (a) One time during a calendar year for any reason;
- (b) For subsequent changes during the calendar year, only for documented good cause; and
- (c) By notifying the PHP of the:
  - (i) Desired change, including the name of the new PCP; and
  - (ii) Reason for a desired change.

NEW SECTION

**WAC 275-57-220 Prepaid health plans—Other services.** (1) The department shall pay for mental health or other services covered under the department's medical care programs that are excluded from the community mental health rehabilitation services managed care contract.

(2) The department's mental health or ancillary services may include, but are not limited to:

- (a) Transportation as described under WAC 388-86-085; and
- (b) Inpatient services.

NEW SECTION

**WAC 275-57-230 Prepaid health plans—Emergency services.** The department shall exempt emergencies and transportation for emergencies required by the enrolled recipient within the PHP from any routine pre-service authorization procedures employed by the PHP.

NEW SECTION

**WAC 275-57-240 Prepaid health plans—Consumer request for a second opinion.** An enrolled recipient in a PHP shall have the right to a second opinion by another participating staff in the enrolled recipient's assigned PHP:

(1) When the enrolled recipient needs more information as to the medical necessity of treatment recommended by the PCP; or

(2) If the enrolled recipient believes the PCP is not authorizing medically necessary community mental health rehabilitation services.

NEW SECTION

**WAC 275-57-250 Prepaid health plans—Enrollment termination.** (1) The department may terminate enrollment of a enrolled recipient in a PHP when:

- (a) An enrolled recipient loses eligibility for Title XIX categorically needy and medically needy services;
- (b) An enrolled recipient requests disenrollment from the PHP, and the department approves the request; or
- (c) A PHP requests, in writing, to the department the disenrollment of the enrolled recipient from the PHP and the PHP's requested disenrollment is approved by the department.

- (2) The department shall:
  - (a) Disenroll only when the enrolled recipient:
    - (i) Is no longer eligible for Title XIX categorically and medically needy services;
    - (ii) Is deceased; or
    - (iii) Requests disenrollment from the PHP and meets the requirements of WAC 275-57-200.
  - (b) Make a decision on the requested disenrollment within fifteen days of the receipt of the request; and

(c) Notify the enrolled recipient ten days in advance of the effective date of the proposed disenrollment for any approved disenrollment.

NEW SECTION

**WAC 275-57-260 Prepaid health plans—Audit.** (1) At least once a year, the department shall conduct a PHP audit to promote the quality and accessibility of community mental health rehabilitation services a PHP provides or arranges for enrolled recipients. When reasonable, the audit shall coincide with the certification and licensure reviews of RSNs and providers.

(2) The PHP shall permit the department to conduct an audit.

(3) The department may conduct or contract independently for such an audit.

NEW SECTION

**WAC 275-57-270 Licensing procedures for service providers—Application and approval.** The department shall protect persons using licensed community mental health services by ensuring that the minimum standards under this chapter are uniformly applied and maintained statewide.

(1) Upon receipt of an inquiry concerning licensure of service under this chapter, the department shall provide written information to an interested party.

(2) A prospective applicant shall complete and return an application provided by the department and send a copy of the application to the RSN authority.

(3) The application shall identify the service components for which the applicant is requesting licensure. Licensed service components include:

- (a) Crisis response services (section 390);
- (b) Brief intervention services (section 400);
- (c) Case management services (section 420);
- (d) Residential services (section 430);
- (e) Employment services (section 440); and
- (f) Psychiatric and medical services (section 450).

(4) The RSN shall review the application and send written comments either recommending or not recommending licensure to the department with a copy to the applicant. If the RSN does not approve the application, the department shall not process the application. If the department does not receive a response from the RSN or designee within thirty days, the department shall proceed with the application. This subsection does not apply to agencies not contracting or intending to contract with an RSN or PHP.

(5) The department shall acknowledge receipt from the applicant of the application, the fee, and all required materials, including waiver requests.

(6) After required materials have been received, the department shall conduct an on-site review to collect information to determine if a provider is in compliance with the minimum standards of this chapter, as described in the application packet.

(7) At the exit interview, the department shall define a plan of corrective action, if necessary.

(8) The department shall provide written notification to the provider and the RSN within sixty days of the exit interview of one of the following:

(a) Provisional licensure for one year if the provider has:

(i) An acceptable detailed plan for the development and operation of the services;

(ii) The availability of administrative and clinical expertise required to develop and provide the planned services;

(iii) The fiscal management and existence or projection of resources to reasonably ensure stability and solvency; and

(iv) Signed a corrective action plan, if applicable, for any deficiencies.

(b) Denial of the application if there is not substantial compliance with the above.

(i) The department shall specify the reasons for denial in writing.

(ii) The department's notice of denial, revocation, suspension, or modification of a licensing decision is governed by chapter 43.20A.205 RCW as existing or hereafter amended. The provider's right to a fair hearing is described in same law.

(iii) A provider wanting to contest a department licensing decision shall, within twenty-eight days of receipt of the decision:

(A) File a written application for a fair hearing by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(B) Include in the application a specific statement of the issue or issues and law involved, the grounds for contesting the department decision, and a copy of the department decision being contested.

(iv) If licensure is denied, the applicant may reapply for licensure not earlier than six months following the date of notification of denial.

(9) Within one year of a provider's provisional licensure, the department may conduct another on-site visit to verify the correction of previously noted deficiencies, and review other requirements for licensure, as necessary.

#### NEW SECTION

**WAC 275-57-280 Licensing procedures for providers—Licensure status.** The department shall define the conditions under which a provider may receive and maintain a license. The department shall, based on findings of a licensure review, assign the provider, or specific services of the provider, one of the following licensure statuses:

**(1) Full licensure.**

(a) Under this status, the RSN or PHP may contract with the provider to provide those mental health services for which the provider is licensed.

(b) The department shall require the provider to submit and implement a plan of correction to resolve deficiencies, if present. The department may revoke the license if the provider does not implement the plan of correction.

(c) At any time the department receives information indicating the provider is not in compliance with minimum standards for community mental health programs, the department may conduct a licensure review and revoke the license if the review shows the provider is not in substantial compliance.

(d) If evidence indicates that the health and safety of the consumer is in danger, the department may suspend the license immediately.

**(2) Probationary licensure.**

(a) Under this status, the provider may be eligible to contract with the RSN or PHP on conditions specified by the department.

(b) To achieve full licensure, the provider shall demonstrate to the department that it has met the conditions of the probationary status.

(c) The provider shall request that the department review its corrective actions within six months of notification of probationary status or the department shall revoke its licensure.

(d) The department shall review the provider's corrective actions and make a redetermination of licensure status within six months of the date of the provider's request for review.

(e) The department shall only assign probationary status to a provider as an outcome of the department's first licensure review of a provider or a new provider service.

**(3) Provisional licensure.** Under this status, the provider may be eligible to contract with the RSN or PHP. The department may give a new provider or a provider planning to offer a new service a provisional license for up to one year as described under section 270 of this chapter.

**(4) Suspended license.**

(a) Under this status, the department may find the provider substantially out of compliance with minimum standards, or is jeopardizing consumer health and safety.

(b) The RSN or PHP shall not contract with a provider with a suspended license.

(c) To re-achieve full licensure, the provider shall demonstrate to the department that the provider has completed all required corrective actions and complies with relevant WAC.

(d) The provider may request that the department review its corrective actions within six months of notification of suspended status. In the absence of such request, the department shall revoke the provider's license.

**(5) Revoked license.**

(a) Under this status, the department removes the provider's license.

(b) The RSN or PHP shall not contract with a provider with a revoked license.

(c) To achieve full licensure, the provider shall make a new application as described under subsection (1) of this section.

**(6) Deemed status.**

A provider may request the department deem licensure, accreditation, or certification from another regulatory agency or accrediting organization equivalent to licensure by the department. "Deemed status" will be contingent on continued licensure, accreditation, or certification. Upon receipt of the request, the department shall consider:

(a) The extent to which requirements of the other regulatory agency or accrediting organization are pertinent to the services provided under this chapter;

(b) The extent to which the requirements of the other agency maintain, meet, or exceed the standards described under this chapter; and

(c) Whether the requirement is in statute and, therefore, may not be waived.

(7) A provider failing to attain licensure or whose licensure is revoked may re-apply for licensure not earlier than six months following the date of the department's notification.

(a) The provider shall ensure the application documents the actions the provider has taken to correct deficiencies found in the prior licensure review.

(b) If the application demonstrates the provider has substantially corrected deficiencies, the department shall schedule a licensure review to evaluate compliance with those standards previously unmet.

(8) The department shall determine a provider's license in effect for at least one year or until the department conducts a review for re-licensure or accreditation.

#### NEW SECTION

**WAC 275-57-290 Licensed service providers—Written schedule of fees.** The provider shall ensure consumers receive necessary mental health services, regardless of ability to pay the full rate.

(1) The provider, excepting services also licensed under chapters 248-14, 246-316 or 246-325 WAC, shall establish and use a sliding fee schedule approved by the department and based on the resources available to the consumer to pay for mental health services and the provider's actual cost of care.

(2) The department shall only approve sliding scale fee schedules not requiring payment from consumers with income levels equal to or below the grant standards for the general assistance program, as required under chapter 388-29-100 WAC.

(3) A provider shall ensure the fee schedule is posted and accessible to the provider's staff and consumers.

(4) A provider not contracting with an RSN or PHP shall maintain a sliding fee schedule in accordance with subsections (1) and (3) of this section.

#### NEW SECTION

**WAC 275-57-300 Licensed service providers—Quality assurance.** A provider shall maintain an internal process to improve quality of care.

(1) A provider shall develop and implement a quality assurance process which:

(a) Provides for at least an annual review of each staff member providing direct services, considering any complaints or grievances against the person;

(b) Reviews all serious incidents;

(c) Assesses the quality of intake evaluations; and

(d) Assesses the extent to which medications are effectively prescribed.

(2) A person providing mental health services shall not review their own work.

(3) A provider shall use collected data to correct deficiencies and improve services.

#### NEW SECTION

**WAC 275-57-310 Licensed service providers—Staff qualifications.** A provider shall employ and retain respectful, competent staff. The provider shall:

(1) Require that all clinical services be provided by a mental health professional or under the clinical supervision of a mental health professional as defined under section 020 of this chapter. The supervisor shall have two years' experience working with priority populations;

(2) Maintain job descriptions with qualifications for each position. Staff shall have education, experience, or skills relevant to the job requirements;

(3) Assure staff providing clinical services be, at a minimum, registered as counselors under chapter 18.19 RCW.

(4) Conduct a Washington State Patrol background check and reference check on all staff providing direct services;

(5) Orient direct service staff with less than one year's experience in providing community support services in skills pertinent to the position and the population served.

(a) The provider shall include training in:

(i) Characteristics of severe and persistent mental illness;

(ii) Effective age and culturally competent community support interventions relevant to the population served;

(iii) Psychopharmacology;

(iv) Advocacy and linking consumers to community resources;

(v) Working with and supporting families;

(vi) For staff providing crisis response services under section 390 of this chapter: crisis intervention and managing assaultive/suicidal behavior; and

(vii) For staff providing vocational services under section 440 of this chapter: training in vocational assessment and concepts of supported employment.

(b) Persons providing direct services to consumers shall complete this orientation within three months of employment. However, the RSN may waive the requirement for orientation in specific topics when the staff person can provide documentation to the RSN demonstrating training, knowledge, or experience in the waived topics.

(6) Provide annual training and staff development under an individualized training plan with time frames for each direct service staff person in the skills pertinent to the position and the population served. Such training includes consumers, families and community members as trainers. At minimum, the provider shall make training available in the following topics:

(a) Effective community support interventions;

(b) Providing individualized, needs-driven planning and services;

(c) Providing services responsive to the unique needs of underserved populations and other special populations. Examples of special populations are persons with mental illness who:

(i) Use high amounts of hospital services;

(ii) Receive services from multiple systems;

(iii) Are sexual minorities;

(iv) Abuse substances;

(v) Have a developmental disability;

- (vi) Are homeless; and
- (vii) Have AIDS or who are HIV positive.
- (d) Psychopharmacology;
- (e) Ethical behavior, including professional conduct and confidentiality.
- (7) Provide regular supervision. Supervision may include routine team case reviews; and
- (8) Conduct staff evaluations, at least annually.

#### NEW SECTION

**WAC 275-57-320 Licensed service providers—Qualifications appropriate to the needs of the consumer population.** The clinical qualifications of persons providing and/or supervising clinical services shall reflect the diverse needs of the consumer population.

(1) **Child mental health specialist.** The provider shall ensure services directed to children are provided by, under the supervision of, or with consultation from a child mental health specialist defined as:

(a) A mental health professional having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to:

- (i) The study of child development; and
- (ii) The treatment of seriously disturbed children and their families.

(b) Having the equivalent of one year of full-time experience in the treatment of seriously emotionally disturbed children and their families under the supervision of a child mental health specialist.

(2) **Geriatric mental health specialist.** The provider shall ensure services directed to the elderly are provided by, under the supervision of, or with consultation from a geriatric mental health specialist defined as:

(a) A mental health professional having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the problems and treatment of the elderly; and

(b) Having the equivalent of one year of full-time experience in the treatment of the elderly, under the supervision of a geriatric mental health specialist.

(3) **Ethnic minority mental health specialist.** The provider shall ensure services directed to ethnic minority consumers are provided by, under the supervision of, or with consultation from an ethnic minority mental health specialist defined as:

(a) A mental health professional having the equivalent of one year of full-time experience in the treatment of consumers in the ethnic minority group served; and

(b) Demonstrating cultural competence attained through major commitment, ongoing training, experience or specialization in serving ethnic minorities. In assessing such commitment, the department shall consider whether the individual meets two or more of the following:

(i) Evidence of one year of service specializing in serving the ethnic minority group under the supervision of an ethnic minority mental health specialist;

(ii) Evidence of support from the ethnic minority community attesting to the person's commitment to service to that community;

(iii) Citations of specific examples of the person's competence; or

(iv) Having completed a minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to ethnic minority issues and treatment of ethnic minority consumers.

(4) **Disability mental health specialist.** The provider shall ensure services directed to consumers with a disability shall be provided by, under the supervision of, or with consultation from a mental health specialist with special expertise in working with that disabled group.

(a) If the consumer is deaf, the specialist shall be a mental health professional knowledgeable of deaf culture and psychosocial problems, and able to communicate fluently in the preferred language system of the consumer.

(b) The specialist for consumers with developmental disabilities shall be a mental health professional who:

(i) Has at least one year's experience with people with developmental disabilities; or

(ii) Is a developmental disabilities professional.

(5) Where the mental health specialists required under this section are unavailable within the RSN, the RSN shall:

(a) Document effort to acquire the services of the required specialists; and

(b) Develop a training program using in-service training or outside resources to assist service providers to acquire necessary skills and experience to serve the needs of the consumer population. If a significant ethnic minority population, as defined by department guidelines, exists in the RSN, the RSN shall develop the training program to assist provider staff members to acquire the specialized training and supervision to become qualified specialists; or

(c) Contract or otherwise establish a working relationship with the required specialists to:

(i) Provide all or part of the clinical services for these populations; or

(ii) Supervise or provide consultation to staff members providing clinical services to these populations.

#### NEW SECTION

**WAC 275-57-330 Personnel management—Affirmative action.** The provider shall have an affirmative action program complying with:

(1) The Equal Pay Act of 1963;

(2) Title VII of the Civil Rights Act of 1964;

(3) Section 504 of the 1974 Rehabilitation Act;

(4) The Americans with Disabilities Act;

(5) The department's affirmative action guidelines; and

(6) Other applicable federal, state, and local laws and regulations.

#### NEW SECTION

**WAC 275-57-340 Consumer rights.** The provider shall ensure consumers are knowledgeable of and protected by certain rights.

(1) The provider shall ensure consumers, prospective consumers, and/or legally responsible others are verbally informed, in their primary language, of consumer rights at admission to brief intervention and community support services.

(2) The provider shall post a written statement of consumer rights in public areas, with a copy available to consumers on request. Providers of only telephone services

(e.g., crisis lines) shall post the statement of consumer rights in a location visible to staff and volunteers during working hours.

(3) The provider shall ensure the statement of consumer rights incorporates the following statement or a variation approved by the department: "You have the right to:

- (a) Be treated with respect and dignity;
- (b) Develop a plan of care and services which meets your unique needs;
- (c) Refuse any proposed treatment, consistent with the requirements in the Involuntary Treatment Acts, chapters 71.05 and 71.34 RCW;
- (d) Receive care which does not discriminate against you, and is sensitive to your gender, race, national origin, language, age, disability, and sexual orientation;
- (e) Be free of any sexual exploitation or harassment;
- (f) Review your case record;
- (g) Receive an explanation of all medications prescribed, including expected effect and possible side effects;
- (h) Confidentiality, as described in relevant statutes (chapters 70.02, 71.05 and 71.34 RCW) and regulations (chapters 275-54 and 275-55 WAC and this chapter); and
- (i) Lodge a complaint with the ombuds person, RSN or provider if you believe your rights have been violated. If you lodge a complaint or grievance, you shall be free of any act of retaliation. The ombuds person may, at your request, assist you in filing a grievance. The ombuds person's phone number is: \_\_\_\_\_."

#### NEW SECTION

**WAC 275-57-350 Consent to treatment and access to records.** This section defines the conditions for informed consent to treatment and enables a consumer to access a consumer's own records. To this end, the RSN and licensed providers shall protect and ensure the rights of all consumers and former consumers.

(1) Any minor over twelve years of age may request and receive treatment without consent of the minor's parents. Parental consent for evaluation and treatment services shall not be necessary in the case of a child referred by child protective services or other public agency because of physical, sexual, or psychological abuse or neglect by a parent or parent surrogate.

(2) The department, RSN, PHP, or provider shall presume an adult is competent to consent to treatment unless otherwise established.

(3) When the consumer, or the consumer's legally responsible other, requests review of case records, the provider shall:

- (a) Grant the request within seven days, unless the provider knows or has reason to believe the parent or parent surrogate has been a child abuser or might otherwise harm the child;
- (b) Review the case record in order to identify and remove any material confidential to another person;
- (c) Allow the consumer sufficient time and privacy to review the record. At the request of the consumer, a clinical staff member shall be available to answer questions;
- (d) Permit persons requested by the consumer to also be present; and

(e) Assess a reasonable and uniform charge for reproduction, if so desired.

(4) The department, RSN, PHP or provider shall obtain written, informed consent of the consumer or legally responsible other before:

- (a) Use of medication;
- (b) Use of unusual diagnostic or treatment procedures;
- (c) Use of audio and/or visual device to record the consumer's behavior; and
- (d) The consumer serves as a subject for research.

#### NEW SECTION

**WAC 275-57-360 Services administration—Confidentiality of consumer information.** The RSN, PHP, and provider shall ensure information about person consumers not be shared or released except as specified under statute and rule.

The RSN and the provider shall protect the confidentiality of all information relating to consumers or former consumers under all confidentiality requirements as defined in chapters 70.02, 71.05, and 71.34 RCW.

#### NEW SECTION

**WAC 275-57-370 Research—Requirements.** (1) The RSN, PHP, or provider shall conduct research involving human subjects in accordance with 45 CFR, Part 46, Protection of Human Subjects.

(2) An institutional review board (IRB), as defined in chapter 70.02.010 RCW, shall review and approve research prior to contact with subjects.

(3) The RSN, PHP, or provider shall ensure disclosure of patient records without written consent adheres to requirements in chapters 42.48, 70.02, 71.05.390, 71.05.630, and 71.34 RCW.

(4) The RSN, PHP, or provider shall require certification that proposed research has IRB approval before allowing research activities to commence.

#### NEW SECTION

**WAC 275-57-380 Licensed service providers—Accessibility.** The provider shall ensure services are easily accessible to consumers. The provider shall make services readily accessible to consumers when and where they are needed and shall reduce or eliminate barriers to service. The provider shall ensure:

- (1) Facilities in which services are provided comply with the Americans with Disabilities Act;
- (2) Services are compatible with the culture and in the language of ethnic minority consumers where a significant ethnic minority population, as defined by department guidelines, exists in the RSN;
- (3) Alternative service delivery models are provided, where possible, to enhance utilization by underserved groups;
- (4) Access to TDD or other telecommunication device or service, and certified interpreters for deaf or hearing impaired consumers; and
- (5) Services are brought to the consumer or located at sites where transportation is available to consumers.

NEW SECTION

**WAC 275-57-390 Crisis response services.** The RSN, or its designee, shall provide an integrated crisis response system (CRS) twenty-four-hours-a-day and seven-days-a-week, serving persons of all ages and cultures in crisis. When direct intervention is necessary, the RSN shall, when possible, bring services directly to the person in crisis, stabilizing and supporting the person until the crisis is resolved or a referral made. The RSN shall:

- (1) Provide telephone screening which:
  - (a) Includes a prominently displayed phone number in the emergency and white page sections of the local phone directory;
  - (b) Ensures all phone calls are answered by people and not recordings; and
  - (c) Limits busy signals.
- (2) Ensure the least restrictive resolution of the crisis by providing the following services twenty-four-hours-a-day and seven-days-a-week:
  - (a) Initial screening and assessment to determine:
    - (i) Whether the crisis has a mental disorder basis; and
    - (ii) Course of action to resolve the crisis.
  - (b) Mobile outreach to:
    - (i) Conduct face-to-face evaluations; and
    - (ii) Provide in-home or in-community stabilization services, including flexible supports to the person where the person lives. The CRS shall continuously provide stabilization services until the crisis is resolved or a referral made.
  - (c) Access to:
    - (i) Medical services, including:
      - (A) Emergency medical services;
      - (B) Preliminary screening for organic disorders;
      - (C) Prescription services; and
      - (D) Medication administration.
    - (ii) Interpretative services enabling staff to communicate with persons who are limited English proficient;
    - (iii) Voluntary and involuntary psychiatric inpatient care (chapters 71.05 and 71.34 RCW); and
    - (iv) Other needed resources.
  - (d) Investigation and detention services (chapters 71.05 and 71.34 RCW).
- (3) Engage family, significant others, and other relevant treatment providers as necessary to provide support to the person in crisis.
- (4) Document all telephone and face-to-face contacts to include:
  - (a) Source of referral;
  - (b) Nature of crisis;
  - (c) Time elapsed from initial contact to response; and
  - (d) Outcomes, including:
    - (i) Decision not to respond in person, if applicable;
    - (ii) Follow-up; and
    - (iii) Referrals made.

NEW SECTION

**WAC 275-57-400 Brief intervention services.** The provider shall implement a streamlined process to provide planned, brief therapeutic interventions to persons within the priority populations and eligible recipients in the Medicaid program who require time-limited medically necessary services.

(1) The RSN shall define the number of allowable brief intervention services.

(2) A person receiving more than fifteen hours of service in a twelve-month period shall receive a full intake evaluation as described in section 410(2) of this chapter.

(3) The provider of brief intervention services shall gather the following information in the intake to brief interventions:

- (a) Mental status examination;
- (b) Functioning in daily life domains, showing strengths as well as needs;
- (c) Substance use and abuse;
- (d) The name of the consumer's most recent physician and prescribed medications, if known;
- (e) A brief plan of action to achieve mutually agreed upon outcomes; and
- (f) The intake evaluation shall not present a barrier to service. When seeking information from the consumer might pose a barrier to service, any of the above items may be left incomplete, providing that noncompletion and reasons are documented in the record.

(4) Licensed providers not contracting with an RSN or PHP are exempt from the requirements of subsection (1) of this section.

NEW SECTION

**WAC 275-57-410 Community support services—General requirements.** The RSN, or its designee, shall provide community support services to persons requiring ongoing supports to live in the community. Each community support service, as defined in sections 420 through 450 of this chapter, shall meet the requirements of this section.

(1) **Admission.** Resource management services shall approve consumer admission to community support services.

(2) **Intake Evaluation.** The provider and consumer shall collaboratively identify consumer strengths and needs through a full intake evaluation completed within thirty days of initiating community support services. Staff conducting an intake evaluation shall have training in this activity.

- (a) The provider shall address in an intake evaluation:
  - (i) Psycho-social and cultural history;
  - (ii) Functioning in daily life domains, showing strengths as well as needs;
  - (iii) Substance use and abuse;
  - (iv) Medical history, including medications used. For persons receiving care from a health care professional, the provider shall seek permission to receive pertinent medical information. For persons not under the care of a health care professional, the provider shall offer to make a referral for a physical examination; and
  - (v) For children, a developmental history.
- (b) The provider shall, when possible, include input from family members and/or other natural support systems, when acceptable to the person.

(c) The provider may reference or include historical information from other providers as part of the intake evaluation.

(d) When seeking information from the consumer might pose a barrier to service, the provider may leave incomplete requirements of subsection (2) of this section, providing that

the provider documents noncompletion and reasons in the record.

(3) **Individualized Plan.** The provider shall implement an individualized plan in collaboration with the consumer within thirty days of initiating community support services. The provider shall:

(a) For adults, develop the plan with the consumer and include people who provide active support to the consumer (e.g., family members, teachers, etc.), at the consumer's request;

(b) For children, develop the plan with the child, family and others who provide active support to the child. For children under three, the plan shall be integrated with the individualized family service plan (IFSP), when applicable;

(c) Focus on normalization and address needs identified by the consumer, which may include:

(i) Least-restrictive housing;

(ii) Income;

(iii) Work or school;

(iv) Social life;

(v) Treatment including psychotherapy; and

(vi) Services to address the specialized needs of underserved populations.

(d) Link outcomes to specific goals and time frames for achieving the outcomes;

(e) Define services to achieve the identified outcomes. The provider shall flexibly develop or purchase services to meet the unique needs of the person;

(f) Be responsive to the consumer's age, culture, and disability; and

(g) Assure the plan is mutually reviewed every six months, or more often at the request of the consumer.

(4) **Documentation.**

(a) The provider shall periodically document consumer progress in achieving treatment goals in the case record.

(b) The provider shall include in the case record specific progress toward established goals, changes in individualized plans, and extraordinary events.

(c) A mental health professional shall review and sign off on the intake evaluation, the individualized plan, and revisions to the individualized plan.

#### NEW SECTION

**WAC 275-57-420 Community support services—Case management services.** The RSN, or its designee, shall provide case management services including outreach and support to achieve the individualized plan's outcomes. Case management services shall:

(1) Maximize the consumer's desired level of independence and appropriate interdependence. To this end, case management staff shall help the consumer:

(a) Access basic needs in an age and culturally competent manner, including:

(i) Housing;

(ii) Food;

(iii) Income;

(iv) Health and dental care; and

(v) Transportation.

(b) Work or participate in other daily activities appropriate to the consumer's age and culture;

(c) Link with the regular social life of the community;

(d) Access other needed services, such as substance abuse treatment, and health care;

(e) Resolve crises in least-restrictive settings; and

(f) Manage symptoms by providing information and education about the consumer's illness and treatment;

(2) Assist family members and other care givers in their efforts to support and care for the consumer;

(3) Include, as necessary, flexible application of funds, such as rent subsidies, rental deposits, and in-home care to enable stable community living; and

(4) Provide services where and when needed.

#### NEW SECTION

**WAC 275-57-430 Community support services—Residential services.** The RSN, or its designee, shall provide residential services emphasizing least-restrictive, stable living situations appropriate to the age, culture, and residential needs of each consumer.

(1) The RSN's array of residential services shall emphasize supporting consumers in their own homes in the community. When supervised group living is necessary, the RSN shall emphasize supervised settings which:

(a) Maximize personal privacy and independence; and

(b) Have eight or fewer beds.

(2) Where the RSN provides supervised residential services in an adult family home, the adult family home shall comply with chapter 388-76 WAC.

(3) Where the RSN provides supervised residential services in a children's foster home, the children's foster home shall comply with chapter 388-73 WAC.

(4) Where the RSN provides residential services in a boarding home facility, the boarding home facility shall comply with chapter 246-316 WAC.

(5) Where the RSN provides residential services in an adult residential rehabilitative center facility, the adult residential rehabilitative facility shall comply with chapter 246-325 WAC.

#### NEW SECTION

**WAC 275-57-440 Community support services—Employment services.** The RSN, or its designee, shall provide age and culturally appropriate employment services as a treatment option to consumers wanting to work.

(1) Employment services shall include:

(a) A vocational assessment of work history, skills, training, education, and personal career goals;

(b) Public assistance information;

(c) Active involvement with consumers served in establishing individualized job and career development plans and revision of the individualized plan accordingly;

(d) Assistance in locating employment opportunities consistent with consumer skills, goals, and interests;

(e) Integrated supported employment, including outreach and support services in the place of employment, if required, as well as the use of other interventions such as job coaching; and

(f) Interaction with the consumers' employer to maintain stability of employment and advise on reasonable accommodation in accordance with the Americans with Disabilities Act (ADA) of 1990.

(2) Any RSN, or RSN subcontractor, employing consumers as part of the pre-vocational or vocational program shall:

(a) Pay consumers in accordance with the Fair Labor Standards Act; and

(b) Ensure safety standards are in place in full compliance with local and state regulations.

(3) The RSN shall coordinate efforts with rehabilitation and employment services, such as the division of vocational rehabilitation, the state employment services and the business community and job placement services within the community.

(4) Agencies accredited by commission on accreditation of rehabilitation facilities (CARF), or rehabilitation services accreditation system (RSAS) shall be considered the same as licensed by the state for employment services. Other organizations with equivalent standards may be considered for state licensure for employment services.

#### NEW SECTION

**WAC 275-57-450 Community support services—Psychiatric and medical services.** The RSN, or its designee, shall provide psychiatric and medical services to ensure consumers are prescribed medications, when necessary, to treat symptoms, become knowledgeable about any prescribed medications and side effects, and are referred to treatment for nonpsychiatric medical problems.

(1) The provider shall vest overall medical responsibility in a physician licensed to practice under chapter 18.57 or 18.71 RCW, and board eligible in psychiatry. Providers unable to recruit a psychiatrist may employ a physician without board eligibility in psychiatry provided:

(a) Psychiatric consultation is provided to the physician at least monthly; and

(b) A psychiatrist is accessible in person, by telephone, or by radio communication to the physician for emergency consultation.

(2) Only staff licensed to do so may prescribe medications. Prescribing staff shall review medications at least every three months.

(3) Only staff licensed to do so may administer medications.

(4) When a consumer receives only medication services from a provider, the provider may develop and implement a brief intake and plan, as defined in section 400 of this chapter in place of the intake evaluation, as defined in section 410 of this chapter.

(5) The provider shall maintain medication information in the consumer record documenting at least the following for each prescribed medication:

- (a) Name and purpose of medication;
  - (b) Dosage and method of administration;
  - (c) Dates prescribed, reviewed, and/or renewed;
  - (d) Observed and reported effects, interactions, and side effects. Staff shall query consumers concerning such information;
  - (e) Any laboratory findings;
  - (f) Reasons for change or termination of medication;
- and
- (g) Name and signature of prescribing person.

(6) When physical health problems are suspected or identified, the provider shall consult with and/or offer to make a referral to a physician or alternative health care provider. The provider shall include current medical concerns, as necessary, in the individualized plan.

(7) Provider staff shall inspect and inventory medication storage areas at least quarterly:

(a) Medications shall be kept in locked, well-illuminated storage;

(b) Medications kept in a refrigerator containing other items shall be kept in a separate container with proper security;

(c) No outdated medications shall be retained, and medications shall be disposed of in accordance with regulations of the state board of pharmacy;

(d) Medications for external use shall be stored separately from oral and injectable medications;

(e) Poisonous external chemicals and caustic materials shall be stored separately.

#### NEW SECTION

**WAC 275-57-460 Community support services—In-home services.** The RSN, or its designee, may provide, when needed, in-home services to assist consumers with daily living and/or adaptive skills to enable continued living in the consumer's own home.

(1) The consumer's case manager or other designee of the RSN shall periodically make home visits to assess:

(a) The consumer's satisfaction with in-home services;

(b) Quality of services provided; and

(c) Need for continued services.

(2) Persons providing in-home services shall either be immediate family members, or shall have:

(a) A Washington State Patrol background check to ensure against a history of theft, abuse, or assault, except if such conduct was associated with a mental disorder that is currently stabilized; and

(b) Three reference checks.

(3) The in-home service worker shall have an age and culturally competent orientation and training based on the worker's experience, but ensuring basic knowledge in:

(a) Nutrition;

(b) Hygiene;

(c) Symptoms of decompensation; and

(d) Symptoms of medication reaction.

#### NEW SECTION

**WAC 275-57-470 Community support services—Consumer or advocate run services.** The RSN, or its designee, shall provide services operated or staffed by consumers, former consumers, family members of consumers, or other advocates.

(1) The department shall not require a consumer or advocate run service to maintain licensure under this chapter if the service is nonclinical. If a service is clinical, the service shall comply with the requirements for licensed services in this chapter.

(2) Consumer or advocate run services may include, but are not limited to:

(a) Consumer and/or advocate operated businesses;

- (b) Consumer and/or advocate operated and managed clubhouses, such as the Fountain House model;
- (c) Consumer and/or advocate operated crisis respite services;
- (d) Advocacy and referral services;
- (e) Consumer and/or advocate operated household assistance programs;
- (f) Self-help and peer support groups;
- (g) Ombuds service; or
- (h) Other services.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 275-56 Community mental health programs.

**WSR 94-17-121**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed August 19, 1994, 9:27 a.m.]

Original Notice.

Title of Rule: Minimum performance standards.

Purpose: To require the national shellfish sanitation program (NSSP) minimum performance standards in chapter 246-282 WAC, Sanitary control of shellfish.

Other Identifying Information: The National Shellfish Sanitation Program Manual of Operations, ISSC, United States Department of Health and Human Services, Public Health Service, and Food and Drug Administration, 1993 Revision.

Statutory Authority for Adoption: RCW 69.30.030.

Statute Being Implemented: RCW 69.30.030 Rules of State Board of Health.

Summary: The Washington State Department of Health is a member of the Interstate Shellfish Sanitation Conference. All members of this conference require adherence to the National Shellfish Sanitation Program under United States Department of Health and Human Services. Only states and countries that follow NSSP standards are allowed to ship shellfish interstate. The proposed rule would include the current 1993 revision of the NSSP manual into chapter 246-282 WAC, Sanitary control of shellfish.

Name of Agency Personnel Responsible for Drafting: Michael Antee, Shellfish Programs, 586-8736; Implementation and Enforcement: Maryanne Guichard, Shellfish Programs, 753-4183.

Name of Proponent: Maryanne Guichard, 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 proposed rule would include the current 1993 revision of the NSSP manual into chapter 246-282 WAC, Sanitary control of shellfish; the Department of Health currently utilizes the minimum performance standards under NSSP; the United States Food and Drug Administration is requiring an adequate legal basis for sanitary control of shellfish using the NSSP manual; and no effects or changes are anticipated.

Proposal Changes the Following Existing Rules: Only adds the citation of the NSSP manual to chapter 246-282 WAC, Sanitary control of shellfish.

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: Michael Antee, Office of Shellfish Programs, P.O. Box 47824, Olympia, WA 98504-7824, phone (206) 586-8736, or FAX (206) 586-4499.

Hearing Location: State Board of Health Public Hearing, Yakima Health District, 104 North First Street, Yakima, WA 98901, (509) 575-4040, on October 12, 1994, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Michael Antee, Office of Shellfish Programs, TDD (206) 664-0064 or 1-800-525-0127 ext. 586-8736.

Submit Written Comments to: Michael Antee, Office of Shellfish Programs, P.O. Box 47824, Olympia, WA 98504-7824, FAX (206) 526-4499, by September 1, 1994.

Date of Intended Adoption: October 12, 1994.

August 8, 1994  
 Sylvia Beck  
 Executive Director

**NEW SECTION**

**WAC 246-282-005 Minimum performance standards.** (1) Every person engaged in a shellfish operation shall comply with and shall be subject to:

(a) the "satisfactory compliance" standards of the 1993 Revision of the National Shellfish Sanitation Program (NSSP) Manual of Operations Part I and II, published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Copies can be obtained through the U.S. Food and Drug Administration, Shellfish Sanitation Branch, and the Washington State Department of Health, Office of Shellfish Programs.

(b) all other provisions of this chapter.

(2) Where a "satisfactory compliance" provision is inconsistent with a provision otherwise established under this chapter or other state law or rule, the more stringent provision, as determined by the Department, shall apply.

**WSR 94-17-126**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 94-26—Filed August 19, 1994, 3:43 p.m.]

Original Notice.

Title of Rule: City of Orting shoreline master program.

Purpose: To adopt a shoreline master program for the city of Orting by amending WAC 173-19-3507.

Statutory Authority for Adoption: Chapter 90.58 RCW.  
 Statute Being Implemented: Chapter 90.58 RCW.

Summary: This master program has been prepared to comply with the requirements of the Shoreline Management Act of 1971. Specifically, it affects the shorelines of the Puyallup and Carbon rivers and any other shoreline later coming under the jurisdiction of the act.

Reasons Supporting Proposal: Request for amendment by city of Orting.

Name of Agency Personnel Responsible for Drafting: Linda J. Witcher, SWRO, St. Martin's Campus, Lacey, Washington, (206) 407-6523; Implementation and Enforcement: Jay A. Shepard, HQ, 300 Desmond Drive, Lacey, WA, (206) 407-7280.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this shoreline master program is to provide an objective guide for regulating the use of shorelines within Orting; to establish a shoreline permit system for proposed substantial development, conditional uses and variances within shoreline jurisdiction; and to establish shoreline environments for all lands and water within shoreline jurisdiction of Orting.

Proposal Changes the Following Existing Rules: This amendment will replace the shoreline master program approved April 8, 1975. It contains new policies, goals, regulations and environments.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Chapter 19.85 RCW, the Regulatory Fairness Act, requires mitigating action and filing of a small business economic impact statement when rule adoption will have an economic impact on more than 20% of all industries or more than 10% of any one industry. This amendment proposed by the city of Orting does not meet the criteria requiring the preparation of a small business economic impact statement.

Hearing Location: Orting Multi-Purpose Center, 202 Train Street, Library Building, Orting, WA 98360, on September 27, 1994, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Ecology Receptionist by September 20, 1994, TDD (206) 407-6306, or (206) 407-6523 voice.

Submit Written Comments to: Linda J. Witcher, Ecology, SWRO, P.O. Box 47775, Olympia, WA 98504-7775, FAX 407-6305, by October 4, 1994.

Date of Intended Adoption: October 14, 1994.

August 17, 1994

Mary Riveland

Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

**WAC 173-19-3507 Orting, ((town)) city of.** Town of Orting master program approved April 8, 1975. Revision approved October 4, 1994.

**WSR 94-17-127**

**PROPOSED RULES**

**DEPARTMENT OF ECOLOGY**

[Order 94-23—Filed August 19, 1994, 3:46 p.m.]

Original Notice.

Title of Rule: Acid rain regulation, chapter 173-406 WAC.

Purpose: Establish emission control requirements for large fossil fuel-fired boilers.

Statutory Authority for Adoption: RCW 70.94.510.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: Adds a new rule to reduce acid rain-producing emissions from fossil fuel-fired boilers as required by the federal Clean Air Act amendments of 1990 and rules established by EPA at 40 CFR Part 72.

Reasons Supporting Proposal: Emissions from fossil fuel-fired boilers are significant contributors to acid rain.

This rule is required by the federal Clean Air Act amendments of 1990. Failure to adopt and implement this rule would result in federal sanctions including loss of highway funds and increased requirements for new industrial facilities.

As part of the state operating permit program, ecology made a commitment to adopt this rule. Failure to fulfill that requirement may result in permit program disapproval.

Name of Agency Personnel Responsible for Drafting: Lawrence L. Stookey, Southwest Air Pollution Control Agency, Vancouver, (206) 574-3058; Implementation and Enforcement: Joseph R. Williams, Olympia, (206) 407-6880.

Name of Proponent: Department of Ecology, Air Quality Program, Stationary Source Program Development Section, governmental.

Rule is necessary because of federal law, 42 U.S.C. § 7410 (1990) (amending 42 U.S.C. § 7410 (1993)).

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is proposed in order to allow the state of Washington to comply with the federal Clean Air Act amendments of 1990. Its purpose is to reduce acid rain-producing emissions from fossil fuel-fired utility boilers by about 50% from 1980 emission levels. It will cause utilities to add pollution control and measurement equipment to certain fossil fuel-fired boilers.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Three facilities in the state of Washington are affected by this proposed rule. This is less than 6% of the industries in Standard Industrial Classification 4911. The minimum trigger level for a small business economic impact statement is 10%. No small businesses are affected by this proposed rule.

Hearing Location: On Tuesday, September 27, 1994, at 1:00 p.m., at the Department of Ecology, Northwest Regional Office, 3190 160th Avenue S.E., Room 1A, Bellevue; on Wednesday, September 28, 1994, at 1:00 p.m., at the Centralia City Hall, 118 West Maple, 2nd Floor, Centralia; and on Thursday, September 29, 1994, at 1:00 p.m., at the Stevens County Courthouse, 215 South Oak, Room 215, Colville.

Assistance for Persons with Disabilities: Contact Pat Norman by September 14, 1994, TDD (206) 407-6206, or (206) 407-6832 (voice).

Submit Written Comments to: Lawrence L. Stookey, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, FAX (206) 576-0925, by September 29, 1994.

Date of Intended Adoption: November 23, 1994.

August 18, 1994

Mary Riveland

Director

PROPOSED

**Chapter 173-406 WAC  
ACID RAIN REGULATION**

**PART I  
GENERAL PROVISIONS**

NEW SECTION

**WAC 173-406-100 Acid rain program general provisions.**

NEW SECTION

**WAC 173-406-101 Definitions.** The terms used in this regulation shall have the meanings set forth in Title IV of the Clean Air Act, 42 U.S.C. 7401, et seq. as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. 7651, et seq. (November 15, 1990,) and in this section as follows:

(1) "Acid rain compliance option" means one of the methods of compliance used by an affected unit under the Acid Rain Program as described in a compliance plan submitted and approved in accordance with WAC 173-406-400 or regulations implementing section 407 of the act.

(2) "Acid Rain emissions limitation" means:

(a) For the purposes of sulfur dioxide emissions:

(i) The tonnage equivalent of the basic Phase II allowance allocations authorized to be allocated to an affected unit for use in a calendar year;

(ii) As adjusted:

(A) By allowances allocated by the administrator pursuant to section 405 (a)(2), (a)(3), (b)(2), (c)(4), (d)(3), and (h)(2), and section 406 of the act;

(B) By allowances allocated by the administrator pursuant to subpart D of 40 CFR part 72; and thereafter

(C) By allowance transfers to or from the compliance subaccount for that unit that were recorded or properly submitted for recordation by the allowance transfer deadline pursuant to 40 CFR 73.35, after deductions and other adjustments are made pursuant to 40 CFR 73.34(c); and

(b) For purposes of nitrogen oxides emissions, the applicable limitation established by regulations promulgated by the administrator pursuant to section 407 of the act, as modified by an acid rain permit application submitted to the permitting authority, and an acid rain permit issued by the permitting authority, in accordance with regulations implementing section 407 of the act.

(3) "Acid rain emissions reduction requirement" means a requirement under the Acid Rain Program to reduce the emissions of sulfur dioxide or nitrogen oxides from a unit to a specified level or by a specified percentage.

(4) "Acid rain permit or permit" means the legally binding written document, or portion of such document, issued by the permitting authority (following an opportunity for appeal pursuant to 40 CFR part 78, chapter 43.21 RCW or other administrative appeals procedures established by the permitting authority), including any permit revisions, specifying the Acid Rain Program requirements applicable to an affected source, to each affected unit at an affected source, and to the owners and operators and the designated representative of the affected source or the affected unit.

(5) "Acid Rain Program" means the National Sulfur Dioxide and Nitrogen Oxides Air Pollution Control and

Emissions Reduction Program established in accordance with Title IV of the act, WAC 173-406-100 through 173-406-1000, 40 CFR parts 72, 73, 75, 77, and 78, and regulations implementing sections 407 and 410 of the act.

(6) "Act" means the Clean Air Act, 42 U.S.C. § 7401, et seq. as amended by Public Law No. 101-549 (November 15, 1990).

(7) "Actual SO<sub>2</sub> emissions rate" means the annual average sulfur dioxide emissions rate for the unit (expressed in lb/mmBtu), for the specified calendar year; provided that, if the unit is listed in the National Allowance Data Base, the "1985 actual SO<sub>2</sub> emissions rate" for the unit shall be the rate specified by the administrator in the NADB under the data field "SO<sub>2</sub>RTE."

(8) "Administrator" means the Administrator of the United States Environmental Protection Agency or the administrator's duly authorized representative.

(9) "Affected source" means a source that includes one or more affected units.

(10) "Affected state" means a state whose boundary is within fifty statute miles of an affected source within the state of Washington.

(11) "Affected unit" means a unit that is subject to any acid rain emissions reduction requirement or acid rain emissions limitation.

(12) "Affiliate" shall have the meaning set forth in section 2(a)(11) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(11), as of November 15, 1990.

(13) "Allocate or allocation" means the initial crediting of an allowance by the administrator to an allowance tracking system unit account or general account.

(14) "Allowance" means an authorization by the administrator under the Acid Rain Program to emit up to one ton of sulfur dioxide during or after a specified calendar year.

(15) "Allowance deduction, or deduct when referring to allowances," means the permanent withdrawal of allowances by the administrator from an allowance tracking system compliance subaccount to account for the number of the tons of SO<sub>2</sub> emissions from an affected unit for the calendar year, for tonnage emissions estimates calculated for periods of missing data pursuant to 40 CFR part 75, or for any other allowance surrender obligations of the Acid Rain Program.

(16) "Allowances held or hold allowances" means the allowances recorded by the administrator, or submitted to the administrator for recordation in accordance with 40 CFR 73.50, in an allowance tracking system account.

(17) "Allowance tracking system or ATS" means the Acid Rain Program system by which the administrator allocates, records, deducts, and tracks allowances.

(18) "Allowance tracking system account" means an account in the allowance tracking system established by the administrator for purposes of allocating, holding, transferring, and using allowances.

(19) "Allowance transfer deadline" means midnight of January 30th or, if January 30th is not a business day, midnight of the first business day thereafter and is the deadline by which allowances may be submitted for recordation in an affected unit's compliance subaccount for the purposes of meeting the unit's acid rain emissions limitation requirements for sulfur dioxide for the previous calendar year.

(20) "Authorized account representative" means a responsible natural person who is authorized, in accordance with 40 CFR part 73, to transfer and otherwise dispose of allowances held in an allowance tracking system general account; or, in the case of a unit account, the designated representative of the owners and operators of the affected unit.

(21) "Auxiliary firing" means the combustion of additional fuel downstream of a gas turbine for the purpose of adding thermal energy to the exhaust gases which can be recovered in a waste heat recovery unit.

(22) "Basic Phase II allowance allocations" means:

(a) For calendar years 2000 through 2009 inclusive, allocations of allowances made by the administrator pursuant to section 406 and section 405 (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1); (i); and (j).

(b) For each calendar year beginning in 2010, allocations of allowances made by the administrator pursuant to section 406 and section 405 (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1) and (3); (i); and (j).

(23) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or any other medium.

(24) "Certificate of representation" means the completed and signed submission required by 40 CFR 72.20, for certifying the appointment of a designated representative for an affected source or a group of identified affected sources authorized to represent the owners and operators of such source(s) and of the affected units at such source(s) with regard to matters under the Acid Rain Program.

(25) "Certifying official" means:

(a) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(b) For partnership or sole proprietorship, a general partner or the proprietor, respectively; and

(c) For a local government entity or state, federal, or other public agency, either a principal executive officer or ranking elected official.

(26) "Coal" means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials Designation ASTM D388-92 "Standard Classification of Coals by Rank."

(27) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal (e.g., pulverized coal, coal refuse, liquefied or gasified coal, washed coal, chemically cleaned coal, coal-oil mixtures, and coke).

(28) "Coal-fired" means the combustion of fuel consisting of coal or any coal-derived fuel (except a coal-derived gaseous fuel with a sulfur content no greater than natural gas), alone or in combination with any other fuel, where a unit is "coal-fired" if it uses coal or coal-derived fuel as its primary fuel (expressed in mmBtu); provided that, if the unit is listed in the NADB, the primary fuel is the fuel listed in the NADB under the data field "PRIMEFUEL."

(29) "Cogeneration unit" means a unit that has equipment used to produce electric energy and forms of useful thermal energy (such as heat or steam) for industrial,

commercial, heating or cooling purposes, through the sequential use of energy.

(30) "Commence commercial operation" means to have begun to generate electricity for sale, including the sale of test generation.

(31) "Commence construction" means that an owner or operator has either undertaken a continuous program of construction or has entered into a contractual obligation to undertake and complete, within eighteen months, a continuous program of construction. The permitting authority may, upon application by the owner or operator, extend the period for completion at its discretion.

(32) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including start-up of an emissions control technology or emissions monitor or of a unit's combustion chamber.

(33) "Common stack" means the exhaust of emissions from two or more units through a single flue.

(34) "Compliance certification" means a submission to the administrator or the permitting authority that is required by WAC 173-406-100 through 173-406-1000, by 40 CFR part 72, 73, 75, 77, or 78, or by regulations implementing sections 407 or 410 of the act to report an affected source's or an affected unit's compliance or noncompliance with a provision of the Acid Rain Program and that is signed and verified by the designated representative in accordance with subpart B of 40 CFR part 72, WAC 173-406-800, and the Acid Rain Program regulations generally.

(35) "Compliance plan, for purposes of the Acid Rain Program," means the document submitted for an affected source in accordance with WAC 173-406-301 and 173-406-302 specifying the method(s) (including one or more acid rain compliance options under WAC 173-406-402 or regulations implementing section 407 of the act) by which each affected unit at the source will meet the applicable acid rain emissions limitation and acid rain emissions reduction requirements.

(36) "Compliance subaccount" means the subaccount in an affected unit's allowance tracking system account, established pursuant to 40 CFR 73.31 (a) or (b), in which are held, from the date that allowances for the current calendar year are recorded under 40 CFR 73.34(a) until December 31st, allowances available for use by the unit in the current calendar year and, after December 31st until the date that deductions are made under 40 CFR 73.35(b), allowances available for use by the unit in the preceding calendar year, for the purpose of meeting the unit's acid rain emissions limitation for sulfur dioxide.

(37) "Compliance use date" means the first calendar year for which an allowance may be used for purposes of meeting a unit's acid rain emissions limitation for sulfur dioxide.

(38) "Construction" means fabrication, erection, or installation of a unit or any portion of a unit.

(39) "Control officer" means the air pollution control officer of a local air pollution control authority which is constituted under chapter 70.94 RCW.

(40) "Designated representative" means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with subpart B of 40 CFR part 72, to represent

and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the Acid Rain Program. Whenever the term "responsible official" is used in 40 CFR part 70 or in any other regulations implementing Title V of the act, it shall be deemed to refer to the "designated representative" with regard to all matters under the Acid Rain Program. An alternate designated representative is also included in this definition.

(41) "Diesel fuel" means a low sulfur fuel oil of grades 1-D or 2-D, as defined by the American Society for Testing and Materials ASTM D975-91, "Standard Specification for Diesel Fuel Oils."

(42) "Direct public utility ownership" means direct ownership of equipment and facilities by one or more corporations, the principal business of which is sale of electricity to the public at retail. Percentage ownership of such equipment and facilities shall be measured on the basis of book value.

(43) "Director" means the director of the Washington department of ecology.

(44) "Draft acid rain permit or draft permit" means the version of the acid rain permit, or the acid rain portion of an operating permit, that the permitting authority offers for public comment.

(45) "Ecology" means the Washington department of ecology.

(46) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the designated representative and as determined by the administrator, in accordance with the emissions monitoring requirements of 40 CFR part 75.

(47) "EPA" means the United States Environmental Protection Agency.

(48) "Excess emissions" means:

(a) Any tonnage of sulfur dioxide emitted by an affected unit during a calendar year that exceeds the acid rain emissions limitation for sulfur dioxide for the unit as identified at 40 CFR part 77; and

(b) Any tonnage of nitrogen oxides emitted by an affected unit during a calendar year that exceeds the annual tonnage equivalent of the acid rain emissions limitation for nitrogen oxides applicable to the affected unit taking into account the unit's heat input for the year.

(49) "Executive director" means the executive director of a local air pollution control authority which is constituted under chapter 70.94 RCW.

(50) "Existing unit" means a unit (including a unit subject to section 111 of the act) that commenced commercial operation before November 15, 1990, and that on or after November 15, 1990, served a generator with a nameplate capacity of greater than twenty-five MWe. "Existing unit" does not include simple combustion turbines or any unit that on or after November 15, 1990, served only generators with a nameplate capacity of twenty-five MWe or less. Any "existing unit" that is modified, reconstructed, or repowered after November 15, 1990, shall continue to be an "existing unit."

(51) "Facility" means any institutional, commercial, or industrial structure, installation, plant, source, or building.

(52) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(53) "Fossil fuel-fired" means the combustion of fossil fuel or any derivative of fossil fuel, alone or in combination with any other fuel, independent of the percentage of fossil fuel consumed in any calendar year.

(54) "Fuel oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) as defined by the American Society for Testing and Materials in ASTM D396-90a, "Standard Specification for Fuel Oils," and any recycled or blended petroleum products or petroleum by-products used as a fuel whether in a liquid, solid or gaseous state.

(55) "Gas-fired" means the combustion of natural gas, or a coal-derived gaseous fuel with a sulfur content no greater than natural gas, for at least ninety percent of the average annual heat input during the previous three calendar years and for at least eighty-five percent of the annual heat input in each of those calendar years; and any fuel other than coal or any other coal-derived fuel for the remaining heat input, if any.

(56) "General account" means an allowance tracking system account that is not a unit account.

(57) "Generator" means a device that produces electricity and was or would have been required to be reported as a generating unit pursuant to the United States Department of Energy Form 860 (1990 edition).

(58) "Generator output capacity" means the full-load continuous rating of a generator under specific conditions as designed by the manufacturer.

(59) "Heat input" means the product (expressed in mBtu/time) of the gross calorific value of the fuel (expressed in Btu/lb) and the fuel feed rate into the combustion device (expressed in mass of fuel/time) and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(60) "Independent power production facility (IPP)" means a source that:

(a) Is nonrecourse project financed, as defined by the Secretary of Energy at 10 CFR part 715;

(b) Is used for the generation of electricity, eighty percent or more of which is sold at wholesale; and

(c) Is a new unit required to hold allowances under Title IV of the act;

(d) Provided that direct public utility ownership of the equipment comprising the facility does not exceed fifty percent.

(61) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified generating unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

(a) For the life of the unit;

(b) For a cumulative term of no less than thirty years, including contracts that permit an election for early termination; or

(c) For a period equal to or greater than twenty-five years or seventy percent of the economic useful life of the unit determined as of the time the unit was built, with option

rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(62) "Nameplate capacity" means the maximum electrical generating output (expressed in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings, as listed in the NADB under the data field "NAMECAP" if the generator is listed in the NADB or as measured in accordance with the United States Department of Energy standards if the generator is not listed in the NADB.

(63) "National Allowance Data Base or NADB" means the data base established by the administrator under section 402(4)(C) of the act.

(64) "Natural person" means an individual human being and not a firm, public or private corporation, association, partnership, political subdivision, municipality, or governmental agency corporate entity or partnership.

(65) "Natural gas" means a naturally occurring fluid mixture of hydrocarbons containing little or no sulfur (e.g., methane, ethane, or propane), produced in geological formations beneath the Earth's surface, and maintaining a gaseous state at International Standards Organization standard atmospheric temperature and pressure conditions of fifteen degrees Celsius and seven hundred sixty millimeters of mercury.

(66) "New unit" means a unit that commences commercial operation on or after November 15, 1990, including any such unit that serves a generator with a nameplate capacity of twenty-five MWe or less or that is a simple combustion turbine.

(67) "Offset plan" means a plan pursuant to 40 CFR part 77 for offsetting excess emissions of sulfur dioxide that have occurred at an affected unit in any calendar year.

(68) "Oil-fired" means the combustion of: Fuel oil for more than ten percent of the average annual heat input during the previous three calendar years or for more than fifteen percent of the annual heat input in any one of those calendar years; and any solid, liquid, or gaseous fuel, other than coal or any other coal-derived fuel (except a coal-derived gaseous fuel with a sulfur content no greater than, natural gas), for the remaining heat input, if any.

(69) "Operating permit" means a permit issued under 40 CFR part 70 and any other regulations implementing Title V of the act.

(70) "Owner" means any of the following persons:

(a) Any holder of any portion of the legal or equitable title in an affected unit;

(b) Any holder of a leasehold interest in an affected unit; or

(c) Any purchaser of power from an affected unit under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit; or

(d) With respect to any allowance tracking system general account, any person identified in the submission required by 40 CFR 73.31(c) that is subject to the binding agreement for the authorized account representative to

represent that person's ownership interest with respect to allowances.

(71) "Owner or operator" means any person who is an owner or who operates, controls, or supervises an affected unit or affected source and shall include, but not be limited to, any holding company, utility system, or plant manager of an affected unit or affected source.

(72) "Permit revision" means a permit modification, fast track modification, administrative permit amendment, or automatic permit amendment, as provided in WAC 173-406-700.

(73) "Permitting authority" means the Washington department of ecology, the Washington energy facility site evaluation council, local air authority or other agency authorized under chapter 70.94 RCW and approved by EPA to carry out a permit program under this chapter.

(74) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or governmental agency.

(75) "Phase II" means the Acid Rain Program period beginning January 1, 2000, and continuing into the future thereafter.

(76) "Potential electrical output capacity" means the MWe capacity rating for the units which shall be equal to thirty-three percent of the maximum design heat input capacity of the steam generating unit, as calculated according to Appendix D of 40 CFR part 72.

(77) "Power distribution system" means the portion of an electricity grid owned or operated by a utility that is dedicated to delivering electric energy to customers.

(78) "Power purchase commitment" means a commitment or obligation of a utility to purchase electric power from a facility pursuant to:

(a) A power sales agreement;

(b) A state regulatory authority order requiring a utility to:

(i) Enter into a power sales agreement with the facility;

(ii) Purchase from the facility; or

(iii) Enter into arbitration concerning the facility for the purpose of establishing terms and conditions of the utility's purchase of power;

(c) A letter of intent or similar instrument committing to purchase power (actual electrical output or generator output capacity) from the source at a previously offered or lower price and a power sales agreement applicable to the source is executed within the time frame established by the terms of the letter of intent but no later than November 15, 1992, or, where the letter of intent does not specify a time frame, a power sales agreement applicable to the source is executed on or before November 15, 1992; or

(d) A utility competitive bid solicitation that has resulted in the selection of the qualifying facility of independent power production facility as the winning bidder.

(79) "Power sales agreement" means a legally binding agreement between a qualifying facility, an independent power production facility, or firm associated with such facility and a regulated electric utility that establishes the terms and conditions for the sale of power from the facility to the utility.

(80) "Primary fuel or primary fuel supply" means the main fuel type (expressed in mmBtu) consumed by an affected unit for the applicable calendar year.

PROPOSED

(81) "Proposed acid rain permit or proposed permit" means the version of an acid rain permit that the permitting authority submits to the administrator after the public comment period, but prior to completion of the EPA permit review period under 40 CFR 70.8(c).

(82) "Qualifying facility (QF)" means a "qualifying small power production facility" within the meaning of section 3(17)(C) of the Federal Power Act or a "qualifying cogeneration facility" within the meaning of section 3(18)(B) of the Federal Power Act.

(83) "Qualifying power purchase commitment" means a power purchase commitment in effect as of November 15, 1990, without regard to changes to that commitment so long as:

(a) The identity of the electric output purchaser, the identity of the steam purchaser and the location of the facility, remain unchanged as of the date the facility commences commercial operation; and

(b) The terms and conditions of the power purchase commitment are not changed in such a way as to allow the costs of compliance with the Acid Rain Program to be shifted to the purchaser.

(84) "Qualifying repowering technology" means:

(a) Replacement of an existing coal-fired boiler with one of the following clean coal technologies: Atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990; or

(b) Any oil-fired or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(85) "Receive or receipt of" means the date the administrator or the permitting authority comes into possession of information or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the information or correspondence, by the administrator or the permitting authority in the regular course of business.

(86) "Recordation, record, or recorded" means, with regard to allowances, the transfer of allowances by the administrator from one allowance tracking system account or subaccount to another.

(87) "Schedule of compliance" means an enforceable sequence of actions, measures, or operations designed to achieve or maintain compliance, or correct noncompliance, with an applicable requirement of the Acid Rain Program, including any applicable acid rain permit requirement.

(88) "Secretary of Energy" means the Secretary of the United States Department of Energy or the secretary's duly authorized representative.

(89) "Simple combustion turbine" means a unit that is a rotary engine driven by a gas under pressure that is created by the combustion of any fuel. This term includes combined cycle units without auxiliary firing. This term excludes combined cycle units with auxiliary firing, unless the unit

did not use the auxiliary firing from 1985 through 1987 and does not use auxiliary firing at any time after November 15, 1990.

(90) "Solid waste incinerator" means a source as defined in section 129(g)(1) of the act.

(91) "Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the act. For purposes of section 502(c) of the act, a "source," including a "source" with multiple units, shall be considered a single "facility."

(92) "Stack" means a structure that includes one or more flues and the housing for the flues.

(93) "State" means one of the forty-eight contiguous states and the District of Columbia and includes any nonfederal authorities, including local agencies, interstate associations, and state-wide agencies with approved state operating permit programs. The term "state" shall have its conventional meaning where such meaning is clear from the context.

(94) "State operating permit program" means an operating permit program that the administrator has approved as meeting the requirements of Titles IV and V of the act and 40 CFR parts 70 and 72.

(95) "Submit or serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(a) In person;

(b) By United States Postal Service certified mail with the official postmark or, if service is by the administrator or the permitting authority, by any other mail service by the United States Postal Service; or

(c) By other means with an equivalent time and date mark used in the regular course of business to indicate the date of dispatch or transmission and a record of prompt delivery. Compliance with any "submission," "service," or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(96) "Ton or tonnage" means any "short ton" (i.e., two thousand pounds). For the purpose of determining compliance with the acid rain emissions limitations and reduction requirements, total tons for a year shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with 40 CFR part 75, with any remaining fraction of a ton equal to or greater than one-half ton deemed to equal one ton and any fraction of a ton less than one-half ton deemed not to equal any ton.

(97) "Total planned net output capacity" means the planned generator output capacity, excluding that portion of the electrical power which is designed to be used at the power production facility, as specified under one or more qualifying power purchase commitments or contemporaneous documents as of November 15, 1990.

(98) "Total installed net output capacity" means the generator output capacity, excluding that portion of the electrical power actually used at the power production facility, as installed.

(99) "Unit" means a fossil fuel-fired combustion device.

(100) "Unit account" means an allowance tracking system account, established by the administrator for an affected unit pursuant to 40 CFR 73.31 (a) or (b).

(101) "Utility" means any person that sells electricity.

(102) "Utility competitive bid solicitation" means a public request from a regulated utility for offers to the utility for meeting future generating needs. A qualifying facility, independent power production facility may be regarded as having been "selected" in such solicitation if the utility has named the facility as a project with which the utility intends to negotiate a power sales agreement.

(103) "Utility regulatory authority" means an authority, board, commission, or other entity (limited to the local-level, state-level, or federal-level, whenever so specified) responsible for overseeing the business operations of utilities located within its jurisdiction, including, but not limited to, utility rates and charges to customers.

(104) "Utility unit" means a unit owned or operated by a utility:

(a) That serves a generator that produces electricity for sale; or

(b) That during 1985, served a generator that produced electricity for sale.

(c) Notwithstanding (a) and (b) of this subsection, a unit that was in operation during 1985, but did not serve a generator that produced electricity for sale during 1985, and did not commence commercial operation on or after November 15, 1990, is not a utility unit for purposes of the Acid Rain Program.

(d) Notwithstanding (a) and (b) of this subsection, a unit that cogenerates steam and electricity is not a utility unit for purposes of the Acid Rain Program, unless the unit is constructed for the purpose of supplying, or commences construction after November 15, 1990, and supplies, more than one-third of its potential electrical output capacity and more than twenty-five MWe output to any power distribution system for sale.

#### NEW SECTION

**WAC 173-406-102 Measurements, abbreviations, and acronyms.** Measurements, abbreviations, and acronyms used in this regulation are defined as follows:

ASTM - American Society for Testing and Materials.

ATS - Allowance Tracking System.

Btu - British thermal unit.

CAAA - Clean Air Act Amendments.

CFR - Code of Federal Regulations.

DOE - Department of Energy.

IPP - Independent power production facility.

mmBtu - million Btu.

MWe - megawatt electrical.

NADB - National Allowance Data Base.

QF - Qualifying facility.

RCW - Revised Code of Washington.

SO<sub>2</sub> - sulfur dioxide.

WAC - Washington Administrative Code.

WDOE - Washington Department of Ecology, herein after referred to as ecology.

#### NEW SECTION

**WAC 173-406-103 Applicability.** (1) Each of the following units shall be an affected unit, and any source that includes such a unit shall be an affected source, subject to the requirements of the Acid Rain Program:

(a) A unit listed in Table 1 of 40 CFR 73.10(a).

(b) An existing unit that is identified in Table 2 or 3 of 40 CFR 73.10 and any other existing utility unit, except a unit under subsection (2) of this section.

(c) A utility unit, except a unit under subsection (2) of this section, that:

(i) Is a new unit;

(ii) Did not serve a generator with a nameplate capacity greater than twenty-five MWe on November 15, 1990, but serves such a generator after November 15, 1990;

(iii) Was a simple combustion turbine on November 15, 1990, but adds or uses auxiliary firing after November 15, 1990;

(iv) Was an exempt cogeneration facility under subsection (2)(d) of this section but during any three calendar year period after November 15, 1990, sold, to a utility power distribution system, an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand MWe-hrs (i.e., twenty-five MWe times eight thousand seven hundred sixty hours) electric output, on a gross basis;

(v) Was an exempt qualifying facility under subsection (2)(e) of this section but, at any time after the later of November 15, 1990, or the date the facility commences commercial operation, fails to meet the definition of qualifying facility;

(vi) Was an exempt independent power production facility under subsection (2)(f) of this section but, at any time after the later of November 15, 1990, or the date the facility commences commercial operation, fails to meet the definition of independent power production facility; or

(vii) Was an exempt solid waste incinerator under subsection (2)(g) of this section but during any three calendar year period after November 15, 1990, consumes twenty percent or more (on a Btu basis) fossil fuel.

(2) The following types of units are not affected units, and are not subject to the requirements of the Acid Rain Program:

(a) A simple combustion turbine that commenced operation before November 15, 1990.

(b) Any unit that commenced commercial operation before November 15, 1990, and that did not, as of November 15, 1990, and does not currently, serve a generator with a nameplate capacity of greater than twenty-five MWe.

(c) Any unit that, during 1985, did not serve a generator that produced electricity for sale and that did not, as of November 15, 1990, and does not currently, serve a generator that produces electricity for sale.

(d) A cogeneration facility which:

(i) For a unit that commenced construction on or prior to November 15, 1990, was constructed for the purpose of supplying equal to or less than one-third its potential electrical output capacity or equal to or less than two hundred nineteen thousand MWe-hrs actual electric output on an annual basis to any utility power distribution system for sale (on a gross basis). If the purpose of construction is not known, it will be presumed to be consistent with the actual operation from 1985 through 1987. However, if in any three calendar year period after November 15, 1990, such unit sells to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand MWe-hrs actual electric output (on a gross

basis), that unit shall be an affected unit, subject to the requirements of the Acid Rain Program; or

(ii) For units that commenced construction after November 15, 1990, supplies equal to or less than one-third its potential electrical output capacity or equal to or less than two hundred nineteen thousand MWe-hrs actual electric output on an annual basis to any utility power distribution system for sale (on a gross basis). However, if in any three calendar year period after November 15, 1990, such unit sells to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand MWe-hrs actual electric output (on a gross basis), that unit shall be an affected unit, subject to the requirements of the Acid Rain Program.

(e) A qualifying facility that:

(i) Has, as of November 15, 1990, one or more qualifying power purchase commitments to sell at least fifteen percent of its total planned net output capacity; and

(ii) Consists of one or more units designated by the owner or operator with total installed net output capacity not exceeding one hundred thirty percent of the total planned net output capacity. If the emissions rates of the units are not the same, the administrator may exercise discretion to designate which units are exempt.

(f) An independent power production facility that:

(i) Has, as of November 15, 1990, one or more qualifying power purchase commitments to sell at least fifteen percent of its total planned net output capacity; and

(ii) Consists of one or more units designated by the owner or operator with total installed net output capacity not exceeding one hundred thirty percent of its total planned net output capacity. If the emissions rates of the units are not the same, the administrator may exercise discretion to designate which units are exempt.

(g) A solid waste incinerator, if more than eighty percent (on a Btu basis) of the annual fuel consumed at such incinerator is other than fossil fuels. For a solid waste incinerator which began operation before January 1, 1985, the average annual fuel consumption of nonfossil fuels for calendar years 1985 through 1987 must be greater than eighty percent for such an incinerator to be exempt. For a solid waste incinerator which began operation after January 1, 1985, the average annual fuel consumption of nonfossil fuels for the first three years of operation must be greater than eighty percent for such an incinerator to be exempt. If, during any three calendar year period after November 15, 1990, such incinerator consumes twenty percent or more (on a Btu basis) fossil fuel, such incinerator will be an affected source under the Acid Rain Program.

(h) A nonutility unit which is not a utility unit as defined at WAC 173-406-101.

(3) A certifying official of any unit may petition the administrator for a determination of applicability under 40 CFR 72.6(c). The administrator's determination of applicability shall be binding upon the permitting authority, unless the petition is found to have contained significant errors or omissions.

## NEW SECTION

**WAC 173-406-104 New units exemption.** (1) Applicability. This section applies to any new utility unit that serves one or more generators with total nameplate capacity of twenty-five MWe or less and burns only fuels with a sulfur content of five hundredths of one percent or less by weight, as determined in accordance with subsection (4)(a) of this section.

(2) Petition for written exemption. The designated representative, authorized in accordance with subpart B of 40 CFR part 72, of a source that includes a unit under (a) of this subsection may petition the permitting authority for a written exemption, or to renew a written exemption, for the unit from certain requirements of the Acid Rain Program. The petition shall be submitted on a form approved by the permitting authority which includes the following elements:

(a) Identification of the unit.

(b) The nameplate capacity of each generator served by the unit.

(c) A list of all fuels currently burned by the unit and their percentage sulfur content by weight, determined in accordance with (a) of this subsection.

(d) A list of all fuels that are expected to be burned by the unit and their sulfur content by weight.

(e) The special provisions in (d) of this subsection.

(f) The name of the designated representative, his or her signature, and the date of signature.

(3) The permitting authority's action.

(a)(i) The permitting authority will issue, for any unit meeting the requirements of subsections (1) and (2) of this section, a written exemption from the requirements of the Acid Rain Program except for the requirements specified in this section, 40 CFR 72.2 through 72.7, and 40 CFR 72.10 through 72.13; provided that no unit shall be exempted unless the designated representative of the unit surrenders, and the administrator deducts from the unit's allowances tracking system account, allowances pursuant to 40 CFR 72.7 (c)(1)(i) and (d)(1).

(ii) The exemption shall take effect on January 1st of the year immediately following the date on which the written exemption is issued as a final agency action subject to judicial review, in accordance with subsection (3)(b) of this section; provided that the owners and operators, and, to the extent applicable, the designated representative, shall comply with the requirements of the Acid Rain Program concerning all years for which the unit was not exempted, even if such requirements arise, or must be complied with, after the exemption takes effect. The exemption shall not be a defense against any violation of such requirements of the Acid Rain Program whether the violation occurs before or after the exemption takes effect.

(b) The permitting authority will consider and either issue or deny a written exemption under subsection (3)(a) of this section by applying the procedures for acid rain permit issuance in WAC 173-406-600 as if the petition for written exemption were a permit application, with regard to completeness determination, draft written exemption, administrative record, statement of basis, public notice and comment period, public hearing, proposed written exemption, written exemption issuance, exemption revision and appeal procedures as provided by WAC 173-406-600 and 173-406-700.

No provision under WAC 173-406-600 concerning the content, effective date, or term of an acid rain permit shall apply to the written exemption or proposed written exemption under this section.

(c) A written exemption issued under this section shall have a term of five years from its effective date, except as provided in subsection (4)(c) of this section.

(4) Special provisions, except for the first year until chapter 173-401 WAC permits are issued, in which case the expiration of the term of the exemption will be coincident with the issuance of a final permit.

(a) The owners and operators of each unit exempted under this section shall determine the sulfur content by weight of its fuel as follows:

(i) For petroleum or petroleum products that the unit burns starting on the first day on which the exemption takes effect until the exemption terminates, a sample of each delivery of such fuel shall be tested using ASTM methods ASTM D4057-88 and ASTM D129-91, ASTM D2622-92, or ASTM D4294-90.

(ii) For natural gas that the unit burns starting on the first day on which the exemption takes effect until the exemption terminates, the sulfur content shall be documented to be five hundredths of one percent or less by weight.

(iii) For gaseous fuel (other than natural gas) that the unit burns starting on the first day on which the exemption takes effect until the exemption terminates, a sample of each delivery of such fuel shall be tested using ASTM methods ASTM D1072-90 and ASTM D1265-92; provided that if the gaseous fuel is delivered by pipeline to the unit, a sample of the fuel shall be tested, at least once every quarter in which the unit operates during any year for which the exemption is in effect, using ASTM method ASTM D1072-90.

(b) The owners and operators of each unit exempted under this section shall retain at the source that includes the unit, the records of the results of the tests performed under (a)(i) and (iii) of this subsection, a copy of documentation produced under (a)(ii) of this subsection, and a copy of the purchase agreements for the fuel under (a) of this subsection, stating the sulfur content of such fuel. Such records and documents shall be retained for five years from the date they are created.

(c) On the earlier of the date the written exemption expires, the date a unit exempted under this section burns any fuel with a sulfur content in excess of five hundredths of one percent by weight (as determined in accordance with (a) of this subsection), or twenty-four months prior to the date the unit first serves one or more generators with total nameplate capacity in excess of twenty-five MWe, the unit shall no longer be exempted under this section and shall be subject to all requirements of the Acid Rain Program, except that:

(i) Notwithstanding WAC 173-406-301 (2) and (3), the designated representative of the source that includes the unit shall submit a complete acid rain permit application on the later of January 1, 1998, or the date the unit is no longer exempted under this section.

(ii) For purposes of applying monitoring requirements under 40 CFR part 75, the unit shall be treated as a new unit that commenced commercial operation on the date the unit no longer meets the requirements of (a) of this subsection.

(iii) In the event a chapter 173-401 WAC air operating permit is required, the unit shall no longer be exempted under this section on the effective date of the WAC 173-401 permit.

#### NEW SECTION

**WAC 173-406-105 Retired units exemption.** (1) Applicability. This section applies to any affected unit that is retired prior to the issuance (including renewal) of an acid rain permit for the unit as a final agency action.

(2) Petition for written exemption.

(a) The designated representative, authorized in accordance with subpart B of 40 CFR part 72, of a source that includes a unit under subsection (1) of this section may petition the permitting authority for a written exemption, or to renew a written exemption, for the unit from certain requirements of the Acid Rain Program.

(b) A petition under this section shall be submitted on or before:

(i) The deadline for submitting an acid rain permit application for Phase II; or

(ii) If the unit has a Phase II acid rain permit, the deadline for reapplying for such permit.

(c) The petition under this section shall be submitted on a form approved by the permitting authority which includes the following elements:

(i) Identification of the unit;

(ii) The applicable deadline under (b) of this subsection;

(iii) The actual or expected date of retirement of the unit;

(iv) The following statement: "I certify that this unit ('is' or 'will be', as applicable) permanently retired on the date specified in this petition and will not emit any sulfur dioxide or nitrogen oxides after such date";

(v) A description of any actions that have been or will be taken and provide the basis for the certification in (c)(iv) of this subsection; and

(vi) The special provisions in subsection (4) of this section.

(vii) The name of the designated representative, his or her signature, and the date of signature.

(3) Permitting authority's action.

(a)(i) The permitting authority will issue, for any unit meeting the requirements of subsections (1) and (2) of this section, a written exemption from the requirements of WAC 173-406-100 through 173-406-800 and 40 CFR part 72 except for the requirements specified in this section and 40 CFR 72.1 through 72.6, 40 CFR 72.8, and 40 CFR 72.10 through 72.13.

(ii) The exemption shall take effect on January 1st of the year following the date on which the written exemption is issued as a final agency action subject to judicial review, in accordance with (b) of this subsection; provided that the owners and operators, and, to the extent applicable, the designated representative, shall comply with the requirements of WAC 173-406-100 through 173-406-800 and 40 CFR part 72 concerning all years for which the unit was not exempted, even if such requirements arise or must be complied with after the exemption takes effect. The exemption shall not be a defense against any violation of such requirements of the

Acid Rain Program whether the violation occurs before or after the exemption takes effect.

(b) The permitting authority will consider and either issue or deny a written exemption under (a) of this subsection by applying the procedures for acid rain permit issuance in WAC 173-406-600 as if the petition for written exemption were a permit application, with regard to completeness determination, draft written exemption, administrative record, statement of basis, public notice and comment period, public hearing, proposed written exemption, written exemption issuance, exemption revision and appeal procedures as provided by WAC 173-406-600 and 173-406-700. No provision under WAC 173-406-600 concerning the content, effective date, or term of an acid rain permit shall apply to the written exemption or proposed written exemption under this section.

(c) A written exemption issued under this section shall have a term of five years, except as provided in subsection (4)(c) or (d) of this section.

(4) Special provisions.

(a) A unit exempted under this section shall not emit any sulfur dioxide and nitrogen dioxide starting on the date it is exempted.

(b) The owners and operators of a unit exempted under this section shall comply with monitoring requirements in accordance with 40 CFR part 75 and will be allocated allowances in accordance with 40 CFR part 73.

(c) A unit exempted under this section shall not resume operation unless the designated representative of the source that includes the unit submits an acid rain permit application for the unit not less than twenty-four months prior to the later of January 1, 2000, or the date the unit is to resume operation. On the earlier of the date the written exemption expires or the date an acid rain permit application is submitted or is required to be submitted under this paragraph, the unit shall no longer be exempted under this section and shall be subject to all requirements of WAC 173-406-100 through 173-406-800 and 40 CFR part 72.

(d) In the event an air operating permit is required under chapter 173-401 WAC (FCAA Title V), the unit shall no longer be exempted under this section on the effective date of the 401 permit.

#### NEW SECTION

**WAC 173-406-106 Standard requirements.** (1) Permit requirements.

(a) The designated representative of each affected source and each affected unit at the source shall:

(i) Submit a complete acid rain permit application under this part in accordance with the deadlines specified in WAC 173-406-301;

(ii) Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review an acid rain permit application and issue or deny an acid rain permit.

(b) The owners and operators of each affected source and each affected unit at the source shall:

(i) Operate the unit in compliance with a complete acid rain permit application or a superseding acid rain permit issued by the permitting authority; and

(ii) Have an acid rain permit.

(2) Monitoring requirements.

(a) The owners and operators and, to the extent applicable, designated representative of each affected source and each affected unit at the source shall comply with the monitoring requirements pursuant to 40 CFR part 75 and section 407 of the act and regulations implementing section 407 of the act.

(b) The emissions measurements recorded and reported in accordance with 40 CFR part 75 and section 407 of the act and regulations implementing section 407 of the act shall be used to determine compliance by the unit with the acid rain emissions limitations and emissions reduction requirements for sulfur dioxide and nitrogen oxides under the Acid Rain Program.

(c) The requirements of 40 CFR part 75 and regulations implementing section 407 of the act shall not affect the responsibility of the owners and operators to monitor emissions of other pollutants or other emissions characteristics at the unit under other applicable requirements of the act, applicable requirements of Title 173 WAC, and other provisions of the operating permit for the source.

(3) Sulfur dioxide requirements.

(a) The owners and operators of each source and each affected unit at the source shall:

(i) Hold allowances, as of the allowance transfer deadline, in the unit's compliance subaccount (after deductions under 40 CFR 73.34(c)) not less than the total annual emissions of sulfur dioxide for the previous calendar year from the unit; and

(ii) Comply with the applicable acid rain emissions limitation for sulfur dioxide.

(b) Each ton of sulfur dioxide emitted in excess of the acid rain emissions limitations for sulfur dioxide shall constitute a separate violation of the act.

(c) An affected unit shall be subject to the requirements under (a) of this subsection as follows:

(i) Starting January 1, 2000, an affected unit under WAC 173-406-103 (1)(b); or

(ii) Starting on the later of January 1, 2000, or the deadline for monitor certification under 40 CFR part 75, an affected unit under WAC 173-406-103 (1)(c).

(d) Allowances shall be held in, deducted from, or transferred among allowance tracking system accounts in accordance with the Acid Rain Program.

(e) An allowance shall not be deducted, in order to comply with the requirements under (a)(i) of this subsection, prior to the calendar year for which the allowance was allocated.

(f) An allowance allocated by the administrator under the Acid Rain Program is a limited authorization to emit sulfur dioxide in accordance with the Acid Rain Program. No provision of the Acid Rain Program, the acid rain permit application, the acid rain permit, or the written exemption under WAC 173-406-104 and 173-406-105 and no provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization.

(g) An allowance allocated by the administrator under the Acid Rain Program does not constitute a property right.

(4) Nitrogen oxides requirements. The owners and operators of the source and each affected unit at the source shall comply with the applicable acid rain emissions limitation for nitrogen oxides.

## (5) Excess emissions requirements.

(a) The designated representative of an affected unit that has excess emissions in any calendar year shall submit a proposed offset plan to the administrator, as required under 40 CFR part 77, and submit a copy to the permitting authority.

(b) The owners and operators of an affected unit that has excess emissions in any calendar year shall:

(i) Pay to the administrator without demand the penalty required, and pay to the administrator upon demand the interest on that penalty, as required by 40 CFR part 77; and

(ii) Comply with the terms of an approved offset plan, as required by 40 CFR part 77.

## (6) Recordkeeping and reporting requirements.

(a) Unless otherwise provided, the owners and operators of the source and each affected unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created.

(i) The certificate of representation for the designated representative for the source and each affected unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation, in accordance with 40 CFR 72.24; the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new certificate of representation changing the designated representative.

(ii) All emissions monitoring information, in accordance with 40 CFR part 75.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the Acid Rain Program.

(iv) Copies of all documents used to complete an acid rain permit application and any other submission under the Acid Rain Program or to demonstrate compliance with the requirements of the Acid Rain Program.

(b) This period may be extended for cause, at any time prior to the end of five years, in writing by the administrator or the permitting authority.

(c) The designated representative of an affected source and each affected unit at the source shall submit the reports and compliance certifications required under the Acid Rain Program, including those under WAC 173-406-800 and 40 CFR part 75.

## (7) Liability.

(a) Any person who knowingly violates any requirement or prohibition of the Acid Rain Program, a complete acid rain permit application, an acid rain permit, or a written exemption under WAC 173-406-104 or 173-406-105, including any requirement for the payment of any penalty owed to the United States, shall be subject to enforcement by the administrator pursuant to section 113(c) of the act and by the permitting authority pursuant to RCW 70.94.431 and 70.94.435.

(b) Any person who knowingly makes a false, material statement in any record, submission, or report under the Acid Rain Program shall be subject to criminal enforcement by the administrator pursuant to section 113(c) of the act and 18 U.S.C. 1001 and by the permitting authority pursuant to RCW 70.94.430.

(c) No permit revision shall excuse any violation of the requirements of the Acid Rain Program that occurs prior to the date that the revision takes effect.

(d) Each affected source and each affected unit shall meet the requirements of the Acid Rain Program.

(e) Any provision of the Acid Rain Program that applies to an affected source (including a provision applicable to the designated representative of an affected source) shall also apply to the owners and operators of such source and of the affected units at the source.

(f) Any provision of the Acid Rain Program that applies to an affected unit (including a provision applicable to the designated representative of an affected unit) shall also apply to the owners and operators of such unit. Except as provided under WAC 173-406-402 (Phase II repowering extension plans), section 407 of the act and regulations implementing section 407 of the act, and except with regard to the requirements applicable to units with a common stack under 40 CFR part 75 (including 40 CFR 75.16, 75.17, and 75.18), the owners and operators and the designated representative of one affected unit shall not be liable for any violation by any other affected unit of which they are not owners or operators or the designated representative and that is located at a source of which they are not owners or operators or the designated representative.

(g) Each violation of a provision of WAC 173-406-100 through 173-406-1000 and 40 CFR parts 72, 73, 75, 77, and 78, and regulations implementing sections 407 and 410 of the act by an affected source or affected unit, or by an owner or operator or designated representative of such source or unit, shall be a separate violation of the act.

(8) Effect on other authorities. No provision of the Acid Rain Program, an acid rain permit application, an acid rain permit, or a written exemption under WAC 173-406-104 or 173-406-105 shall be construed as:

(a) Except as expressly provided in Title IV of the act, exempting or excluding the owners and operators and, to the extent applicable, the designated representative of an affected source or affected unit from compliance with any other provision of the act, including the provisions of Title I of the act relating to applicable National Ambient Air Quality Standards or State Implementation Plans;

(b) Limiting the number of allowances a unit can hold; provided, that the number of allowances held by the unit shall not affect the source's obligation to comply with any other provisions of the act;

(c) Requiring a change of any kind in any state law regulating electric utility rates and charges, affecting any state law regarding such state regulation, or limiting such state regulation, including any prudence review requirements under such state law;

(d) Modifying the Federal Power Act or affecting the authority of the Federal Energy Regulatory Commission under the Federal Power Act; or

(e) Interfering with or impairing any program for competitive bidding for power supply in a state in which such program is established.

**PART II  
DESIGNATED REPRESENTATIVE**

**NEW SECTION****WAC 173-406-200 Designated representative.****NEW SECTION**

**WAC 173-406-201 Submissions.** (1) The designated representative shall submit a certificate of representation, and any superseding certificate of representation, to the administrator in accordance with subpart B of 40 CFR part 72 and, concurrently, shall submit a copy to the permitting authority. Whenever the term "designated representative" is used in this regulation, the term shall be construed to include the alternate designated representative.

(2) Each submission under the Acid Rain Program shall be submitted, signed, certified and dated by the designated representative for all sources on behalf of which the submission is made.

(3) In each submission under the Acid Rain Program, the designated representative shall certify, by his or her signature:

(a) The following statement, which shall be included verbatim in such submission: "I am authorized to make this submission on behalf of the owners and operators of the affected source or affected units for which the submission is made."

(b) The following statement, which shall be included verbatim in such submission: "I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(4) The permitting authority will accept or act on a submission made on behalf of owners or operators of an affected source and an affected unit only if the submission has been made, signed, and certified in accordance with subsections (2) and (3) of this section.

(5)(a) The designated representative of a source shall serve notice on each owner and operator of the source and of an affected unit at the source:

(i) By the date of submission, of any Acid Rain Program submissions by the designated representative;

(ii) Within ten business days of receipt of a determination, of any written determination by the administrator or the permitting authority; and

(iii) Provided that the submission or determination covers the source or the unit.

(b) The designated representative of a source shall provide each owner and operator of an affected unit at the source a copy of any submission or determination under (a) of this subsection, unless the owner or operator expressly waives the right to receive such a copy.

**NEW SECTION**

**WAC 173-406-202 Objections.** (1) Except as provided in 40 CFR 72.23, no objection or other communication submitted to the administrator or the permitting authority concerning the authorization, or any submission, action or inaction, of the designated representative shall affect any submission, action, or inaction of the designated representative, or the finality of any decision by the permitting authority, under the Acid Rain Program. In the event of such communication, the permitting authority is not required to stay any submission or the effect of any action or inaction under the Acid Rain Program.

(2) The permitting authority will not adjudicate any private legal dispute concerning the authorization or any submission, action, or inaction of any designated representative, including private legal disputes concerning the proceeds of allowance transfers.

**PART III  
APPLICATIONS**

**NEW SECTION****WAC 173-406-300 Acid rain permit applications.****NEW SECTION**

**WAC 173-406-301 Requirement to apply.** (1) Duty to apply. The designated representative of any source with an affected unit shall submit a complete acid rain permit application by the applicable deadline in subsections (2) and (3) of this section, and the owners and operators of such source and any affected unit at the source shall not operate the source or unit without a permit that states its Acid Rain Program requirements.

(2) Deadlines.

(a) For any source with an existing unit described under WAC 173-406-103 (1)(b), the designated representative shall submit a complete acid rain permit application governing such unit to the permitting authority on or before January 1, 1996.

(b) For any source with a new unit described under WAC 173-406-103 (1)(c)(i), the designated representative shall submit a complete acid rain permit application governing such unit to the permitting authority at least twenty-four months before the later of January 1, 2000, or the date on which the unit commences operation.

(c) For any source with a unit described under WAC 173-406-103 (1)(c)(ii), the designated representative shall submit a complete acid rain permit application governing such unit to the permitting authority at least twenty-four months before the later of January 1, 2000, or the date on which the unit begins to serve a generator with a nameplate capacity greater than twenty-five MWe.

(d) For any source with a unit described under WAC 173-406-103 (1)(c)(iii), the designated representative shall submit a complete acid rain permit application governing such unit to the permitting authority at least twenty-four months before the later of January 1, 2000, or the date on which the auxiliary firing commences operation.

(e) For any source with a unit described under WAC 173-406-103 (1)(c)(iv), the designated representative shall

submit a complete acid rain permit application governing such unit to the permitting authority before the later of January 1, 1998, or March 1st of the year following the three calendar year period in which the unit sold to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand MWe-hrs actual electric output (on a gross basis).

(f) For any source with a unit described under WAC 173-406-103 (1)(c)(v), the designated representative shall submit a complete acid rain permit application governing such unit to the permitting authority before the later of January 1, 1998, or March 1st of the year following the calendar year in which the facility fails to meet the definition of qualifying facility.

(g) For any source with a unit described under WAC 173-406-103 (1)(c)(vi), the designated representative shall submit a complete acid rain permit application governing such unit to the permitting authority before the later of January 1, 1998, or March 1st of the year following the calendar year in which the facility fails to meet the definition of an independent power production facility.

(h) For any source with a unit described under WAC 173-406-103 (1)(c)(vii), the designated representative shall submit a complete acid rain permit application governing such unit to the permitting authority before the later of January 1, 1998, or March 1st of the year following the three-calendar year period in which the incinerator consumed twenty percent or more fossil fuel (on a Btu basis).

(3) Duty to reapply. The designated representative shall submit a complete acid rain permit application for each source with an affected unit at least six months or more but not to exceed eighteen months, as may be approved by the permitting authority, prior to the expiration of an existing acid rain permit governing the unit to ensure that the existing acid rain permit does not expire prior to renewal.

(4) The original and three copies of all permit applications shall be submitted to the permitting authority.

#### NEW SECTION

**WAC 173-406-302 Information requirements for acid rain permit applications.** Complete permit application. A complete acid rain permit application shall be submitted on a form approved by the permitting authority, which includes the following elements:

(1) Identification of the affected source for which the permit application is submitted;

(2) Identification of each affected unit at the source for which the permit application is submitted;

(3) A complete compliance plan for each unit, in accordance with WAC 173-406-400;

(4) The standard requirements under WAC 173-406-106;

(5) If the unit is a new unit, the date that the unit has commenced or will commence operation and the deadline for monitor certification; and

(6) The name of the designated representative, his or her signature, and the date of signature.

#### NEW SECTION

**WAC 173-406-303 Permit application shield and binding effect of permit application.** Permit application shield.

(1) Once a designated representative submits a timely and complete acid rain permit application, the owners and operators of the affected source and the affected units covered by the permit application shall be deemed in compliance with the requirement to have an acid rain permit under WAC 173-406-106 (1)(b) and 173-406-301(1); provided that any delay in issuing an acid rain permit is not caused by the failure of the designated representative to submit in a complete and timely fashion supplemental information, as required by the permitting authority, necessary to issue a permit.

(2) Prior to the earlier of the date on which an acid rain permit is issued as a final agency action subject to judicial review, an affected unit governed by and operated in accordance with the terms and requirements of a timely and complete acid rain permit application shall be deemed to be operating in compliance with the Acid Rain Program.

(3) A complete acid rain permit application shall be binding on the owners and operators and the designated representative of the affected source and the affected units covered by the permit application and shall be enforceable as an acid rain permit from the date of submission of the permit application until the issuance or denial of such permit as a final agency action subject to judicial review.

### **PART IV COMPLIANCE PLAN**

#### NEW SECTION

**WAC 173-406-400 Acid rain compliance plan and compliance options.**

#### NEW SECTION

**WAC 173-406-401 General.** (1) For each affected unit included in an acid rain permit application, a complete compliance plan shall include:

(a) For sulfur dioxide emissions, a certification that, as of the allowance transfer deadline, the designated representative will hold allowances in the unit's compliance sub-account (after deductions under 40 CFR 73.34(c)) not less than the total annual emissions of sulfur dioxide from the unit. The compliance plan may also specify, in accordance with WAC 173-406-400, one or more of the acid rain compliance options.

(b) For nitrogen oxides emissions, a certification that the unit will comply with the applicable limitation established by regulations implementing section 407 of the act or shall specify one or more acid rain compliance options, in accordance with section 407 of the act and regulations implementing section 407.

(2) The compliance plan may include a multi-unit compliance option under WAC 173-406-402 or section 407 of the act or regulations implementing section 407.

(a) A plan for a compliance option that includes units at more than one affected source shall be complete only if:

(i) Such plan is signed, certified and dated by the designated representative for each source with an affected unit governed by such plan; and

(ii) A complete permit application is submitted covering each unit governed by such plan.

(b) The permitting authority's approval of a plan under (a) of this subsection that includes units in more than one state shall be final only after every permitting authority with jurisdiction over any such unit has approved the plan with the same modifications or conditions, if any.

(3) Conditional approval. In the compliance plan, the designated representative of an affected unit may propose, in accordance with WAC 173-406-400, any acid rain compliance option for conditional approval; provided that an acid rain compliance option under section 407 of the act may be conditionally proposed only to the extent provided in regulations implementing section 407 of the act.

(a) To activate a conditionally approved acid rain compliance option, the designated representative shall notify the permitting authority in writing that the conditionally approved compliance option will actually be pursued beginning January 1st of a specified year. Such notification shall be subject to the limitations on activation under WAC 173-406-402 and regulations implementing section 407 of the act. If the conditionally approved compliance option includes a plan described in subsection (2)(a) of this section, the designated representative of each source governed by the plan shall sign and certify the notification.

(b) The notification under subsection (3)(a) of this section shall specify the first calendar year and the last calendar year for which the conditionally approved acid rain compliance option is to be activated. A conditionally approved compliance option shall not be activated after the date of any enforceable milestone applicable to the compliance option. The date of activation of the compliance option shall not be a defense against failure to meet the requirements applicable to that compliance option during each calendar year for which the compliance option is activated.

(c) Upon submission of a notification meeting the requirements of (a) and (b) of this subsection, the conditionally approved acid rain compliance option becomes binding on the owners and operators and the designated representative of any unit governed by the conditionally approved compliance option.

(d) A notification meeting the requirements of (a) and (b) of this subsection will revise the unit's permit in accordance with WAC 173-406-704 (administrative permit amendment).

(4) Termination of compliance option.

(a) The designated representative for a unit may terminate an acid rain compliance option by notifying the permitting authority in writing that an approved compliance option will be terminated beginning January 1st of a specified year. Such notification shall be subject to the limitations on termination under WAC 173-406-402 and regulations implementing section 407 of the act. If the compliance option includes a plan described in subsection (2)(a) of this section, the designated representative for each source governed by the plan shall sign and certify the notification.

(b) The notification under (a) of this subsection shall specify the calendar year for which the termination will take effect.

(c) Upon submission of a notification meeting the requirements of (a) and (b) of this subsection, the termination becomes binding on the owners and operators and the designated representative of any unit governed by the acid rain compliance option to be terminated.

(d) A notification meeting the requirements of (a) and (b) of this subsection will revise the unit's permit in accordance with WAC 173-406-704 (administrative permit amendment).

#### NEW SECTION

**WAC 173-406-402 Repowering extensions.** (1) Applicability.

(a) This section shall apply to the designated representative of:

(i) Any existing affected unit that is a coal-fired unit and has a 1985 actual SO<sub>2</sub> emissions rate equal to or greater than one and two tenths lbs/mmBtu; or

(ii) Any new unit that will be a replacement unit, as provided in subsection (2)(b) of this section, for a unit meeting the requirements of (a)(i) of this subsection; or

(iii) Any oil and/or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Secretary of Energy.

(b) A repowering extension does not exempt the owner or operator for any unit governed by the repowering plan from the requirement to comply with such unit's acid rain emissions limitations for sulfur dioxide.

(2) The designated representative of any unit meeting the requirements of subsection (1)(a)(i) of this section may include in the unit's acid rain permit application a repowering extension plan that includes a demonstration that:

(a) The unit will be repowered with a qualifying repowering technology in order to comply with the emissions limitations for sulfur dioxide; or

(b) The unit will be replaced by a new utility unit that has the same designated representative and that is located at a different site using a qualified repowering technology and the existing unit will be permanently retired from service on or before the date on which the new utility unit commences commercial operation.

(3) In order to apply for a repowering extension, the designated representative of a unit under subsection (1) of this section shall:

(a) Submit to the permitting authority, by January 1, 1996, a complete repowering extension plan;

(b) Submit to the administrator before June 1, 1997, a complete petition for approval of repowering technology in accordance with 40 CFR 72.44(d) and submit a copy to the permitting authority; and

(c) If the repowering extension plan is submitted for conditional approval, submit to the permitting authority by December 31, 1997, a notification to activate the plan in accordance with WAC 173-406-401(3).

(4) Contents of repowering extension plan. A complete repowering extension plan shall include the following elements:

(a) Identification of the existing unit governed by the plan.

(b) The unit's federally approved state implementation plan sulfur dioxide emissions limitation.

(c) The unit's 1995 actual SO<sub>2</sub> emissions rate, or best estimate of the actual emissions rate; provided that the actual emissions rate is submitted to the permitting authority by January 30, 1996.

(d) A schedule for construction, installation, and commencement of operation of the repowering technology approved or submitted for approval under 40 CFR 72.44(d) with dates for the following milestones:

(i) Completion of design engineering;

(ii) For a plan under subsection (2)(a) of this section, removal of the existing unit from operation to install the qualified repowering technology;

(iii) Commencement of construction;

(iv) Completion of construction;

(v) Start-up testing;

(vi) For a plan under subsection (2)(b) of this section, shutdown of the existing unit; and

(vii) Commencement of commercial operation of the repowering technology.

(e) For a plan under subsection (2)(b) of this section:

(i) Identification of the new unit. A new unit shall not be included in more than one repowering extension plan.

(ii) Certification that the new unit will replace the existing unit.

(iii) Certification that the new unit has the same designated representative as the existing unit.

(iv) Certification that the existing unit will be permanently retired from service on or before the date the new unit commences commercial operation.

(f) The special provisions of subsection (7) of this section.

(5) The permitting authority's action on repowering extension plan.

(a) The permitting authority will not approve a repowering extension plan until the administrator makes a conditional determination that the technology is a qualified repowering technology, unless the permitting authority approves such plan subject to the conditional determination of the administrator.

(b) Permit issuance.

(i) Upon a conditional determination by the administrator that the technology to be used in the repowering extension plan is a qualified repowering technology and a determination by the permitting authority that such plan meets the requirements of this section, the permitting authority will issue the acid rain portion of the operating permit including:

(A) The approved repowering extension plan; and

(B) A schedule of compliance with enforceable milestones for construction, installation, and commencement of operation of the repowering technology and other requirements necessary to ensure that emission reduction requirements under this section will be met.

(ii) Except as otherwise provided in subsection (6) of this section, the repowering extension shall be in effect starting January 1, 2000, and ending on the day before the date (specified in the acid rain permit) on which the existing unit will be removed from operation to install the qualifying repowering technology or will be permanently removed from service for replacement by a new unit with such technology; provided that the repowering extension shall end no later than December 31, 2003.

(iii) The portion of the operating permit specifying the repowering extension and other requirements under (b)(i) of this subsection shall be subject to the administrator's final determination, under 40 CFR 72.44(d)(4), that the technology to be used in the repowering extension plan is a qualifying repowering technology.

(c) Allowance allocation. Allowances will be allocated in accordance with 40 CFR 72.44 (f)(3) and (g).

(6) Failed repowering projects.

(a) (i) If, at any time before the end of the repowering extension under subsection (5)(b)(ii) of this section, the designated representative of a unit governed by an approved repowering extension plan submits the notification under WAC 173-406-802(4) that the owners and operators have decided to terminate efforts to properly design, construct, and test the repowering technology specified in the plan before completion of construction or start-up testing, the designated representative may submit to the permitting authority a proposed permit modification demonstrating that such efforts were in good faith. If such demonstration is to the satisfaction of the administrator, the unit shall not be deemed in violation of the act because of such a termination and the permitting authority will revise the operating permit in accordance with (a)(ii) of this subsection.

(ii) Regardless of whether notification under (a)(i) of this subsection is given, the repowering extension will end beginning on the earlier of the date of such notification or the date by which the designated representative was required to give such notification under WAC 173-406-802(4).

(b) The designated representative of a unit governed by an approved repowering extension plan may submit to the permitting authority a proposed permit modification demonstrating that the repowering technology specified in the plan was properly constructed and tested on such unit but was unable to achieve the emissions reduction limitations specified in the plan and that it is economically or technologically infeasible to modify the technology to achieve such limits. In order to be properly constructed and tested, the repowering technology shall be constructed at least to the extent necessary for direct testing of the multiple combustion emissions (including sulfur dioxide and nitrogen oxides) from such unit while operating the technology at nameplate capacity. If such demonstration is to the satisfaction of the administrator.

(i) The unit shall not be deemed in violation of the act because of such failure to achieve the emissions reduction limitations;

(ii) The permitting authority will revise the acid rain portion of the operating permit in accordance with the following:

(A) The existing unit may be retrofitted or repowered with another clean coal or other available control technology; and

(B) The repowering extension will continue in effect until the earlier of the date the existing unit commences commercial operation with such control technology or December 31, 2003.

(7) Special provisions.

(a) Emissions limitations.

(i) Sulfur dioxide. Allowances allocated during the repowering extension under subsections (5)(c) and (6) of this section to a unit governed by an approved repowering

extension plan shall not be transferred to any allowance tracking system account other than the unit accounts of other units at the same source as that unit.

(ii) Nitrogen oxides. Any existing unit governed by an approved repowering extension plan shall be subject to the acid rain emissions limitations for nitrogen oxides in accordance with section 407 of the act and regulations implementing section 407 of the act beginning on the date that the unit is removed from operation to install the repowering technology or is permanently removed from service.

(iii) No existing unit governed by an approved repowering extension plan shall be eligible for a waiver under section 111(j) of the act.

(iv) No new unit governed by an approved repowering extension plan shall receive an exemption from the requirements imposed under section 111 of the act.

(b) Reporting requirements. Each unit governed by an approved repowering extension plan shall comply with the special reporting requirements of WAC 173-406-802.

(c) Liability.

(i) The owners and operators of a unit governed by an approved repowering plan shall be liable for any violation of the plan or this section at that or any other unit governed by the plan.

(ii) The units governed by the plan under subsection (2)(b) of this section shall continue to have a common designated representative until the existing unit is permanently retired under the plan.

(d) Terminations. Except as provided in subsection (6) of this section, a repowering extension plan shall not be terminated after December 31, 1999.

## PART V PERMIT CONTENTS

### NEW SECTION

#### **WAC 173-406-500 Acid rain permit.**

### NEW SECTION

**WAC 173-406-501 Contents.** (1) Each acid rain permit (including any draft or proposed acid rain permit) will contain the following elements:

(a) All elements required for a complete acid rain permit application under WAC 173-406-302, as approved or adjusted by the permitting authority;

(b) The applicable acid rain emissions limitation for sulfur dioxide; and

(c) The applicable acid rain emissions limitation for nitrogen oxides.

(2) Each acid rain permit is deemed to incorporate the definitions of terms under WAC 173-406-101 unless expressly otherwise defined in the permit.

### NEW SECTION

**WAC 173-406-502 Permit shield.** Each affected unit operated in accordance with the acid rain permit that governs the unit and that was issued in compliance with Title IV of the act, as provided in WAC 173-406-100 through 173-406-800, 40 CFR parts 72, 73, 75, 77, and 78, and the

regulations implementing section 407 of the act, shall be deemed to be operating in compliance with the Acid Rain Program, except as provided in WAC 173-406-106 (7)(f).

## PART VI PERMIT ISSUANCE

### NEW SECTION

**WAC 173-406-600 Acid rain permit issuance procedures.**

### NEW SECTION

**WAC 173-406-601 General.** The permitting authority will issue or deny all acid rain permits in accordance with chapter 173-401 WAC, including the completeness determination, draft permit, administrative record, statement of basis, public notice and comment period, public hearing, proposed permit, permit issuance, permit revision, and appeal procedures as provided by WAC 173-406-600 and 173-406-700.

### NEW SECTION

**WAC 173-406-602 Completeness.** The permitting authority will submit a written notice of application completeness to the administrator and the designated representative within ten working days following a determination by the permitting authority that the acid rain permit application is complete.

### NEW SECTION

**WAC 173-406-603 Statement of basis.** (1) The statement of basis will briefly set forth significant factual, legal, and policy considerations on which the permitting authority relied in issuing or denying the draft permit.

(2) The statement of basis will include the reasons, and supporting authority, for approval or disapproval of any compliance options requested in the permit application, including references to applicable statutory or regulatory provisions and to the administrative record.

(3) The permitting authority will submit to the administrator a copy of the draft acid rain permit and the statement of basis and all other relevant portions of the operating permit that may affect the draft acid rain permit.

### NEW SECTION

**WAC 173-406-604 Issuance of acid rain permits.** (1) Proposed permit. After the close of the public comment period and within eighteen months of receipt of a complete application, the permitting authority will incorporate all necessary changes and issue or deny a proposed acid rain permit.

(2) The permitting authority will submit the proposed acid rain permit or denial of a proposed acid rain permit to the administrator in accordance with WAC 173-401-810 and WAC 173-401-820, the provisions of which shall be treated as applying to the issuance or denial of a proposed acid rain permit.

(3)(a) Following the administrator's review of the proposed acid rain permit or denial of a proposed acid rain permit, the permitting authority or, under WAC

173-401-700(6) (treated as applying to the issuance or denial of an acid rain permit), the permitting authority will incorporate any required changes and issue, or deny the acid rain permit in accordance with WAC 173-406-500.

(b) No acid rain permit (including a draft or proposed permit) shall be issued unless the administrator has received a certificate of representation for the designated representative of the source as provided in WAC 173-406-201 in accordance with subpart B of 40 CFR part 72.

(4) Permit issuance deadline and effective date.

(a) On or before December 31, 1997, the permitting authority will issue an acid rain permit to each affected source whose designated representative submitted a timely and complete acid rain permit application by January 1, 1996, in accordance with WAC 173-406-201 and meets the requirements of WAC 173-406-600 and chapter 173-401 WAC.

(b) Nitrogen oxides. Not later than January 1, 1999, the permitting authority will reopen the acid rain permit to add the Acid Rain Program nitrogen oxides requirements; provided that the designated representative of the affected source submitted a timely and complete acid rain permit application for nitrogen oxides in accordance with WAC 173-406-201. Such reopening shall not affect the term of the acid rain portion of an operating permit.

(c) Each acid rain permit issued in accordance with (a) of this subsection shall take effect by the later of January 1, 2000, or, where the permit governs a unit under WAC 173-406-103 (1)(c), the deadline for monitor certification under 40 CFR part 75.

(d) Each acid rain permit shall have a term of five years commencing on its effective date, except that the initial issuance may have a shorter period in order to provide coordination with chapter 173-401 WAC permit requirements.

(e) An acid rain permit shall be binding on any new owner or operator or designated representative of any source or unit governed by the permit.

(5)(a) Each acid rain permit shall contain all applicable acid rain requirements, shall be a portion of the operating permit that is complete and segregable from all other air quality requirements, and shall not incorporate information contained in any other documents, other than documents that are readily available.

(b) Invalidation of the acid rain portion of an operating permit shall not affect the continuing validity of the rest of the operating permit, nor shall invalidation of any other portion of the operating permit affect the continuing validity of the acid rain portion of the permit.

#### NEW SECTION

**WAC 173-406-605 Acid rain permit appeal procedures.** (1) Appeals of the acid rain portion of an operating permit issued by the permitting authority that do not challenge or involve decisions or actions of the administrator under 40 CFR part 72, 73, 75, 77 and 78 and sections 407 and 410 of the act and regulations implementing sections 407 and 410 shall be conducted according to the procedures in chapter 43.21 RCW. Appeals of the acid rain portion of such a permit that challenge or involve such decisions or actions of the administrator shall follow the procedures under

40 CFR part 78 and section 307 of the act. Such decisions or actions include, but are not limited to, allowance allocations, determinations concerning alternative monitoring systems, and determinations of whether a technology is a qualifying repowering technology.

(2) No administrative appeal or judicial appeal of the acid rain portion of an operating permit shall be allowed more than thirty days following respectively issuance of the acid rain portion that is subject to administrative appeal or issuance of the final agency action subject to judicial appeal.

(3) The administrator may intervene as a matter of right in any state administrative appeal of an acid rain permit or denial of an acid rain permit.

(4) No administrative appeal concerning an acid rain requirement shall result in a stay of the following requirements:

(a) The allowance allocations for any year during which the appeal proceeding is pending or is being conducted;

(b) Any standard requirement under WAC 173-406-106;

(c) The emissions monitoring and reporting requirements applicable to the affected units at an affected source under 40 CFR part 75;

(d) Uncontested provisions of the decision on appeal; and

(e) The terms of a certificate of representation submitted by a designated representative under subpart B of 40 CFR part 72.

(5) The permitting authority will serve written notice on the administrator of any state administrative or judicial appeal concerning an acid rain provision of any operating permit or denial of an acid rain portion of any operating permit within thirty days of the filing of the appeal.

(6) The permitting authority will serve written notice on the administrator of any determination or order in a state administrative or judicial proceeding that interprets, modifies, voids, or otherwise relates to any portion of an acid rain permit. Following any such determination or order, the administrator will have an opportunity to review and veto the acid rain permit or revoke the permit for cause in accordance with WAC 173-401-810 and 173-401-820.

## **PART VII PERMIT REVISIONS**

### NEW SECTION

#### **WAC 173-406-700 Permit revisions.**

### NEW SECTION

**WAC 173-406-701 General.** (1) WAC 173-406-700 shall govern revisions to any acid rain permit issued by the permitting authority.

(2) A permit revision may be submitted for approval at any time. No permit revision shall affect the term of the acid rain permit to be revised. No permit revision shall excuse any violation of an Acid Rain Program requirement that occurred prior to the effective date of the revision.

(3) The terms of the acid rain permit shall apply while the permit revision is pending.

(4) Any determination or interpretation by state (including the permitting authority or a state court) modifying or voiding any acid rain permit provision shall be subject to

review by the administrator in accordance with WAC 173-401-810 and 173-401-820 as applied to permit modifications, unless the determination or interpretation is an administrative amendment approved in accordance with WAC 173-406-704.

(5) The standard requirements of WAC 173-406-106 shall not be modified or voided by a permit revision.

(6) Any permit revision involving incorporation of a compliance option that was not submitted for approval and comment during the permit issuance process, or involving a change in a compliance option that was previously submitted, shall meet the requirements for applying for such compliance option under WAC 173-406-402 and section 407 of the act and regulations implementing section 407 of the act.

(7) For permit revisions not described in WAC 173-406-702 and 173-406-703, the permitting authority may, in its discretion, determine which of these sections is applicable.

#### NEW SECTION

**WAC 173-406-702 Permit modifications.** (1)(a) Permit modifications shall follow the permit issuance requirements of WAC 173-406-600, 173-401-810 and 173-401-820.

(b) For purposes of applying (a) of this subsection, a permit modification shall be treated as an acid rain permit application, to the extent consistent with WAC 173-406-700.

(2) The following permit revisions are permit modifications:

(a) Relaxation of an excess emission offset requirement after approval of the offset plan by the administrator;

(b) Incorporation of a final nitrogen oxides alternative emission limitation following a demonstration period;

(c) Determinations concerning failed repowering projects under WAC 173-406-402 (6)(a)(i) and (b); and

(d) At the option of the designated representative submitting the permit revision, the permit revisions listed in WAC 173-406-703(2).

#### NEW SECTION

**WAC 173-406-703 Fast-track modifications.** (1) Fast-track modifications shall follow the following procedures:

(a) The designated representative shall serve a copy of the fast-track modification on the administrator, the permitting authority, and any person entitled to a written notice under WAC 173-401-800. Within five business days of serving such copies, the designated representative shall also give public notice by publication in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice.

(b) The public shall have a period of thirty days, commencing on the date of publication of the notice, to comment on the fast-track modification. Comments shall be submitted in writing to the permitting authority and to the designated representative.

(c) The designated representative shall submit the fast-track modification to the permitting authority on or before commencement of the public comment period.

(d) Within thirty days of the close of the public comment period, the permitting authority will consider the fast-track modification and the comments received and approve or disapprove, in whole or in part or with changes or conditions as appropriate, or disapprove the modification. A fast-track modification shall be effective immediately upon issuance, in accordance with WAC 173-401-810 as applied to significant modifications.

(2) The following permit revisions are, at the option of the designated representative submitting the permit revision, either fast-track modifications under this section or permit modifications under WAC 173-406-702:

(a) Incorporation of a compliance option that the designated representative did not submit for approval and comment during the permit issuance process;

(b) Addition of a nitrogen oxides averaging plan to a permit; and

(c) Changes in a repowering plan, nitrogen oxides averaging plan, or nitrogen oxides compliance deadline extension.

#### NEW SECTION

**WAC 173-406-704 Administrative permit amendment.** (1) Administrative amendments shall follow the procedures set forth at WAC 173-401-720. The permitting authority will submit the revised portion of the permit to the administrator within ten working days after the date of final action on the request for an administrative amendment.

(2) The following permit revisions are administrative amendments:

(a) Activation of a compliance option conditionally approved by the permitting authority; provided that all requirements for activation under WAC 173-406-401(3) and 173-406-402 are met;

(b) Changes in the designated representative or alternative designated representative; provided that a new certificate of representation is submitted to the administrator in accordance with subpart B of 40 CFR part 72;

(c) Correction of typographical errors;

(d) Changes in names, addresses, or telephone or facsimile numbers;

(e) Changes in the owners or operators; provided that a new certificate of representation is submitted within thirty days to the administrator in accordance with subpart B of 40 CFR part 72;

(f) Termination of a compliance option in the permit; provided that all requirements for termination under WAC 173-406-401(4) shall be met and this procedure shall not be used to terminate a repowering plan after December 31, 1999;

(g) Changes in the date, specified in a new unit's acid rain permit, of commencement of operation or the deadline for monitor certification, provided that they are in accordance with WAC 173-406-106;

(h) The addition of or change in a nitrogen oxides alternative emissions limitation demonstration period, provided that the requirements of regulations implementing section 407 of the act are met; and

(i) Incorporation of changes that the administrator has determined to be similar to those in (a) through (h) of this subsection.

**NEW SECTION****WAC 173-406-705 Automatic permit amendment.**

The following permit revisions shall be deemed to amend automatically, and become a part of the affected unit's acid rain permit by operation of law without any further review:

(1) Upon recordation by the administrator under 40 CFR part 73, all allowance allocations to, transfers to, and deductions from an affected unit's allowance tracking system account; and

(2) Incorporation of an offset plan that has been approved by the administrator under 40 CFR part 77.

**NEW SECTION**

**WAC 173-406-706 Permit reopenings.** (1) As provided in WAC 173-401-730, the permitting authority will reopen an acid rain permit for cause, including whenever additional requirements become applicable to any affected unit governed by the permit.

(2) In reopening an acid rain permit for cause, the permitting authority will issue a draft permit changing the provisions, or adding the requirements, for which the reopening was necessary. The draft permit shall be subject to the requirements of WAC 173-406-500 and 173-406-600.

(3) Any reopening of an acid rain permit shall not affect the term of the permit.

**PART VIII  
COMPLIANCE CERTIFICATION**

**NEW SECTION****WAC 173-406-800 Compliance certification.****NEW SECTION**

**WAC 173-406-801 Annual compliance certification report.** (1) Applicability and deadline. For each calendar year in which a unit is subject to the acid rain emissions limitations, the designated representative of the source at which the unit is located shall submit to the administrator and to the permitting authority, within sixty days after the end of the calendar year, an annual compliance certification report for the unit in compliance with 40 CFR 72.90.

(2) The submission of complete compliance certifications in accordance with subsection (1) of this section and 40 CFR part 75 shall be deemed to satisfy the requirement to submit compliance certifications under WAC 173-401-600 with regard to the acid rain portion of the source's operating permit.

**NEW SECTION**

**WAC 173-406-802 Units with repowering extension plans.** (1) Design and engineering and contract requirements. No later than January 1, 2000, the designated representative of a unit governed by an approved repowering plan shall submit to the administrator and the permitting authority:

(a) Satisfactory documentation of a preliminary design and engineering effort.

(b) A binding letter agreement for the executed and binding contract (or for each in a series of executed and

binding contracts) for the majority of the equipment to repower the unit using the technology conditionally approved by the administrator under 40 CFR 72.44(d)(3).

(c) The letter agreement under (b) of this subsection shall be signed and dated by each party and specify:

(i) The parties to the contract;

(ii) The date each party executed the contract;

(iii) The unit to which the contract applies;

(iv) A brief list identifying each provision of the contract;

(v) Any dates to which the parties agree, including construction completion date;

(vi) The total dollar amount of the contract; and

(vii) A statement that a copy of the contract is on site at the source and will be submitted upon written request of the administrator or the permitting authority.

(2) Removal from operation to repower. The designated representative of a unit governed by an approved repowering plan shall notify the administrator in writing at least sixty days in advance of the date on which the existing unit is to be removed from operation so that the qualified repowering technology can be installed, or is to be replaced by another unit with the qualified repowering technology, in accordance with the plan.

(3) Commencement of operation. Not later than sixty days after the units repowered under an approved repowering plan commences operation at full load, the designated representative of the unit shall submit a report to the administrator and the permitting authority, comparing the actual hourly emissions and percent removal of each pollutant controlled at the unit to the actual hourly emissions and percent removal at the existing unit under the plan prior to repowering, determined in accordance with 40 CFR part 75.

(4) Decision to terminate. If at any time before the end of the repowering extension and before completion of construction and start-up testing, the owners and operators decide to terminate good faith efforts to design, construct, and test the qualified repowering technology on the unit to be repowered under an approved repowering plan, then the designated representative shall submit a notice to the administrator and the permitting authority by the earlier of the end of the repowering extension or a date within thirty days of such decision, stating the date on which the decision was made.

**PART IX  
NITROGEN OXIDES**

**NEW SECTION**

**WAC 173-406-900 Nitrogen oxides emission reduction program.** (Reserved.)

**PART X  
SULFUR DIOXIDE OPT-IN**

**NEW SECTION**

**WAC 173-406-1000 Sulfur dioxide opt-ins.** (Reserved.)

**WSR 94-17-133  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Filed August 22, 1994, 1:07 p.m.]

**Original Notice.**

Title of Rule: WAC 388-49-510 Income eligibility standards.

Purpose: Update maximum gross income and net income standards as required by 7 CFR 273.9(a) to ensure correct determination of food stamp program eligibility effective October 1, 1994.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Informs field staff of new income limits to ensure correct determination of food stamp program eligibility.

Reasons Supporting Proposal: Updates, effective October 1, 1994, the food stamp program maximum gross and net income standards.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joan Wirth, Division of Income Assistance, 438-8324.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, 7 CFR 273.9(a).

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 business; it only affects food stamp recipients. Because of small annual increase in income standards, food stamp caseload may increase.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on September 27, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by September 13, 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 September 20, 1994.

Date of Intended Adoption: September 28, 1994.

August 22, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 3666, filed 11/10/93, effective 12/11/93)

**WAC 388-49-510 Income eligibility standards.** (1) Categorically eligible households, as described in WAC 388-49-180, are not subject to the provisions of this section.

(2) The department shall determine eligibility on the basis of gross income and net food stamp income except for households in subsection (3) of this section.

(3) The department shall determine eligibility on the basis of net food stamp income for households containing an elderly or disabled member.

(4) The gross and net monthly maximum income standards as established by the department of agriculture are as follows:

**Gross Monthly Income Standard**

Household Size	Maximum Standard
1	<del>(\$ 756)</del> \$ 798
2	<del>(1,022)</del> 1,066
3	<del>(1,289)</del> 1,335
4	<del>(1,555)</del> 1,604
5	<del>(1,822)</del> 1,872
6	<del>(2,088)</del> 2,141
7	<del>(2,355)</del> 2,410
8	<del>(2,621)</del> 2,678
9	<del>(2,888)</del> 2,947
10	<del>(3,155)</del> 3,216
Each additional person	<del>(+267)</del> +269

**Net Monthly Income Standard**

Household Size	Maximum Standard
1	<del>(\$ 581)</del> \$614
2	<del>(786)</del> 820
3	<del>(991)</del> 1,027
4	<del>(1,196)</del> 1,234
5	<del>(1,401)</del> 1,440
6	<del>(1,606)</del> 1,647
7	<del>(1,811)</del> 1,854
8	<del>(2,016)</del> 2,060
9	<del>(2,221)</del> 2,267
10	<del>(2,426)</del> 2,474
Each additional person	<del>(+205)</del> +207

**WSR 94-17-134  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Filed August 22, 1994, 1:08 p.m.]

**Original Notice.**

Title of Rule: WAC 388-49-020 Definitions.

Purpose: New definition "household employment representative" identifies which food stamp households can select their head of household for employment and training purposes and voluntary quit provisions. Explains that the principal wage earner shall be designated for those food stamp households who do not make a selection or who are not eligible to make a selection.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050, Administrative Notice 92-34, and Public Law 101-624 Section 1725.

Summary: Public Law 101-624 requires that certain food stamp households be allowed to select the head of household for employment and training and voluntary quit purposes. New definition "household employment represen-

PROPOSED

tative" has been created to identify who shall be designated as the head of household for this provision. Definition "principal wage earner" defined in Chapter 3.02.

Reasons Supporting Proposal: New definition "household employment representative" identifies who shall be designated as the head of household for this provision. Also added the definition "principal wage earner."

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Diana Arnaud, Division of Income Assistance, 438-8318.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 101-624 Section 1725 and Administrative Notice 92-34.

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 September 27, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by September 13, 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 September 20, 1993 [1994].

Date of Intended Adoption: September 28, 1994.

August 22, 1994  
Dewey Brock, Chief  
Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 3757, filed 7/27/94, effective 9/1/94)

**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.
- (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 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) "Household employment representative" means:

(a) The household member selected as the head of household for employment and training purposes and voluntary quit provisions. Selection is limited to households with:

(i) An adult parent of children, of any age, living in the household; or

(ii) An adult who has parental control over children, under eighteen years of age, living in the household; or

(b) The principal wage earner if no selection is made by the household, or the household is not entitled to make a selection.

(36) "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))~~ (37) "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))~~ (38) "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))~~ (39) "Household" means the basic client unit in the food stamp program.

~~((39))~~ (40) "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))~~ (41) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

~~((41))~~ (42) "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))~~ (43) "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))~~ (44) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

~~((44))~~ (45) "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))~~ (46) "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))~~ (47) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

~~((47))~~ (48) "Live-in attendant" means a person residing with a household to provide medical, housekeeping, child care, or other similar personal services.

~~((48))~~ (49) "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))~~ (50) "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))~~ (51) "Migrant farmworker" means a person working in seasonal agricultural employment who is required to be absent overnight from the person's permanent residence.

~~((51))~~ (52) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

~~((52))~~ (53) "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))~~ (54) "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))~~ (55) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

~~((55))~~ (56) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

~~((56))~~ (57) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

~~((57))~~ (58) "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))~~ (59) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

~~((59))~~ (60) "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))~~ (61) "Principal wage earner" means the household member with the greatest source of earned income in the two months prior to the month of violation of employment and training and voluntary quit provisions, including members not required to register.

(62) "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))~~ (63) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

~~((62))~~ (64) "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))~~ (65) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

~~((64))~~ (66) "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))~~ (67) "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))~~ (68) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

~~((67))~~ (69) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

~~((68))~~ (70) "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))~~ (71) "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))~~ (72) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

~~((71))~~ (73) "Roomer" means a person to whom a household furnishes lodging, but not meals, for compensation.

~~((72))~~ (74) "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))~~ (75) "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))~~ (76) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

~~((75))~~ (77) "Sibling" means a natural or an adopted brother, sister, half brother, half sister, or stepbrother or stepsister.

~~((76))~~ (78) "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))~~ (79) "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))~~ (80) "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))~~ (81) "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))~~ (82) "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))~~ (83) "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))~~ (84) "Temporary disability" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

~~((83))~~ (85) "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)) (86) "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 388-250-1400(2); or

(c) Married.

((85)) (87) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

((86)) (88) "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)) (89) "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 94-17-140**  
**PROPOSED RULES**  
**SOUTHWEST AIR POLLUTION**  
**CONTROL AUTHORITY**  
[Filed August 22, 1994, 3:30 p.m.]

Original Notice.

Title of Rule: Adds Southwest Air Pollution Control Authority 406 "Acid Rain Regulation."

Purpose: Establish emission control requirements for large fossil fuel-fired boilers.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

Summary: Adds a new rule to reduce acid rain-producing emissions from fossil fuel-fired boilers as required by the federal Clean Air Act amendments of 1990 and rules established by EPA at 40 CFR Part 72. This rule will be included in the Washington state implementation plan.

Reasons Supporting Proposal: Emissions from fossil fuel-fired boilers are significant contributors to acid rain.

This rule is required by the federal Clean Air Act amendments of 1990. Failure to adopt and implement this rule would result in federal sanctions including increased requirements for new industrial facilities.

As part of Southwest Washington Air Pollution Control Authority's delegation request to ecology for the operating permit program, Southwest Washington Air Pollution Control Authority's board of directors committed to adoption of this rule in its Resolution 1993-11. Failure to fulfill that requirement may result in permit program disapproval.

Name of Agency Personnel Responsible for Drafting: Lawrence L. Stookey, Southwest Air Pollution Control Authority, Vancouver, (206) 574-3058; Implementation: Paul T. Mairose, Southwest Air Pollution Control Authority, Vancouver, (206) 574-3058; and Enforcement: Robert D. Elliott, Southwest Air Pollution Control Agency, Vancouver, (206) 574-3058.

Name of Proponent: Southwest Air Pollution Control Authority, governmental.

Rule is necessary because of federal law, 42 U.S.C. § 7410 (1990) (amending 42 U.S.C. § 7410 (1963)).

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is proposed in order to allow the Southwest Air Pollution Control Authority to comply with the federal Clean Air Act amendments of 1990. Its purpose is to reduce acid rain-producing emissions from fossil fuel-fired utility boilers by about 50% from 1980 emission levels. It will cause utilities to add pollution control and measurement equipment to certain fossil fuel-fired boilers.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. One facility within the jurisdiction of the Southwest Air Pollution Control Authority will be affected by this proposed rule. This is less than 2% of the industries in Standard Industrial Classification 4911. The minimum trigger level for a small business economic impact statement is 10%. No small businesses are affected by this proposed rule.

Hearing Location: Southwest Air Pollution Control Authority Conference Room, 1308 N.E. 134th Street, Vancouver, WA, on November 15, 1994, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by November 1, 1994, TDD (206) 574-3058, or (206) 574-3058 (voice).

Submit Written Comments to: Lawrence L. Stookey, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, FAX (206) 576-0925, by October 25, 1994.

Date of Intended Adoption: November 15, 1994.

August 19, 1994  
Robert D. Elliott  
Executive Director

Reviser's note: The material contained in this filing will appear in the 94-19 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 94-17-143**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**  
[Filed August 23, 1994, 11:10 a.m.]

Original Notice.

Title of Rule: WAC 260-70-026 Bleeder treatment, this rule change would make it a requirement to have a designated representative present before the administration of medication to a horse.

Purpose: Ensure the integrity and proper administration to horses requiring medication prior to racing.

Statutory Authority for Adoption: RCW 67.16.040.

PROPOSED

Reasons Supporting Proposal: Subject was brought up before the commission at a regularly scheduled commission meeting, requesting by veterinarians practicing on the grounds of the racing facility to ensure integrity in the administration of proper race day medication.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (206) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule change that will make it necessary for a representative to be present prior to the administration of race day medication to any horse.

Proposal Changes the Following Existing Rules: Amending WAC 260-70-026 Bleeder treatment, adding the proper language to ensure a representative will be present prior to a veterinarian administering medication to any horse.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The enactment above is not anticipated to affect more than twenty percent of all industries nor more than twenty percent of any one industry as defined by section 2(3), chapter, Laws of 1982. Therefore, a small business impact statement has not been prepared.

Hearing Location: Playfair Race Course, North Altamont and East Main, Spokane, Washington 99220, on September 28, 1994, at 1:00 p.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, FAX (206) 459-6461, by September 27, 1994.

Date of Intended Adoption: September 28, 1994.

August 23, 1994

Bruce Batson

Executive Secretary

**AMENDATORY SECTION** (Amending WSR 87-15-020, filed 7/8/87)

**WAC 260-70-026 Bleeder treatment.** A horse on the bleeder list must be treated at least four hours prior to post time with furosemide (i.e., Lasix®). No other medication is permitted for bleeder treatment unless or except as approved by the commission. Bleeder medication must be administered in the manner approved by the commission veterinarian, and furosemide (i.e., Lasix®) by oral administration is NOT PERMITTED for such purposes.

(1) The bleeder medication shall be administered by the horse's regular veterinarian, and may be witnessed by the commission veterinarian or his designee.

(2) The trainer of the horse to be treated as authorized by this rule, or his/her designated representative, shall witness the administration of the bleeder medication.

**WSR 94-17-145  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-76—Filed August 23, 1994, 11:32 a.m.]

Original Notice.

Title of Rule: Amending WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations.

Purpose: To include four game management units in late archery deer seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Four GMUs were advertently omitted from late archery deer seasons. This rule corrects that omission.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Assistant Director, Wildlife Management Program, Olympia, (206) 902-2504; and Enforcement: Dayna Matthews, Assistant Director, Enforcement Program, Olympia, (206) 902-2927.

Name of Proponent: Washington Fish and Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will provide late archery deer hunting in GMUs 524, 530, 556, and 560. The effect will be to increase hunting opportunity and increase deer harvest.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No small business economic impact statement was necessary because no significant cost will occur to any industry.

Hearing Location: Cavanaugh's Fourth Avenue, East 110 Fourth Avenue, Spokane, WA 99202, on October 8, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by September 30, 1994, TDD (206) 902-2207, or (206) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, George Tsukamoto, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 664-3290, by September 30, 1994.

Date of Intended Adoption: October 8, 1994.

August 23, 1994

Evan Jacoby

Legal Counsel

**AMENDATORY SECTION** [(Amending Order 654, filed 5/10/94)]

**WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations**

**DEER**

Bag Limit: One (1) deer per hunter during an annual (July 1-March 31) hunting season.

Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Definition: Visible antler is a horn-like growth projecting above the hairline.

Branched Antler Restriction GMUs: APPLIES TO ALL HUNTERS DURING ANY OPEN SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

2 Point GMUs: 433, 478, 558, 574, 576, 584, 586, 588, 636, 681, and GMU 485 (by permit only).

3 Point GMUs: 127, 130, 133, 136, 139, 142, 145, 148, 151, 154, 160, 161, 163, 166, 169, 172, 175, 178, 181, 184, 185, 203, 231, 306, and 450.

Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

High Buck Hunt

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.

General Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
<b>Northeastern</b>				
100-124 (See late buck for extended whitetail season).	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only
<b>Southeastern</b>				
127-185 Except closed in 157	Oct. 15-23	Oct. 14-22	Oct. 12-20	3 pt. min.
<b>Okanogan &amp; Chelan</b>				
200-242	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except 3 pt. min. in GMUs 203 and 231.
300-316	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except 3 pt. min. in GMU 306
<b>Columbia Basin</b>				
248-278, 284	Oct. 15-21	Oct. 14-20	Oct. 12-18	Buck only
281	Oct. 15-23	Oct. 14-22	Oct. 12-20	Either sex
<b>Colockum and Central</b>				
328-334	Oct. 15-25	Oct. 14-25	Oct. 12-25	Buck only
335-370	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only
<b>Western</b>				
405-572, 580, 601-684. Closed in GMU 522. Permit	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except either sex in GMUs 410, 480, and 564;

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only in GMU 485.

and 2 pt. min. in GMUs 433, 478, 558, 636, and 681; and 3 pt. min. in GMU 450.

574, 576, 584, 586, 588

Oct. 15-Nov. 6

Oct. 14-Nov. 14

Oct. 12-Nov. 6

2 pt. min.

Late Buck Season

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
105-124	Nov. 1-20	Nov. 1-19	Nov. 1-24	Whitetail buck only
All 400, 500, & 600 Except closed in: GMUs 480, 485, 522, 574, 576, 580, 584, 586, 588	Nov. 17-20	Nov. 16-19	Nov. 21-24	Buck only except 2 pt. min. in GMUs 433, 478, 558, 636, and 681 and 3 pt. min. in GMU 450 and either sex in GMU 410 and 564

Archery Deer Seasons

Tag Required: Deer hunter must have a current valid, unaltered, unnotched archery deer tag on his/her person.

Special Notes: Archery tag holders can only hunt with archery equipment during archery seasons.

Early Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
100-118, 121, 124, 215, 233, 300, 316	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
127, 130 133	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
136-154, 160-169, 175-185, 231, 306	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
200, 206, 218, 224, 239, 248-284, 308, 335-340, 352, 356, 364, 370, 405-426, 440, 442, 454-472, 490, 504, 505, 510, 512, 514, 516, 520, 524, 530, 550, 554, 556, 560, 568, 572, 580, 601, 602, 607, 615, 618, 621, 627, 633, 638, 642-658, 663, 667, 669, 678	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
433, 478, 558, 574, 576, 584, 586, 588, 681	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
328-334, 480	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
203, 301, 302, 450	Sept. 15-30	Sept. 15-30	Sept. 15-30	3 pt. min. or antlerless

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172	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
119, 242, 304, 360, 448, 484, 564, 603, 612, 624, 666, 672, 684	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
636	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
660	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
501, 506	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
Deer Areas 010, 040, 060	Sept. 15-30	Sept. 15-30	Sept. 15-30	3 pt. min. or antlerless
Bow Area 802	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex

Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
103	Nov. 14-Dec. 15	Nov. 14-Dec. 15	Nov. 14-Dec. 15	Whitetail only, either sex
118, 121, 124	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Whitetail only; either sex
127, 166, 178	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min. or antlerless
209, 215, 233, 242, 272, 300, 304, 316, 346, 352, 364	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Either sex
558, 584, 588, 636, 681	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min or antlerless
417, 418, 426, 440, 448, 460, 466, 480, 510, 512, 514, 516, 520, 524, 530, 556, 560, 572, 601, 607, 612, 615, 618, 638, 648, 669, 678	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
450	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min
Bow Areas	1994 Dates	1995 Dates	1996 Dates	Legal Deer
802	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
806, 807	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Either sex
820	Dec. 24-Jan. 8, 1995	Dec. 24-Jan. 8, 1996	Dec. 24-Jan. 8, 1997	Either sex

PROPOSED

Extended Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
405, 410, 442, 454, 484, 505, 506, 564, 568, 603, 624, 627*, 642, 660, 663, 666, 667, 672, and Deer Areas 041 and 042	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	Either sex
433	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	2 pt. min. or antlerless

\* Submarine Base Bangor within GMU 627 is antlerless only.

Muzzleloader Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched muzzleloader deer tag on his/her person.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment. Muzzleloader deer tag holders may apply for all either sex, antlerless only, and branched antler deer special hunting permits except on Private Lands Wildlife Management Area 201.

High Buck Hunt

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.

Early Muzzleloader

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
119, 242, 564, 666	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
506	Oct. 6-12	Oct. 5-11	Oct. 3-9	Buck only
209	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Either sex
302, 368,	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Buck only
304, 360, 484, 603, 612, 624, 672	Oct. 1-12	Oct 1-11	Oct. 1-9	Buck only

Late Muzzleloader

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
113	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Whitetail only, either sex
130, 133, 136, 139, 181	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	3 pt. min. or antlerless
304	Nov. 12-20	Nov. 11-19	Nov. 10-18	Buck only
410	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
478	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min. or antlerless
501, 504, 550	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
580	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Buck only
576, 586	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min.
602, 633, 651, 684	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
666	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	Either sex

Muzzleloader Area

925	Dec. 1-31	Dec. 1-31	Dec. 1-31	Antlerless only
926	Nov. 24-Dec. 15	Nov. 24-Dec. 15	Nov. 24-Dec. 15	Either sex

Firearm Restricted Deer Hunts Open To All Deer Hunters

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm, archery or muzzleloader deer tag on his/her person.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs.

GMUs	Weapon Permitted	1994 Dates	1995 Dates	1996 Dates	Legal Deer
410 & 480	Archery, Shotgun, Muzzleloader	Oct. 15-31	Oct. 14-31	Oct. 12-31	Either sex
564	Archery, Shotgun, Muzzleloader	Nov. 17-Dec. 31	Nov. 16-Dec. 31	Nov. 21-Dec. 31	Either sex
627*	Archery, Shotgun, Muzzleloader	Oct. 15-31	Oct. 14-31	Oct. 12-31	Either sex

\*Only that portion of GMU 627 (Kitsap) on Vashon, Maury and Heron Islands.

Private Lands Wildlife Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

Hunting Method	1994 Open Season	Special Restrictions
Archery	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
Modern Firearm		
General	Oct. 15-31	2 pt. min.
Late Buck	Nov. 17-20	2 pt. min.
Muzzleloader	Nov. 23-Dec. 8	Antlerless or 2 pt. min.

BLACK BEAR

Bag Limit: Fall General - One (1) black bear.

Tag Sale Deadline: Bear tags must be purchased by midnight of the day preceding modern firearm deer season opener. Actual dates are: Oct. 14, 1994; Oct. 13, 1995; Oct. 11, 1996.

PURSUIT ONLY SEASON

It is lawful to pursue or tree black bears during established pursuit-only seasons, provided any bear pursued or treed is NOT killed or injured. Hunters participating in a pursuit only season for black bear must have a valid hound stamp, and hunting license. A bear tag is not required to pursue black bear during the pursuit only season.

Aug. 1-31, 1994, 1995, and 1996, in GMUs 100-111, GMU 113 outside of Selkirk Grizzly Bear Recovery Zone\*, GMUs 118-124 and GMUs 200 and 206.

The following regulations apply to the practice of HUNTING BLACK BEAR WITH BAIT.

Definition of Bait: A bait shall be defined as any substance placed with the intent of attracting bear.

Bait Types: The following materials are legal baits for hunting and pursuing black bear: Unprocessed plant and plant parts including fruit, inedible parts of legally obtained game fish, and game animals, carcasses of legally trapped furbearing animals (hide removed), carcasses of food fish, unclassified fish and unclassified wildlife, and parts of domestic livestock carcasses.

Baits may not contain paper, cardboard, plastic, glass, aluminum, tin, steel, or styrofoam, or other packaging materials.

All other baits are illegal.

Placement of Bait: Baits for black bear may not be placed in an area until five days prior to the start of that area's established bear harvest season.

A bait may not be placed within fifty yards of any body of water (lake, pond, reservoir, stream, river, and spring), and not within two hundred yards of any publicly maintained trail and/or open road.

A bait may not be placed within one-half mile of any publicly designated administrative site, campground, picnic area, landfill or dump site, and not within one-quarter mile of any permanent residence or seasonal dwelling (except that private landowners may bait on their property within one-quarter mile of their own residence or seasonal dwelling when such baiting does not violate any of the aforementioned distance requirements with adjacent landholders).

Bait Containers: Bait must be contained within an excavated pit, or within a confine constructed of materials located at the site. Such containment structures might include, but not be restricted to, log cubbies, rock piles and stumps. Containers may also be used to hold bait, but if used, must be securely fastened (to tree, ground, post, etc.).

PROPOSED

Any items used to fasten bait containment materials such as nails, screws, bolts, rope, reinforcing rod, and spikes shall be removed from the area within 48 hours of the close of the bear harvest season. Excavated pits shall be filled, the area shall be returned to pre-baiting condition. Materials used to construct and erect tree stands overlooking the bait shall be removed within the same 48-hour period (except that tree stands may be left on private property with landowner's permission).

All hunters who hunt bear with bait shall affix their bear tag number at their bear baiting sites.

#### OPEN SEASON

(Bear may be killed.)

#### Eastern Washington\*

Sept. 7-Oct. 31, 1994, Sept. 6-Oct. 31, 1995, Sept. 4-Oct. 31, 1996 throughout eastern Washington except CLOSED to hunting with hounds outside federal lands in GMUs 203, 218, 224, 231, 239, and 242.

Sept. 7-Nov. 6, 1994; Sept. 6-Nov. 5, 1995; Sept. 4-Nov. 10, 1996 in GMUs 145-185, except in Walla Walla and Columbia counties, bear season outside of Umatilla National Forest is open to boot hunters only (no hounds or bait may be used to hunt bear).

\* Use of hounds and bait to hunt black bear prohibited in that part of GMU 113 within the Selkirk Grizzly Bear Recovery Zone\*\*.

\*\*Selkirk Grizzly Bear Recovery Zone: (Pend Oreille County): Beginning at the junction of the Canadian-Washington border and State Route 31 by Boundary Lake; then east along the Canadian border to the Idaho border; then south along the Idaho-Washington border to the ridge top between Bath Creek and Lamb Creek at Section 1, Township 35 North, Range 45 East; then west along said ridge top to USFS Road 310; then west along USFS Road 310 to the peak of Gleason Mountain; then west along USFS Trail 162 to Hungry Mountain; then south and west along the ridge top between Fourth of July Creek and Middle Creek to the mouth of LeClerc Creek; then north along the ridge top between the Pend Oreille River and the West Branch LeClerc Creek (Dry Canyon Ridge) to Sullivan Lake Road; then north and east along Sullivan Lake Road to Sullivan Lake; then north along the east shoreline of Sullivan Lake to Sullivan Lake Road; then north and west along Sullivan Lake Road to the city limits of Metaline Falls; then north along the city limits of Metaline Falls to State Route 31; then north along State Route 31 to the point of beginning. (See Washington Atlas & Gazetteer or Colville National Forest map.)

(Draft) North Cascades Grizzly Bear Recovery Zone (D)NCGBRZ - Special Regulations

NOTE: A boundary description of the North Cascades Grizzly Bear Recovery Zone will appear in the hunting season pamphlet.

Hunting black bear with the use or aid of bait is prohibited in the (D) NCGBRZ within the recommended Situation 1 areas, which include all wilderness areas of the National Forests and of the North Cascades National Park Complex.

During the 1994 season, hunters may bait for black bear outside of wilderness areas of the (D)NCGBRZ. Educational information and baiting permits will be available on a voluntary basis during the 1994 season, and hunters are encouraged to participate. Beginning in 1995, hunters wishing to use bait within the NCGBRZ but outside of designated Situation 1 areas will be required to be an Advanced Hunter Education graduate (AHE), or to obtain a bait hunter education certificate from the Washington Department of Fish and Wildlife.

#### Western Washington

Aug. 1-Oct. 31, 1994; Aug. 1-Oct. 31, 1995; Aug. 1-Oct. 31, 1996, EXCEPT Sept. 1-Oct. 31, 1994, Sept. 1-Oct. 31, 1995, and Sept. 1-Oct. 31, 1996, in Bow Area 802. CLOSED in GMUs 485 and 522.

#### HOUND HUNTING CLOSURES

Use of hounds is prohibited in GMU 684, and Bow Area 802.

#### TOOTH SUBMITTAL

Bear: Each hunter who takes a bear must submit the small premolar tooth behind the canine tooth of upper or lower jaw for age determination. Tooth envelopes are available from Department of Fish and Wildlife regional offices.

#### REPORT CARDS

Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Fish and Wildlife within ten days after taking a deer or bear.

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

**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 94-17-148**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed August 23, 1994, 1:12 p.m.]

#### Original Notice.

Title of Rule: WAC 308-56A-420 Delivery of vehicle on dealer temporary permit, 308-66-190 Transfer of certificate of title by dealer, and 308-66-195 Possession of certificate of ownership by dealer.

Purpose: Increases time period for dealer to make application for title into the purchaser's name. Allows dealer to sell an inventory vehicle as soon as the lien on the acquired vehicle has been paid.

Statutory Authority for Adoption: RCW 46.70.160.

Statute Being Implemented: RCW 46.70.124.

Summary: Amendatory sections WAC 308-56A-420 and 308-66-190 extend the time period for the dealer to apply for title into a purchaser's name. Amendatory section WAC 308-66-195 implements those revisions made to RCW 46.70.124 requiring dealers to possess certificate of ownership rather than certificate of title.

Reasons Supporting Proposal: Dealers are experiencing increased time to acquire physical title with the paperless

title process and from out-of-state lienholders holding the title on trade-in vehicles.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lynda S. Henriksen, P.O. Box 48071, Olympia, 98504, (206) 586-5373.

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: Dealers are experiencing an increased time to acquire physical title on trade-in vehicles with the paperless title from First Interstate Bank and other potential paperless title lienholder participants and from out-of-state lienholders holding the title on trade-in vehicles. The amendatory WAC rules will increase the time period for a dealer to make application for a certificate of title into the purchaser's name from thirty days to forty-five days. It will also allow dealers to sell an inventory vehicle as soon as the lien on the acquired vehicle has been paid rather than waiting to receive title from the lienholder.

Proposal Changes the Following Existing Rules: The proposal extends the existing time period of thirty days for transfer of title by a dealer to forty-five calendar days. The proposal requires a dealer to possess a certificate of ownership on a vehicle before it can be added to the dealer's inventory rather than possession of a certificate of title.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The only economic impact to small businesses would be to their favor.

Hearing Location: Department of Licensing, 405 Black Lake Boulevard, Building #2, Conference Room #1, Olympia, WA 98502, on September 29, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Gail Saul by September 22, 1994, TDD (206) 664-8885, or (206) 586-6655.

Submit Written Comments to: Gail Saul, Department of Licensing, P.O. Box 48071, Olympia, WA 98504-8071, FAX (206) 586-6703, by September 22, 1994.

Date of Intended Adoption: October 13, 1994.

August 18, 1994

Lynda Henriksen

Licensing Services Manager

**AMENDATORY SECTION** (Amending WSR 93-14-084, filed 6/30/93, effective 7/31/93)

**WAC 308-56A-420 Delivery of vehicle on dealer temporary permit.** (1) A vehicle dealer properly licensed pursuant to chapter 46.70 RCW may deliver a vehicle not currently registered or that does not bear valid Washington state license plates or tabs by utilizing a dealer temporary license permit.

(2) The application for title portion of the permit form must be properly and completely filled out by the selling dealer, detailing all fees collected, the dealer's report of sale and the date of sale. If license based on gross weight is required, the amount of gross weight purchased must be clearly shown. The application must be signed by the registered owner.

(3) The dealer shall collect all fees required for titling and registration of a vehicle.

(4) The dealer shall detach the hard copy of the dealer permit and shall record the date of expiration in dark, bold letters and numbers on the permit side of that copy. Date of expiration will be ~~((thirty))~~ forty-five calendar days after date of sale of the vehicle.

(5) The application copies shall be used by the dealer to apply for title application and to complete licensing of the vehicle. The selling dealer must submit the application and all title/licensing fees to the department of licensing or an authorized licensing agent within ~~((thirty))~~ forty-five calendar days from the date of sale of the vehicle.

~~((5))~~ (6) The hard copy of the permit and a purchase order identifying the vehicle and date of sale must be carried in the vehicle or the towing vehicle at all times the vehicle is operated on the temporary permit.

~~((6))~~ (7) The hard copy of the dealer temporary license permit shall be displayed on the inside of the rear window in the lower left corner, or enclosed in a moisture proof protective case securely attached in the rear license plate holder, with the expiration date visible to one standing or following at the rear of the vehicle.

~~((7))~~ (8) The dealer temporary license permit is valid for not more than ~~((thirty))~~ forty-five calendar days following the date of vehicle sale.

~~((8))~~ (9) The dealer temporary license permit shall not:

(a) Be issued for a dealer inventoried or a dealer or dealer-employee operated vehicle;

(b) Be issued as a demonstration permit;

(c) Be issued for a vehicle processed as a courtesy delivery.

~~((9))~~ (10) Fees paid for dealer temporary license permit application forms are not refundable unless the dealer ceases doing business as a vehicle dealer. A credit, in the amount of the permit form fee, will be provided when the permit is used by the vehicle dealer to make application for a vehicle title.

~~((10))~~ (11) The dealer shall maintain a record of each dealer temporary permit form acquisition and distribution including the following:

(a) Vehicle purchaser's names;

(b) Vehicle identification;

(c) Dates of vehicle sales and deliveries; and

(d) Date and location of purchase of each permit form and the permit number.

**AMENDATORY SECTION** (Amending WSR 91-20-057, filed 9/24/91, effective 10/25/91)

**WAC 308-66-190 Transfer of certificate of title by dealer.** (1) When a vehicle displaying current Washington plates is sold by a dealer, the dealer shall make an application for a certificate of title in the purchaser's name within ~~((thirty))~~ forty-five calendar days following the sale of the vehicle.

(2) The dealer shall in every case sign or type his/her name on the certificate of title accompanying the transfer. If an authorized agent signs for the dealer, he/she shall give his/her title.

(3) The name and address of the previous registered owner shall be shown on the application for transfer of title.

(4) The dealer shall provide a vehicle odometer disclosure statement with the title application as required by RCW 46.12.124.

AMENDATORY SECTION (Amending Order MV 170, filed 7/16/73)

**WAC 308-66-195 Possession of certificates of ~~((title))~~ ownership.** (1) ~~((A vehicle dealer shall have possession of a separate certificate of ownership))~~ For each used vehicle kept in ~~((his possession))~~ the dealer's inventory unless ~~((that))~~ the certificate of ownership is in the possession of the person holding a security interest in the dealer's inventory, a vehicle dealer shall have possession of a separate certificate of ownership of either the following ownership documents:

(a) A separate certificate of title in the name of the dealer, or the dealer's immediate vendor, properly assigned; or

(b) Evidence that the dealer owns the vehicle, such as a bill of sale, and evidence that the dealer has satisfied or paid off any legal owner on the vehicle.

~~((2))~~ ~~((Each title shall be in the dealer's own name or in the name of the dealer's immediate vendor properly assigned.~~

~~((3))~~ If there is a ~~((lienholder))~~ legal owner on any vehicle acquired by the dealer, the dealer shall obtain possession of the title by paying off any balance due to the ~~((lienholder))~~ legal owner no later than the close of the second business day following the date of acquisition of the vehicle by the dealer. For purposes of this section, a dealer acquires a vehicle when the dealer takes possession of the vehicle and an authorized representative of the dealer unconditionally accepts the written offer to purchase.

**WSR 94-17-149**

**PROPOSED RULES**

**CENTRAL WASHINGTON UNIVERSITY**

[Filed August 23, 1994, 2:04 p.m.]

Original Notice.

Title of Rule: WAC 106-116-603 Monetary penalty schedule.

Purpose: Eliminate warning consideration for first parking infraction notice.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.10.560, 28B.35.120, 46.63.110(3).

Summary: Monetary penalty schedule is updated to eliminate the option of considering the first parking infraction notice a warning.

Reasons Supporting Proposal: All parking infraction notices are valid and must be appealed on an individual basis.

Name of Agency Personnel Responsible for Drafting and Implementation: Robert Chrisler, Auxiliary Services, Central Washington University, Ellensburg, 98926, (509) 963-2711; and Enforcement: Steve Rittereiser, Public Safety and Police Services, Ellensburg, (509) 963-2958.

Name of Proponent: Steve Rittereiser, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Elimination of warning option for first parking infraction. Offenders may appeal any parking infraction to the Parking Advisory Committee which will determine status of infraction.

Proposal Changes the Following Existing Rules: Current rule allows a first parking infraction each year to be classified a warning if brought to the Public Safety and Police Services Department within seven days. The change eliminates this option.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Compliance with the proposed rule will not cause businesses to lose sales or revenue and will have no impact on small businesses.

Hearing Location: Samuelson Union Building (SUB) 103, on September 27, 1994, at 3 p.m.

Submit Written Comments to: Judy Miller, Rules Coordinator, FAX (509) 963-3206, by September 26, 1994.

Date of Intended Adoption: September 27, 1994.

August 18, 1994

Ivory V. Nelson

President

AMENDATORY SECTION (Amending Order CWU AO 72, filed 5/2/94, effective 6/2/94)

**WAC 106-116-603 Monetary penalty schedule.**

Offense	Penalty
(1) Improper display of permit . . . . .	\$ 5.00
(2) Parking faculty-staff area . . . . .	12.00
(3) Parking yellow stripe or curb . . . . .	7.00
(4) Parking outside designated parking area . . . . .	7.00
(5) Obstructing traffic . . . . .	25.00
(6) Parking at improper angle or using more than one stall, or backing into parking stall . . . . .	7.00
(7) Violation of the bicycle parking rules in WAC 106-116-901 . . . . .	7.00
(8) Reserved parking area . . . . .	12.00
(9) No parking area . . . . .	10.00
(10) Overtime parking . . . . .	7.00
(11) Using counterfeit, falsely made, or altered permit . . . . .	100.00
(12) Illegal use of permit . . . . .	100.00
(13) No current permit . . . . .	7.00
(14) Parking service drive . . . . .	12.00
(15) Parking/driving sidewalks, malls . . . . .	15.00
(16) Parking/driving lawns . . . . .	20.00
(17) Parking fire lane . . . . .	25.00
(18) Parking fire hydrant . . . . .	25.00
(19) Driving, walking, leading, etc., certain animals on campus without permit (WAC 106-116-10401) . . . . .	12.00
(20) Other violations of the objectives of the CWU parking and traffic regulations . . . . .	7.00 to 12.00
(21) Parking in a space marked "disabled person permit only" . . . . .	30.00
(22) Continuous parking . . . . .	20.00

~~((The first \$5.00 to \$7.00 infraction notice between September 1 and August 31 each year shall be considered a~~

PROPOSED

~~written warning and no monetary penalty will be imposed if brought to the public safety and police services department within seven calendar days from the date of the infraction. Parking warning transactions will be processed by that department between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday.)~~ Parking infraction notices shall qualify for a \$3.00 reduction in monetary penalty if paid to the cashier's office in Barge Hall before close of business on the succeeding work day following issuance of the notice. Parking infraction notices received on the last business day of a week must be paid the first business day of the following week to qualify for a \$3.00 reduction in the monetary penalty. The cashier's office is open Monday through Friday, 8:00 a.m. to 5:00 p.m.

Failure to respond within fifteen days will result in the issuance of an overdue notice and an administrative charge of \$2.00 will be added. If payment has not been received within ten days after issuance of the overdue notice, the original monetary penalty will be doubled except that, in accordance with RCW 46.63.110(3), the penalty for failure to respond shall not exceed \$25.00 for any single infraction. Further failure to respond may result in one or more of the following sanctions:

- (a) Withholding of transcripts;
- (b) Deduction from payroll checks; and/or
- (c) Withholding of parking permits.

**WSR 94-17-151**  
**PROPOSED RULES**  
**CENTRAL WASHINGTON UNIVERSITY**  
 [Filed August 23, 1994, 2:06 p.m.]

Original Notice.

Title of Rule: Chapter 106-120 WAC, Student judicial code, WAC 106-120-003 Purpose, 106-120-004 Definitions, 106-120-027 Proscribed conduct, 106-120-028 Disciplinary sanctions, 106-120-131 Initiation, investigation, and disposition of complaints, 106-120-132 Procedures for proceeding before the campus judicial council, and 106-120-143 summary suspension proceedings; chapter 106-124 WAC, General conduct—Rights and responsibilities of (~~college~~) university community members, WAC 106-124-010 Financial obligations of students, 106-124-011 Financial obligations of students—Appeal procedure, 106-124-700 Firearms, explosives, dangerous chemicals—Restrictions, and 106-124-801 Animals prohibited; and chapter 106-172 WAC, Student records policy, WAC 106-172-711 Definitions, 106-172-721 Notification by educational institution, 106-172-731 Access to education records, 106-172-735 Exception to consent requirements and record of access, 106-172-750 Timely disposal of records, 106-172-761 Right to a (~~hearing~~) proceeding, 106-172-763 Informal proceedings, 106-172-765 Conduct of the (~~hearing~~) proceeding, and 106-172-772 Release of information for health or safety emergencies.

Purpose: WAC 106-120-003, to change position title; WAC 106-120-004, to remove outdated reference, adjust grammar, and add an additional definition to conform to state statute; WAC 106-120-027, to add a statement expanding proscribing conduct; WAC 106-120-028, to change college to university and add mandated language concerning hazing; WAC 106-120-131, to change department title; WAC

106-120-132, to correct spelling error; WAC 106-120-143, to adjust grammar and remove sexist language; chapter 106-124 WAC, to update outdated terminology; WAC 106-124-010, to correct punctuation; WAC 106-124-011, to remove sexist language; WAC 106-124-700, to adjust punctuation and clarify a term; WAC 106-124-801, to correct language defining exceptions to prohibited animals and add punctuation; WAC 106-172-711, to change position and department titles; WAC 106-172-721, to change position title; WAC 106-172-731, to change language in keeping with Administrative Procedure Act requirements and position title change; WAC 106-172-735, to adjust punctuation; WAC 106-172-750, to correct spelling; WAC 106-172-761, to change language required by Administrative Procedure Act mandate; WAC 106-172-763, to change position title and remove sexist language; WAC 106-172-765, to modify a position title, adjust language to reflect Administrative Procedure Act guidelines, and correct punctuation; and WAC 106-172-772, to remove sexist language and change a position title.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.35.120(12).

Statute Being Implemented: RCW 28B.10.900, 28B.10.901, 28B.10.902, 28B.20.903.

Summary: WAC 106-120-003, change position title to reflect current designation; WAC 106-120-004, remove outdated reference and adjust grammar; WAC 106-120-027, include an additional conduct proscription; WAC 106-120-028, change college to university; WAC 106-120-131, change department title to reflect current designation; WAC 106-120-132, correct spelling error; WAC 106-120-143, adjust grammar and remove sexist language; chapter 106-124 WAC, change outdated terminology to reflect current usage; WAC 106-124-010, correct punctuation; WAC 106-124-011, remove sexist language; WAC 106-124-700, adjust punctuation and clarify a term; WAC 106-124-801, correct language defining exceptions to prohibited animals and add punctuation; WAC 106-172-711, change position and department titles; WAC 106-172-721, change position title; WAC 106-172-731, change language reflecting current Administrative Procedure Act requirements and position title change; WAC 106-172-735, adjust punctuation; WAC 106-172-750, correct spelling; WAC 106-172-761, change language required by Administrative Procedure Act mandate; WAC 106-172-763, change position title and remove sexist language; WAC 106-172-765, modify a position title, adjust language to reflect Administrative Procedure Act guidelines, and correct punctuation; and WAC 106-172-772, remove sexist language and change a position title.

Reasons Supporting Proposal: WAC 106-120-003, change position title to reflect current designation of vice-president; WAC 106-120-004, remove outdated reference and adjust grammar to improve clarity; WAC 106-120-027, include statement proscribing hazing as required by statute; WAC 106-120-028, amend title to reflect current designation; WAC 106-120-131, department title change to reflect current designation; WAC 106-120-132, readability improved by correcting a spelling error; WAC 106-120-143, grammar corrected and sexist language removed to improve clarity; chapter 106-124 WAC, outdated terminology changed to clarify institutional reference; WAC 106-124-010, compliance with punctuation standards; WAC 106-124-011, clarification of text by removing sexist language; WAC 106-

124-700, punctuation adjustment and clarification of a term to improve readability; WAC 106-124-801, language correction defining exceptions to prohibited animals and punctuation adjustment for clarity; WAC 106-172-711, text adjusted to reflect changes in position and department titles; WAC 106-172-721, position title amended to indicate current designation; WAC 106-172-731, language adjustment to reflect current Administrative Procedure Act requirements and position title change; WAC 106-172-735, punctuation adjusted for accuracy; WAC 106-172-750, spelling corrected for improved clarity; WAC 106-172-761, language adjustment to reflect current Administrative Procedure Act requirements; WAC 106-172-763, position title modified and sexist language removed for improved readability; WAC 106-172-765, position title amended, language adjusted to reflect Administrative Procedure Act guidelines, and punctuation corrected to improve clarity; and WAC 106-172-772, remove sexist language and change position title to improve accuracy.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Gregory Trujillo, Vice-President for Student Affairs, Central Washington University, (509) 963-1515.

Name of Proponent: Gregory Trujillo, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Explanation and purpose of each rule were previously stated in Purpose and Summary above. Anticipated effects for the rule changes are: WAC 106-120-003, correct position title is provided; WAC 106-120-004, outdated reference is removed and grammar adjusted; WAC 106-120-027, proscribed conduct regarding hazing will be clarified; WAC 106-120-028, outdated terminology replaced; WAC 106-120-131, departmental name changed to reflect current usage; WAC 106-120-132, spelling error corrected; WAC 106-120-143, grammar adjusted and sexist language removed; chapter 106-124 WAC, outdated terminology replaced reflecting current usage; WAC 106-124-010, punctuation error corrected; WAC 106-124-011, sexist language removed; WAC 106-124-700, punctuation amended and wording clarified; WAC 106-124-801, language defining exceptions to prohibited animals corrected and punctuation added; WAC 106-172-711, position and departmental titles corrected; WAC 106-172-721, position title revised; WAC 106-172-731, language adjusted to meet Administrative Procedure Act requirements and position title changed; WAC 106-172-735, punctuation amended; WAC 106-172-750, spelling corrected; WAC 106-172-761, language adjusted to meet Administrative Procedure Act requirements; WAC 106-172-763, position title changed and sexist language removed; WAC 106-172-765, position title changed, language adjusted to reflect Administrative Procedure Act guidelines, and punctuation corrected; and WAC 106-172-772, sexist language removed and position title changed.

Proposal Changes the Following Existing Rules: Proposed rule changes will eliminate grammatical and punctuation errors, remove sexist language, change department and position titles, and add language to conform to state statute.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Compliance with

the proposed rules will not cause businesses to lose sales or revenue and will have no impact on small businesses.

Hearing Location: Samuelson Union Building (SUB) 103, on September 27, 1994, at 11 a.m.

Submit Written Comments to: Judy Miller, Rules Coordinator, FAX (509) 963-3206, by September 26, 1994.

Date of Intended Adoption: September 27, 1994.

August 18, 1994

Ivory V. Nelson

President

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

**WAC 106-120-003 Purpose.** The students of Central Washington University are responsible for complying with policies, standards, rules, and requirements for academic and social behavior formulated by the university for the maintenance of and orderly and responsible functioning of the university community. At the same time, students have protection through orderly procedures against arbitrary or capricious actions or decisions by university authorities. Due process is recognized as essential to the proper enforcement of university rules. The purpose of this chapter is to provide a procedure and rules by which a student will be afforded due process in the matter of alleged violations of university standards, rules and requirements governing academic and social conduct of students.

The university recognizes a responsibility to resolve behavior problems before they escalate into serious problems requiring the application of these rules. Therefore, the ((~~dean~~)) vice-president for student affairs shall generally review and/or investigate student behavioral problems which are referred by university community members or any subsidiary judicial agencies to the campus judicial council, or which otherwise come to the attention of the ((~~dean~~)) vice-president through campus safety reports or other official university reports. The ((~~dean~~)) vice-president shall be as proactive as is possible concerning the resolution of student behavioral problems and use reasonable arbitration and conflict resolution methods in order to prevent such problems from further interfering with the university community or the student's own educational progress.

AMENDATORY SECTION (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-004 Definitions.** (1) "University" shall mean Central Washington University.

(2) "Vice-president" shall mean the vice-president for student affairs of the university or the vice-president's designee.

(3) "Student" shall mean a person enrolled ((~~at the university~~)) either full or part time, pursuing undergraduate((~~s~~)) or graduate((~~s~~ or extension)) studies, or a person accepted for admission or readmission to the university.

(4) "University community" shall include the employees and students of Central Washington University and all property and equipment of the university.

(5) "Hazing" shall include any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily

danger or physical harm, or serious mental or emotional harm, to any student or other person attending Central Washington University. The term does not include customary athletic events or other similar contests or competitions.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-028 Disciplinary sanctions.** The following definitions of disciplinary terms have been established and may be the sanctions imposed by the vice-president or by the campus judicial council.

(1) Warning. Notice in writing that the student has violated university rules or regulations or has otherwise failed to meet the university's standard of conduct. Such warning will contain the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(2) Disciplinary probation. Formal action specifying the conditions under which a student may continue to be a student at the university including limitation of specified activities, movement, or presence on the CWU campus. The conditions specified may be in effect for a period of time or for the duration of the student's attendance at the university.

(3) Restitution. An individual student may be required to make restitution for damage or loss to university or other property and for injury to persons. Failure to make restitution will result in suspension for an indefinite period of time as set forth in subsection (4) below provided that a student may be reinstated upon payment.

(4) Suspension. Dismissal from the university and from status as a student for a stated period. The notice suspending the student will state in writing the term of the suspension and any condition(s) that must be met before readmission is granted. The student so suspended must demonstrate that the conditions for readmission have been met. There is to be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter are to be refunded.

(5) Deferred suspension. Notice of suspension from the university with the provision that the student may remain enrolled contingent on meeting a specified condition. Not meeting the contingency shall immediately invoke the suspension for the period of time and under the conditions originally imposed.

(6) Expulsion. The surrender of all rights and privileges of membership in the ~~((college))~~ university community and exclusion from the campus without any possibility for return.

(7) For the specific instance of hazing, forfeiture of any entitlement to state-funded grants, scholarships, or awards for a specified period of time.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-131 Initiation, investigation, and disposition of complaints.** (1) Philosophy.

When student behavioral problems occur, the university employs a team problem-solving approach. The director of housing, director of residence living, and the chief of ~~((campus police))~~ public safety and police services join the assistant and associate vice-president weekly to review

residence living incident reports filed by living group advisors and hall managers, as well as campus police reports which cover both on-campus and off-campus students. This problem-solving team then deals with student behavioral problems which constitute violations of this code.

The problem-solving team works together to suggest intervention strategies which are considered to be most appropriate and effective for eliminating specific negative student behaviors.

(2) Process.

Incidents which come to the attention of the problem-solving team may be addressed in one of the following ways:

- (a) No action;
- (b) Informal meetings with relevant university officials;
- (c) Referral to the residence hall arbitration council, for resolving certain disputes within the residence halls;
- (d) Proceedings in the office of the vice-president.

Official proceedings in the vice-president's office are conducted when it becomes apparent to the problem-solving team that the initial and more informal forms of intervention with a student have been unsuccessful in positively modifying a student's behavior. The following rules will govern the processing of alleged violations of the proscribed conduct listed in the student judicial code.

(3) A complaint alleging misconduct against any student at the university may be filed by anyone at the office of the vice-president. Students, faculty members, administrators, and other employees of the university shall have concurrent authority to request the commencement of the disciplinary proceedings provided for in this chapter. A person filing a complaint shall be complainant of record.

(4) Any student charged in a complaint shall receive oral or written notification from the vice-president. Such notice shall:

- (a) Inform the student that a complaint has been filed alleging that the student violated specific provisions of the student((s)) judicial code and the date of the violation(s);
- (b) Set forth those provisions allegedly violated;
- (c) Specify a time and date the student is required to meet with the vice-president or designee; and
- (d) Inform the student that failure to appear at the appointed time at the vice-president's office may subject the student to suspension from the university.

(5) When the vice-president meets with the student, the vice-president shall:

- (a) Provide for the student a copy of the student judicial code;
  - (b) Review the facts of the alleged violation with the student; and
  - (c) Conduct an investigation into the alleged violation.
- (6) Upon completion of the review with the student and/or the investigation, the vice-president may:
- (a) Drop the charges, when they appear to be invalid or without substance or capricious;
  - (b) Issue a verbal warning;
  - (c) Apply any of the sanctions as outlined in WAC 106-120-028 if such sanction is warranted by the evidence;
  - (d) Refer the case to the campus judicial council; or
  - (e) Invoke the summary suspension procedure as outlined in WAC 106-120-143 when deemed appropriate.

The vice-president shall inform the student that the vice-president's sanction may be appealed to the campus judicial council, and that if an appeal is made, the vice-president shall take no action or make any determination, except for summary suspension, in the matter other than to inform the student of the time, date, and location of the proceeding by the campus judicial council.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-132 Procedures for proceeding before the campus judicial council.** (1) When a case is referred to the campus judicial council the vice-president shall forward to the council:

- (a) A statement describing the alleged misconduct;
- (b) The name and address of the complainant;
- (c) The name and address of the student charged; and
- (d) All relevant facts and statements.

(2) The council chair shall call a special meeting of the council and arrange for a proceeding in the following manner:

(a) The council shall determine the time and place of the proceeding, which shall be at least ten days after delivery of written notice to the student. In the interest of timeliness and efficiency, upon the request of either the student or the vice-president, this ten-day interval may be waived by the vice-president, with the student's permission. Time and place shall be set to make the least inconvenience for all interested parties. The chair may change the time and place of the proceeding for sufficient cause.

(b) The council shall draw lots for five student names, one of whom will serve as an alternate to be available until the proceeding board has been constituted.

(c) No case shall be heard unless the full membership of the proceeding board is present.

(d) All cases will be heard de novo, whether the case be an appeal from a subsidiary judicial body or is heard as an original complaint.

(3) The council chair shall send written notice by certified mail of the proceeding to the student to the student's last known address. The notice shall contain:

(a) A statement of the date, time, place and nature of the proceeding;

(b) To the extent known, a list of witnesses who will appear; and

(c) A summary description of any documentary or other physical evidence that would be presented by the university.

(4) The student shall have all authority possessed by the university to obtain information he/she specifically describes in writing and tenders to the council chair no later than two days prior to the proceeding or to request the presence of witnesses, or the production of other evidence relevant to the proceeding. However, the university shall not be liable for information requested by the student or the presence of any witnesses when circumstances beyond the control of the university prevent the obtaining of such information or the attendance of such witnesses at the proceeding.

(5) Proceedings will ordinarily be held in closed session unless the proceeding board determines there is a compelling reason for the proceeding to be open, or the student requests an open proceeding. A closed proceeding shall include only

members of the proceeding board, persons directly involved in the proceeding as parties and persons called as witnesses.

(6) The proceeding shall be audio tape recorded, and the tape shall be on file at the office of the vice-president for a period of three years.

(7) The university shall be represented by the vice-president who shall present the university's case against the student.

(8) The student may be accompanied by counsel, or another third party, who may offer advice. If the student utilizes an attorney as advisor, the student must give to the vice-president two days notice of intent to do so. If the student elects to be advised by an attorney, the vice-president may elect to have the university advised by an assistant attorney general.

(9) The council chair shall insure that:

(a) The proceeding is held in an orderly manner giving full care that the rights of all parties to a full, fair and impartial proceeding are maintained.

(b) The charges and supporting evidence or testimony shall be presented first, and that there is full opportunity for the accused student to challenge the testimony and/or evidence, and to cross examine appropriately.

(c) The student charged shall next present evidence or testimony to refute the charge, and that there is full opportunity for the accuser to challenge testimony and/or evidence, and to cross examine appropriately.

(d) Only those materials and matters presented at the proceeding will be considered as evidence. The presiding officer shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(10) Any person disruptive of the proceeding or any other procedure described in this document may be excluded from the process by the chair of the campus judicial council or by the vice-president, using such means as are necessary to ~~((insure))~~ ensure an orderly process. Any student engaging in such interference shall be in contempt and may be summarily suspended from the university by the campus judicial council or the vice-president immediately. The student shall be subject to a suspension or any lesser sanction as may be determined by the campus judicial council or the vice-president at the time the interference takes place or within fifteen working days thereafter.

(11) The student has a right to a fair and impartial proceeding, but the student's failure to cooperate with or attend a proceeding procedure shall not preclude the committee from making its finding of facts, conclusions, and recommendations. Failure by the student to cooperate may be taken into consideration by the campus judicial council and the vice-president in deciding the appropriate disciplinary action.

(12) Upon conclusion of the proceeding, the proceeding board in closed session shall consider all the evidence presented and decide by majority vote to exonerate the student or to impose one of the sanctions authorized by this document.

(13) The student shall be provided with a copy of the board's findings of fact and conclusions regarding whether the student did violate any rule or rules of the student judicial code and the board's decision as to the appropriate sanction to be imposed.

(14) If a student charged with misconduct under this code has been charged with a crime for the same act or closely related acts by federal, state, or local authorities, or if it appears that such criminal charge is under consideration, the campus judicial council may postpone action on the complaint until there has been a disposition of the criminal charge or of the consideration of filing such charge. However, prior to action by other agencies, the council may proceed to hear and decide the case if in the judgment of the council, the nature of the alleged misconduct and the circumstances surrounding it pose a serious risk to the health or well being of the student or other members of the university. If there is a determination of guilt by the council and if the subsequent criminal proceedings result in a judgment of acquittal, the student may petition the campus judicial council for a rehearing.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-143 Summary suspension proceedings.** The vice-president may summarily suspend any student from the university pending investigation, action of prosecution of charges of an alleged proscribed conduct violation or violations, if the vice-president has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other university community members, or the protection of property requires such suspension.

(1) If the vice-president finds it necessary to exercise the authority to summarily suspend a student the vice-president shall:

- (a) Give to the student an oral or written notice of intent to determine if summary suspension is an appropriate action;
- (b) Give an oral or written notice of the alleged misconduct and violation(s) to the student;
- (c) Give an oral or written explanation of the evidence in support of the charge(s) to the student;
- (d) Give an oral or written notice of the time and place of the summary suspension proceeding before the vice-president; and

(e) Determine a time for the summary suspension proceeding to be held within thirty-six hours;

(f) Give an oral or written explanation of the summary suspension which may be imposed on the student.

(2) At the place and time designated for the summary suspension proceeding, the vice-president shall:

(a) Consider the evidence relating specifically to the probability of danger to the student, to others on the campus, or to property;

(b) Provide the student with an opportunity to show why continued presence on campus does not constitute a danger to the physical and emotional well being of self or others, or a danger to property;

(c) Give immediate oral notice of his or her decision to the student to be followed by written notice; and

(d) If summary suspension is warranted, summarily suspend the student for no more than fifteen working days with a judicial council proceeding of the allegations to have commenced by the end of the suspension period.

(3) If a student has been instructed by the vice-president to appear for summary suspension proceedings and then fails

to appear at the time designated, the vice-president may suspend the student from the university, and shall ~~((given))~~ give written notice of suspension to the student at ~~((his))~~ the last address of record on file with the university.

(4) During the period of summary suspension, the suspended student shall not enter the campus of the university other than to meet with the vice-president. However, the vice-president may grant the student special permission for the express purpose of meeting with faculty, staff, or students in preparation for a proceeding before the campus judicial council.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-027 Proscribed conduct.** A student shall be subject to disciplinary action or sanction upon violation of any of the following conduct proscriptions:

(1) Disruptive and disorderly conduct which interferes with the rights and opportunities of other students to pursue their academic studies.

(2) Academic dishonesty in all its forms including, but without being limited to:

(a) Cheating on tests.

(b) Copying from another student's test paper.

(c) Using materials during a test not authorized by the person giving the test.

(d) Collaboration with any other person during a test without authority.

(e) Knowingly obtaining, using, buying, selling, transporting, or soliciting in whole or in part the contents of an unadministered test or information about an unadministered test.

(f) Bribing any other person to obtain an unadministered test or information about an unadministered test.

(g) Substitution for another student or permitting any other person to substitute for oneself to take a test.

(h) "Plagiarism" which shall mean the appropriation of any other person's work and the unacknowledged incorporation of that work in one's own work offered for credit.

(i) "Collusion" which shall mean the unauthorized collaboration with any other person in preparing work offered for credit.

(3) Filing a formal complaint with the vice-president with the intention of falsely accusing another with having violated a provision of this code.

(4) Furnishing false information to any university official, especially during the investigation of alleged violations of this code.

(5) Furnishing false information to the campus judicial council with the intent to deceive, the intimidation of witnesses, the destruction of evidence with the intent to deny its presentation to the campus judicial council or the willful failure to appear before the campus judicial council or the vice-president when properly notified to appear.

(6) Intentionally setting off a fire alarm or reporting a fire or other emergency or tampering with fire or emergency equipment except when done with the reasonable belief in the existence of a need therefore.

(7) Forgery, alteration, or misuse of university documents, records, or identification cards.

(8) Sexual assault in any form, including acquaintance rape and other forced and/or nonconsensual sexual activity.

(9) Actual or attempted physical/emotional abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally or recklessly causes a reasonable apprehension of harm to any person.

(10) Harassment of any sort or any malicious act which causes harm to any person's physical or mental well being.

(11) Recklessly engaging in conduct which creates a substantial risk of physical harm to another person.

(12) Creating noise in such a way as to interfere with university functions or using sound amplification equipment in a loud and raucous manner.

(13) Theft or malicious destruction, damage or misuse of university property, private property of another member of the university community, whether occurring on or off campus; or theft or malicious destruction, damage or misuse on campus of property of a nonmember of the university community.

(14) Unauthorized seizure or occupation or unauthorized presence in any university building or facility.

(15) Intentional disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities or programs whether occurring on or off campus or of activities or programs authorized or permitted by the university to be conducted on campus.

(16) Intentional participation in a demonstration which is in violation of rules and regulations governing demonstrations promulgated by the university.

(17) Unauthorized entry upon the property of the university or into a university facility or any portion thereof which has been reserved, restricted in use, or placed off limits; unauthorized presence in any university facility after closing hours; or unauthorized possession or use of a key to any university facility.

(18) Possession or use on campus of any firearm, dangerous weapon or incendiary device or explosive unless such possession or use has been authorized by the university.

(19) Possession, use, or distribution on campus of any controlled substance as defined by the laws of the United States or the state of Washington except as expressly permitted by law.

(20) Violation of the university policy on alcoholic beverages which states:

(a) Persons twenty-one years of age or older may possess and/or consume alcoholic beverages within the privacy of their residence hall rooms or apartments. Washington state law provides severe penalties for the possession or consumption of alcoholic beverages by persons under twenty-one years of age and for persons who furnish alcoholic beverages to minors. All university students should be aware of these laws and the possible consequences of violations.

(b) The university does not condone the consumption of alcoholic beverages by minors at functions sponsored by Central Washington University organizations. Organizations are held responsible for the conduct of their members at functions sponsored by the organization and for failure to comply with Washington state law.

(c) The campus judicial council may place on probation any organization or prohibit a specific campus social

function when the consumption of alcoholic beverages has become a problem of concern to the university.

(21) Conduct which violates the university policies on computer use.

(22) Violation of clearly stated proscriptions in any published rule or regulation promulgated by any official campus committee or commission or council acting within the scope of its authority.

(23) Violation on campus of any state or federal law or violation of any state or federal law off campus while participating in any university sponsored activity.

(24) Conspiracy to engage in hazing or participation in hazing of another.

**Chapter 106-124 WAC  
GENERAL CONDUCT—RIGHTS AND RESPONSIBILITIES OF ((COLLEGE)) UNIVERSITY COMMUNITY MEMBERS**

AMENDATORY SECTION (Amending Order 41, filed 10/4/78)

**WAC 106-124-010 Financial obligations of students.** Admission to or registration with the university, conferring of degrees, and issuance of academic transcripts or grade reports may be withheld for failure to meet financial obligations to the university.

AMENDATORY SECTION (Amending Order 43, filed 5/16/79)

**WAC 106-124-011 Financial obligations of students—Appeal procedure.** Every student has the right to appeal an assessment by the university of a fee, fine, charge, debt, or other financial obligation by filing a written petition with the appropriate dean or nonacademic area director stating the student's reasons for challenging the validity of the assessed obligation. The written petition must be filed not more than thirty days after the notice of assessment was sent to the student. The dean or director, or ((his)) designee, shall review the university's decision to assess the fee, fine, charge, debt, or other financial obligation in light of the student's petition appealing the assessment and shall render a decision thereon which shall be final.

AMENDATORY SECTION (Amending Order 56, filed 5/29/84)

**WAC 106-124-700 Firearms, explosives, dangerous chemicals—Restrictions.** No person shall have in his possession any gun, pistol, firearm, explosive, dangerous chemicals, or other dangerous weapons or instruments on university-owned or university-leased property except as follows:

(1) Authorized law enforcement officers shall be permitted to carry arms while on duty and engaged in their regular duties;

(2) Activities requiring use of the prohibited items may be conducted upon approval of the president or his designee;

(3) Persons with firearms in their possession shall be permitted to travel enroute to or from the university-provided firearm storage facilities only.

Violators of this WAC shall be subject to appropriate disciplinary or legal action.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-124-801 Animals prohibited.** (1) No animals, including dogs and cats, except ~~((seeing-eye))~~ service dogs, will be allowed, under any circumstances, in any university-operated building.

(2) All dogs on campus shall be under direct physical control, leashed by their owner or custodian.

(3) Dogs not under direct physical control of their owner or custodian, i.e., unleashed or tied and owner or custodian not present, shall be subject to impoundment and their owners subject to fines as determined under city ordinances.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-711 Definitions.** The following definitions shall apply for the interpretation of these regulations:

(1) The "university" means Central Washington University as a whole, including any and all of its component departments, offices, or units.

(2) "Directory information" means the student's name, hometown address, university address and telephone number, date of birth, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, class, previous institutions attended, major field of study, awards, honors (including honor roll), degrees conferred (including dates), and other similar information. The university may release directory information concerning a student to the public unless the student submits a signed request in writing, within two weeks after the first day of classes for the fall quarter. Requests for nondisclosure must be forwarded to the office of the ~~((dean of students))~~ vice-president for student affairs where an appropriate notation will be entered in the student's computer file. These requests will then be forwarded to the university relations and information office which maintains a complete file of nondisclosure requests. Authorization to withhold the information must be filed annually since the request for nondisclosure will be honored by the university for only one year.

(3) "Eligible student" means any person who is officially registered at this university.

(4)(a) "Education records" mean those records which:

(i) Are directly related to a student, and

(ii) Are maintained by the university or by a party acting for the university.

(b) The term education record does not include the following:

(i) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker of the record and which are not accessible or revealed to any other person except a temporary substitute;

(ii) Records of ~~((the campus police))~~ public safety and police services which are maintained separately and solely for law enforcement officials of the same jurisdiction—

provided that education records maintained by the university are not disclosed to the law enforcement unit;

(iii) Records of someone employed by the university, which are made in the normal course of business, related exclusively to the person as an employee, and are not used for any other purpose;

(iv) Records made by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional directly related to the treatment of a student, and not disclosed to anyone other than individuals providing treatment provided records can be reviewed by a physician or other appropriate professional of the student's choice.

(5) "Personally identifiable" means that the data or information includes:

(a) The name of a student, the student's parent, or other family member,

(b) The address of the student,

(c) A personal identifier, such as the student's social security number or student number,

(d) A list of personal characteristics which would make the student's identity easily traceable, or

(e) Other information which would make the student's identity easily traceable.

(6) "Record" means information or data recorded in any medium including but not limited to: Handwriting, print, tapes, film, microfilm, and microfiche.

(7) "Financial aid" means a payment of funds provided to an individual which is conditioned on the individual's attendance at an educational agency or institution.

(8) ~~((“Dean of students”))~~ “Vice-president for student affairs” means the ~~((dean of student development))~~ vice-president for student affairs or ~~((his/her))~~ the vice-president's designee.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-721 Notification by educational institution.** (1) The university shall inform eligible students, annually, of the following:

(a) The types of education records and information contained therein which are maintained by the institution;

(b) The titles and addresses of official responsible for the maintenance of each type of record, the persons who have access to those records, and the purposes for which they have access;

(c) The policies and procedures of the university for reviewing and expunging those records, and for challenging the accuracy of them;

(d) the procedures for gaining access to the educational records;

(e) The cost, as approved by the board of trustees, which will be charged to the eligible student for reproducing single copies of records, provided that the cost shall not exceed the actual cost of reproducing the record;

(f) The categories of information which the university has designated as directory information.

(2) Notice of the existence of this policy and the availability of the information described in subsection (1)(a) through (f) of this section may be published in any official university print medium publication having general circulation among students. This may be a special publication for

this purpose only, or included in another publication. Students may consult the office of the ~~((dean of students))~~ vice-president for student affairs for the information described.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-731 Access to education records.** The university shall provide each student access to his/her education records except as otherwise limited according to WAC 106-172-733.

The right of access shall include:

(1) The right to inspect and review the content of education records in the presence of appropriate university personnel.

(2) The right to obtain single copies of each record, at the expense of the eligible student but not to exceed the actual cost to the university of reproducing such copies.

(3) The right to a response from the university to reasonable requests for explanations and interpretations of those records.

(4) The right of an opportunity for a ~~((hearing))~~ proceeding to challenge the content and accuracy of those records according to WAC 106-172-761.

(5) (a) Students wishing access under provisions of this policy to education records maintained by the university should address a request in writing to the person in charge of maintenance of that record. If copies are requested, copies may be supplied at no more than the cost of making the copy, including supplies and staff time.

(b) The individual responsible for maintenance of any record shall respond to written requests only, and provide copies as requested, within twenty working days. The university registrar is not prohibited from providing a student with a copy of the student's academic transcript from CWU, but is prohibited from providing a student with a copy of the student's official academic transcripts from other institutions.

(6) The office of the ~~((dean of students))~~ vice-president for student affairs will maintain a file showing what education records are maintained by any department or entity of the university and the title and address of the official responsible for maintenance of each record.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-172-735 Exception to consent requirements and record of access.** (1) The university may disclose personally identifiable information from the education records of a student without the written consent of the student if the disclosure is to:

(a) University officials, including faculty members, when the information is required for a legitimate educational purpose,

(b) Officials of another school in which the student seeks or intends to enroll, providing a reasonable attempt has been made to notify the student of the transfer of the records at the last known address of the student — except when the transfer of the records is initiated by the student;

(c) Federal or state officials requiring access to education records in connection with the audit or evaluation of federally or state-supported educational programs. Such

surveys must be administered in a manner which will not permit personal identification of students by individuals other than those conducting the study, and such information will be destroyed when no longer needed for the purposes for which it was provided;

(d) Agencies requesting information in connection with a student's application for, or receipt of, financial aid;

(e) Accrediting organizations in order to carry out their accrediting functions;

(f) Any personal subpoena and/or subpoena duces tecum, when lawfully prepared and served upon the university or an appropriate administrator of the university. The university will notify the student by certified or registered mail to the address or addresses on file with the university of any such subpoena. Such a notice will be sent to the student in advance of compliance with the subpoena.

(2) Any student may grant permission for use of information about himself/herself by giving specific permission in writing, signed and dated by the student giving such consent to include:

(a) A specification by title of the records released;

(b) The reasons for such release;

(c) The names of the parties to whom such records will be released; and

(d) A written statement indicating that the information cannot subsequently be released in a personally identifiable form to any other party without the written consent of the student involved.

(3) The university shall maintain a record which will indicate all parties, other than those parties specified in WAC 106-172-735 (1)(a), who have been granted access to a student's education records. The record will:

(a) Indicate specifically the legitimate interest that each such party has in obtaining the information.

(b) Be available only to the student, to the employees of the university responsible for maintaining the records, and to the parties identified under WAC 106-172-735(1)(a) and (d).

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-172-750 Timely disposal of records.** (1) Provisions of the laws and regulations of the state of Washington regarding the time during which records must be maintained will be complied with.

(2) Except as required in subsection (1) above, records will be maintained only during the minimum time in which they may ordinarily be expected to be useful or valid. Each record keeping entity of the university shall make periodic review of its records to ~~((insure))~~ ensure compliance with this provision.

(3) Records of disclosure shall be maintained as long as the record itself is maintained.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-172-761 Right to a ~~((hearing))~~ proceeding.**

(1) The university shall provide students an opportunity for a ~~((hearing))~~ proceeding in order to challenge the content of a student's education records to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students.

(2) A student shall have the right, in accordance with the procedures set forth in WAC 106-172-763 and 106-172-765, to:

(a) Correct or delete inaccurate, misleading, or otherwise inappropriate data contained within education records;

(b) Challenge the release of education records to specific persons as contrary to the provisions of this chapter; and

(c) Challenge a decision by the university to deny the student access to particular types of records.

(3) A student shall not be permitted under this chapter to contest grades given in academic courses, except on the grounds that, as a result of clerical error, the records fail to accurately reflect the grades actually assigned by an instructor.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-763 Informal proceedings.** (1) Whenever possible the university shall attempt to settle disputes regarding requests to amend education records through informal proceedings.

(2) A student who wishes to exercise the rights set forth in WAC 106-172-761(2) shall:

(a) First, attempt a resolution with the university official who has custody of the education records; and

(b) Second, discuss with the ~~((dean of students))~~ vice-president for student affairs or ~~((his/her))~~ designee the nature of the corrective action recommended by the student.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-765 Conduct of the ~~((hearing))~~ proceeding.** (1) If informal proceedings fail to resolve the complaint of a student, the student may file with the ~~((dean of students))~~ vice-president for student affairs a written request for the ~~((hearing))~~ proceeding before a ~~((hearing))~~ proceeding officer of the university to be designated by the ~~((dean of students))~~ vice-president for student affairs, and who does not have a direct interest in the outcome of the ~~((hearing))~~ proceeding.

(2) The ~~((hearing))~~ proceeding shall be held within a reasonable time (not to exceed twenty working days) after the university has received the request and the student shall be given notice of the date, place, and time reasonably in advance of the ~~((hearing))~~ proceeding.

(3) The student shall be given an opportunity to present evidence relevant to the issues raised in WAC 106-172-761(2) and may be represented by any person (including an attorney) of the student's choosing at his or her expense.

(4) A decision in writing shall be prepared within a reasonable period of time (not to exceed ten working days), which decision shall be based solely upon the evidence presented, and which includes a summary of the evidence and the reasons for the decision.

(5) If, as a result of the ~~((hearing))~~ proceeding, the decision is:

(a) To amend the record, the university must do so accordingly and give notice to the student.

(b) Not to amend, the student must be allowed to place a written comment or explanation in the student's file, and

it must be kept in the file as long as the file itself is kept. If the contested portion of the file is disclosed to anybody, the student's statement must also be disclosed.

(6) The designated ~~((hearing))~~ proceeding officer shall be advised by the assistant attorney general representing the university.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-772 Release of information for health or safety emergencies.** (1) The university (president or ~~((his))~~ designee, ~~((dean of students))~~ vice-president for student affairs) may release information from education records to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) The factors which should be taken into account in determining whether records may be released shall include:

(a) The seriousness of the threat to the health or safety of the student or other persons;

(b) The need for such records to meet the emergency;

(c) Whether the persons to whom such records are released are in a position to deal with the emergency; and

(d) The extent to which time is of the essence in dealing with the emergency.

WSR 94-17-153

PROPOSED RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed August 23, 1994, 2:09 p.m.]

Original Notice.

Title of Rule: Chapter 106-156 WAC, Housing and dining hall services, chapter 106-160 WAC, Admission and registration procedures, chapter 106-168 WAC, Library policies; amending WAC 106-156-010 Students required to live in university residence halls, 106-156-011 Students required to live in university residence halls—Exceptions, 106-156-012 Students required to live in university residence halls—Definitions, 106-156-013 Students required to live in university residence halls—Verification and time requirement and 106-156-015 Eligibility for university family housing; new sections WAC 106-160-050 Admission and registration procedures and catalog requirements, 106-160-060 Admission and registration procedures and catalog requirements—Changes in catalog, 106-160-070 Finances, 106-160-080 Graduating students, 106-160-090 Registration, 106-160-100 Registration—Deadlines, 106-160-110 Registration—Changes in registration and withdrawal, 106-160-120 Admission requirements—To freshman standing, 106-160-130 Admission requirements for transfer applicants, 106-160-140 Readmission of former students, 106-160-150 Provisional enrollment, 106-160-160 Nonmatriculating students, 106-160-170 High school enrichment, 106-160-180 Admission requirements—International students, 106-160-190 Application procedures, 106-160-200 Required transcripts, 106-160-210 Required tests, 106-160-220 Admission decision, 106-160-230 Accepting the offer of admission, 106-160-240 Admission requirements—Application and admission to graduate study, 106-160-250 Admission requirements—

Application for study leading to a master's degree, 106-160-260 Admission requirements—Application for fifth year or nondegree study, 106-160-270 Admission requirements—Admission procedure, 106-160-280 Admission requirements—Procedures for high school graduates, 106-160-290 Admission requirements—Procedures for advanced undergraduate standing, 106-160-300 Admission requirements—Admission to credential program, 106-160-310 Summer session admission and registration procedures, and 106-160-320 Summer session admission and registration procedures—Workshop registration; repealing WAC 106-160-001 Admission and registration procedures and catalog requirements, 106-160-002 Admission and registration procedures and catalog requirements—Changes in catalog, 106-160-005 Finances, 106-160-010 Graduating students, 106-160-015 Registration, 106-160-016 Registration—Deadlines, 106-160-017 Registration—Changes in registration and withdrawal, 106-160-020 Admission requirements—To freshman standing, 106-160-021 Admission requirements—Prospective students, 106-160-022 Admission requirements—Admission to advanced undergraduate standing, 106-160-023 Admission requirements—Admission of international students, 106-160-024 Admission requirements—Readmission of former students, 106-160-026 Admission requirements—Admission of nonmatriculated students, 106-160-027 Admission requirements—Admission of veterans, 106-160-029 Admission requirements—Application and admission to graduate study, 106-160-030 Admission requirements—Application for study leading to a master's degree, 106-160-031 Admission requirements—Application for fifth year or nondegree study, 106-160-032 Admission requirements—Admission procedure, 106-160-033 Admission requirements—Procedures for high school graduates, 106-160-034 Admission requirements—Procedures for advanced undergraduate standing, 106-160-035 Admission requirements—Admission to credential program, 106-160-040 Summer session admission and registration procedures and 106-160-041 Summer session admission and registration procedures—Workshop registration; and amending WAC 106-168-009 Food, beverages, smoking, 106-168-065 Borrower identification cards, and 106-168-097 Payment of charges.

Purpose: Amending WAC 106-156-010 to correct punctuation, WAC 106-156-011 to change wording consistent with APA standards, WAC 106-156-012 to adjust punctuation and modify wording, WAC 106-156-013 to modify grammar and WAC 106-156-015 to revise punctuation and eliminate an outdated reference and sexist language; new sections WAC 106-160-050 to specify the provisions of chapter 106-160 WAC, WAC 106-160-060 to stipulate conditions of catalog changes and their availability, WAC 106-160-070 to require payment of tuition and fees, WAC 106-160-080 to establish guidelines for degree application, WAC 106-160-090 to detail registration requirements, WAC 106-160-100 to specify that students must meet registration deadlines, 106-160-110 to establish guidelines for change of schedule, 106-160-120 to outline admission requirements for students of freshman standing, 106-160-130 to define admission requirements for transfer students, WAC 106-160-140 to establish readmission guidelines for former students, WAC 106-160-150 to outline requirements for provisional enrollment, WAC 106-160-160 to define guidelines for nonmatriculating students, WAC 106-160-170 to establish

guidelines for high school students to enter the university prior to high school graduation, WAC 106-160-180 to specify admission requirements for international students, WAC 106-160-190 to establish application procedures, WAC 106-160-200 to define transcripts requirements for admission, WAC 106-160-210 to specify tests required for undergraduate admission, WAC 106-160-220 to establish guidelines for admission decisions, WAC 106-160-230 to define requirements for acceptance of admission offer, WAC 106-160-240 to outline requirements for application and admission to graduate study, WAC 106-160-250 to specify requirements for admission to master's degree study, WAC 106-160-260 to establish admission requirements for fifth year or nondegree study applications, WAC 106-160-270 to outline graduate study admission procedure, WAC 106-160-280 to establish procedures for high school graduates to complete admission requirements, WAC 106-160-290 to outline procedures for advanced undergraduate standing, WAC 106-160-300 to outline procedure for admission to a credential program, WAC 107-160-310 to establish summer session admission and registration procedures and WAC 106-160-320 to define summer session workshop admission and registration procedures; repealing WAC 106-160-001 to repeal outdated section, replaced by WAC 106-160-050, WAC 106-160-002 to repeal outdated section, replaced by WAC 106-160-060, WAC 106-160-005 to repeal outdated section, replaced by WAC 106-160-070, WAC 106-160-010 to repeal outdated section, replaced by WAC 106-160-080, WAC 106-160-015 to repeal outdated section, replaced by WAC 106-160-090, WAC 106-160-016 to repeal outdated section, replaced by WAC 106-160-100, WAC 10-160-017 to repeal outdated section, replaced by WAC 106-160-110, WAC 106-160-020 to repeal outdated section, replaced by WAC 106-160-120, WAC 106-160-021 to repeal outdated section, WAC 106-160-022 to repeal outdated section, replaced by WAC 106-160-290, WAC 106-160-023 to repeal outdated section, replaced by WAC 106-160-180, WAC 106-160-024 to repeal outdated section, replaced by WAC 106-160-140, WAC 106-160-026 to repeal outdated section, replaced by WAC 106-160-160, WAC 106-160-027 to repeal outdated section, WAC 106-160-029 to repeal outdated section, replaced by WAC 106-160-240, WAC 106-160-030 to repeal outdated section, replaced by WAC 106-160-250, WAC 106-160-031 to repeal outdated section, replaced by WAC 106-160-260, WAC 106-160-032 to repeal outdated section, replaced by WAC 106-160-270, WAC 106-160-033 to repeal outdated section, replaced by WAC 106-160-280, WAC 106-160-034 to repeal outdated section, replaced by WAC 106-160-290, WAC 106-160-035 to repeal outdated section, replaced by WAC 106-160-300, WAC 106-160-040 to repeal outdated section, replaced by WAC 106-160-310 and WAC 106-160-041 to repeal outdated section, replaced by WAC 106-160-320; amending WAC 106-168-009 to clarify library smoking policy, WAC 106-168-065 to correct designation and establish guidelines for borrower identification cards, and WAC 106-168-097 to modify payment location for library charges and eliminate nonessential language.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.35.120(12).

Summary: Amending WAC 106-156-010 punctuation corrected within regulation requiring students under twenty-

one years of age to live in residence halls, WAC 106-156-011 wording changed consistent with APA standards within regulation outlining exceptions to the rule requiring students under twenty-one years of age to live in residence halls, WAC 106-156-012 punctuation adjusted and wording modified within regulation outlining definitions pertaining to requirement that students live in residence halls, WAC 106-156-013 grammar modified in regulation outlining verification and time requirements for students required to live in university residence halls and WAC 106-156-015 punctuation revised and an outdated reference and sexist language eliminated in rule establishing eligibility for university family housing; new sections WAC 106-160-050 provisions of chapter 106-160 WAC specified, WAC 106-160-060 conditions of catalog changes and their availability stipulated, WAC 106-160-070 payment of tuition and fees defined, WAC 106-160-080 guidelines for degree application established, WAC 106-160-090 registration requirements detailed, WAC 106-160-100 students registration deadlines established, 106-160-110 guidelines for change of schedule outlined, 106-160-120 admission requirements for students of freshman standing specified, 106-160-130 admission requirements for transfer students defined, WAC 106-160-140 readmission guidelines for former students established, WAC 106-160-150 requirements for provisional enrollment outlined, WAC 106-160-160 guidelines for nonmatriculating students defined, WAC 106-160-170 guidelines for high school students entering the university prior to high school graduation established, WAC 106-160-180 admission requirements for international students specified, WAC 106-160-190 application procedures established, WAC 106-160-200 transcript requirements for admission outlined, WAC 106-160-210 tests required for undergraduate admission specified, WAC 106-160-220 guidelines for admission decisions defined, WAC 106-160-230 requirements for acceptance of admission offer established, WAC 106-160-240 requirements for application and admission to graduate study outlined, WAC 106-160-250 requirements for admission to a graduate program specified, WAC 106-160-260 admission requirements for fifth year or nondegree study applicants established, WAC 106-160-270 graduate study admission procedure outlined, WAC 106-160-280 procedures for high school graduates to complete admission requirements established, WAC 106-160-290 procedures for advanced undergraduate standing outlined, WAC 106-160-300 procedure for admission to a credential program defined, WAC 107-160-310 summer session admission and registration procedures established and WAC 106-160-320 summer session workshop admission and registration procedures specified; repealing WAC 106-160-001 outdated section, replaced by WAC 106-160-050, WAC 106-160-002 outdated section, replaced by WAC 106-160-060, WAC 106-160-005 outdated section, replaced by WAC 106-160-070, WAC 106-160-010 outdated section, replaced by WAC 106-160-080, WAC 106-160-015 outdated section, replaced by WAC 106-160-090, WAC 106-160-016 outdated section, replaced by WAC 106-160-100, WAC 106-160-017 outdated section, replaced by WAC 106-160-110, WAC 106-160-020 outdated section, replaced by WAC 106-160-120, WAC 106-160-021 outdated section repealed, WAC 106-160-022 outdated section, replaced by WAC 106-160-290, WAC 106-160-023 outdated section, replaced by WAC 106-160-180, WAC 106-

160-024 outdated section, replaced by WAC 106-160-140, WAC 106-160-026 outdated section, replaced by WAC 106-160-160, WAC 106-160-027 outdated section, replaced by WAC 106-160-290, WAC 106-160-029 outdated section, replaced by WAC 106-160-240, WAC 106-160-030 outdated section, replaced by WAC 106-160-250, WAC 106-160-031 outdated section, replaced by WAC 106-160-260, WAC 106-160-032 outdated section, replaced by WAC 106-160-270, WAC 106-160-033 outdated section, replaced by WAC 106-160-280, WAC 106-160-034 outdated section replaced by WAC 106-160-290, WAC 106-160-035 outdated section, replaced by WAC 106-160-300, WAC 106-160-040 outdated section, replaced by WAC 106-160-310 and WAC 106-160-041 outdated section, replaced by WAC 106-160-320; and amending WAC 106-168-009 library smoking policy clarified, WAC 106-168-065 spelling corrected and guidelines established for borrower identification cards, and WAC 106-168-097 payment location for library charges specified and nonessential language eliminated.

Reasons Supporting Proposal: Amending WAC 106-156-010 punctuation corrected to improve accuracy, WAC 106-156-011 language change consistent with APA standards, WAC 106-156-012 punctuation adjustment and wording modification for clarity, WAC 106-156-013 grammatical change for improved readability and WAC 106-156-015 punctuation revisions and elimination of an outdated reference and sexist language; new sections WAC 106-160-050 outline provisions of chapter 106-160 WAC, WAC 106-160-060 conditions of catalog changes and their availability defined, WAC 106-160-070 payment of tuition and fees required, WAC 106-160-080 guidelines for degree application defined, WAC 106-160-090 registration requirements outlined, WAC 106-160-100 students must meet registration deadlines, 106-160-110 guidelines established for change of schedule, 106-160-120 admission requirements outlined for students of freshman standing, 106-160-130 admission requirements detailed for transfer students, WAC 106-160-140 readmission guidelines established for former students, WAC 106-160-150 requirements defined for provisional enrollment, WAC 106-160-160 guidelines established for nonmatriculating students, WAC 106-160-170 guidelines outlined for high school students to enter the university prior to high school graduation, WAC 106-160-180 admission requirements specified for international students, WAC 106-160-190 application procedures defined, WAC 106-160-200 guidelines for required transcripts to be submitted for admission, WAC 106-160-210 tests required for undergraduate admission specified, WAC 106-160-220 guidelines established for admission decisions, WAC 106-160-230 requirements outlined for acceptance of admission offer, WAC 106-160-240 requirements for application and admission to graduate study defined, WAC 106-160-250 requirements outlined for admission to a graduate program, WAC 106-160-260 admission requirements established for fifth year or nondegree study applicants, WAC 106-160-270 graduate study admission procedure defined, WAC 106-160-280 procedures established for high school graduates to complete admission requirements, WAC 106-160-290 procedures outlined for advanced undergraduate standing, WAC 106-160-300 procedure established for admission to a credential program, WAC 107-160-310 summer session admission and registration procedures outlined, and WAC

106-160-320 summer session workshop admission and registration procedures defined; repealing WAC 106-160-001 outdated section, replaced by WAC 106-160-050, WAC 106-160-002 outdated section, replaced by WAC 106-160-060, WAC 106-160-005 outdated section, replaced by WAC 106-160-070, WAC 106-160-010 outdated section, replaced by WAC 106-160-080, WAC 106-160-015 outdated section, replaced by WAC 106-160-090, WAC 106-160-016 outdated section, replaced by WAC 106-160-100, WAC 10-160-017 outdated section, replaced by WAC 106-160-110, WAC 106-160-020 outdated section, replaced by WAC 106-160-120, WAC 106-160-021 outdated section repealed, WAC 106-160-022 outdated section, replaced by WAC 106-160-290, WAC 106-160-023 outdated section, replaced by WAC 106-160-180, WAC 106-160-024 outdated section, replaced by WAC 106-160-140, WAC 106-160-026 outdated section, replaced by WAC 106-160-160, WAC 106-160-027 outdated section repealed, WAC 106-160-029 outdated section, replaced by WAC 106-160-240, WAC 106-160-030 outdated section, replaced by WAC 106-160-250, WAC 106-160-031 outdated section, replaced by WAC 106-160-260, WAC 106-160-032 outdated section, replaced by WAC 106-160-270, WAC 106-160-033 outdated section, replaced by WAC 106-160-280, WAC 106-160-034 outdated section, replaced by WAC 106-160-290, WAC 106-160-035 outdated section, replaced by WAC 106-160-300, WAC 106-160-040 outdated section, replaced by WAC 106-160-310 and WAC 106-160-041 outdated section, replaced by WAC 106-160-320; and amending WAC 106-168-009 library smoking policy clarified, WAC 106-168-065 spelling corrected and guidelines established for borrower identification cards, and WAC 06-168-097 payment location for library charges specified and nonessential language eliminated.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: For chapter 106-156 WAC, Housing and dining hall services, is Robert Chrisler, Director, Auxiliary Services, Central Washington University, 400 East 8th Avenue, Ellensburg, WA 98926-7493; for chapter 106-160 WAC, Admission and registration procedures, is James Pappas, Dean, Academic Services, Central Washington University, 400 East 8th Avenue, Ellensburg, WA 98926-7463; and for chapter 106-168 WAC, Library policies, is Gary Lewis, Dean, Library Services, Central Washington University, 400 East 8th Avenue, Ellensburg, WA 98926-7548.

Name of Proponent: James Pappas, Dean of Academic Services, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Explanation and purpose of each rule were previously stated in Purpose and Summary below. Anticipated effects for the rule changes are: Amending WAC 106-156-010 punctuation error corrected, WAC 106-156-011 wording changed consistent with APA standards, WAC 106-156-012 punctuation corrected and wording modified, WAC 106-156-013 grammar modified and WAC 106-156-015 punctuation revised and outdated reference and sexist language eliminated; new sections WAC 106-160-050 provisions of chapter 106-160 WAC defined, WAC 106-160-060 conditions of catalog changes and their availability outlined, WAC 106-160-070 payment of tuition and fees specified, WAC 106-

160-080 guidelines for degree application established, WAC 106-160-090 registration requirements outlined, WAC 106-160-100 students required to meet registration deadlines, 106-160-110 guidelines established for change of schedule, 106-160-120 admission requirements outlined for students of freshman standing, 106-160-130 admission requirements defined for transfer students, WAC 106-160-140 readmission guidelines for former students outlined, WAC 106-160-150 requirements for provisional enrollment established, WAC 106-160-160 guidelines defined for nonmatriculating students, WAC 106-160-170 guidelines established for high school students to enter the university prior to high school graduation, WAC 106-160-180 admission requirements for international students specified, WAC 106-160-190 application procedures established, WAC 106-160-200 transcript requirements outlined, WAC 106-160-210 tests required for undergraduate admission defined, WAC 106-160-220 guidelines for admission decisions established, WAC 106-160-230 requirements for acceptance of admission offer outlined, WAC 106-160-240 requirements for application and admission to graduate study established, WAC 106-160-250 requirements for admission to a graduate program specified, WAC 106-160-260 admission requirements for fifth year or nondegree study applicants outlined, WAC 106-160-270 graduate study admission procedure defined, WAC 106-160-280 procedures established for high school graduates to complete admission requirements, WAC 106-160-290 procedures outlined for advanced undergraduate standing, WAC 106-160-300 procedure for admission to a credential program established, WAC 107-160-310 summer session admission and registration procedures outlined and WAC 106-160-320 summer session workshop admission and registration procedures specified; repealing outdated sections repealed and new sections adopted to clarify policies and procedures, WAC 106-160-001 outdated section, replaced by WAC 106-160-050, WAC 106-160-002 outdated section, replaced by WAC 106-160-060, WAC 106-160-005 outdated section, replaced by WAC 106-160-070, WAC 106-160-010 outdated section, replaced by WAC 106-160-080, WAC 106-160-015 outdated section, replaced by WAC 106-160-090, WAC 106-160-016 outdated section, replaced by WAC 106-160-100, WAC 106-160-017 outdated section, replaced by WAC 106-160-110, WAC 106-160-020 outdated section, replaced by WAC 106-160-120, WAC 106-160-021 outdated section repealed, WAC 106-160-022 outdated section, replaced by WAC 106-160-290, WAC 106-160-023 outdated section, replaced by WAC 106-160-180, WAC 106-160-024 outdated section, replaced by WAC 106-160-140, WAC 106-160-026 outdated section, replaced by WAC 106-160-160, WAC 106-160-027 outdated section repealed, WAC 106-160-029 outdated section, replaced by WAC 106-160-240, WAC 106-160-030 outdated section, replaced by WAC 106-160-250, WAC 106-160-031 outdated section, replaced by WAC 106-160-260, WAC 106-160-032 outdated section, replaced by WAC 106-160-270, WAC 106-160-033 outdated section, replaced by WAC 106-160-280, WAC 106-160-034 outdated section repealed, WAC 106-160-035 outdated section, replaced by WAC 106-160-300, WAC 106-160-040 outdated section, replaced by WAC 106-160-310 and WAC 106-160-041 outdated section, replaced by WAC 106-160-320; and amending WAC 106-168-009 library smoking policy clarified, WAC 106-168-065 spelling corrected and

guidelines established for borrower identification cards, and WAC 106-168-097 payment location for library charges specified and nonessential language eliminated.

Proposal Changes the Following Existing Rules: Proposed rule changes will eliminate grammatical and punctuation errors, conform to APA guidelines, reflect current policies and procedures, and remove sexist language.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Compliance with the proposed rules will not cause businesses to lose sales or revenue and will have no impact on small businesses.

Hearing Location: Samuelson Union Building (SUB) 103, on September 27, 1994, at 2 p.m.

Submit Written Comments to: Judy Miller, Rules Coordinator, FAX (509) 963-3206, by September 26, 1994.

Date of Intended Adoption: September 27, 1994.

August 18, 1994

Ivory V. Nelson

President

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-010 Students required to live in university residence halls.** All full-time single freshman and sophomore students of Central Washington University under twenty-one years of age are required to live in university residence hall facilities. Residence hall facilities do not include apartments for single or married students.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-156-011 Students required to live in university residence halls—Exceptions.** Exceptions to WAC 106-156-010 may be granted to the following students:

- (1) Those who are living with parents or relatives.
- (2) Those with medical reasons.
- (3) Those employed off campus and housing and/or board is a part of their overall compensation received.
- (4) Those who will reach the age of twenty-one within thirty days after the start of the quarter.
- (5) Those who have completed six quarters as a full-time student.
- (6) Those who have unique situations not otherwise covered in this paragraph of exceptions and obtain the approval of the director of auxiliary services, or the director's designee.

The director of auxiliary services has established a committee of whom the student may request a ~~(hearing)~~ proceeding and ruling on the student's request for an exception. ~~((The decision of the committee may be appealed to the undergraduate council.))~~

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-012 Students required to live in university residence halls—Definitions.** Definitions of exceptions as stated in WAC 106-156-011 shall mean and are defined as follows:

(1) "Living with" shall mean those whose domiciles are in the place of residence of a parent or relative and will be commuting from such place of residence on a daily basis.

(2) "Parents or relatives" shall mean a parent, legal guardian, grandparent, brother, sister, aunt, uncle, or first cousin.

(3) "Medical reason" shall mean a medical problem that shall require a student to live in other than a university residence hall. Written verification of the medical problem and the requirement not to live in a residence hall must be obtained and submitted from a licensed physician or licensed psychologist.

(4) "Employment in nonuniversity housing and housing and/or board is part of their overall compensation received" shall mean employment for an established place of business or for an established family unit when a landlord/employer requires the student to reside where the work is performed and a substantial portion of the rent and/or room and board is reduced as a part of the overall compensation for the work performed for the landlord/employer at the place of the residence of the student.

(5) "Completed six quarters as a full-time student" shall mean enrollment in and completion of a minimum of ten ~~((credit))~~ quarter credit hours of academic work in each of the six quarters.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-013 Students required to live in university residence halls—Verification and time requirement.** Acceptable written verification shall be provided to the university for all exceptions at the time the request for an exception is made.

(1) A currently enrolled student wishing to apply for an exception to the university housing policy as set forth in WAC 106-156-010 shall reduce such request to writing and file it as required by the director of auxiliary services no later than 5:00 p.m. on the last day of the fifth week of classes in the quarter preceding the quarter the exception is requested ~~((for))~~.

(2) A newly admitted or reenrolling student who has not been enrolled as a student at Central the previous quarter wishing to apply for an exception to the university housing policy as set forth in WAC 106-156-010 shall reduce such request to writing and file such request in the office of the director of auxiliary services as required by the director of auxiliary services within twenty days after such student's acceptance to the university; however, in no event later than 5:00 p.m. on the day following such student's day of registration.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-015 Eligibility for university family housing.** Generally eligibility to lease and occupy university family housing is limited to students, full-time faculty, and full-time staff members of the university. A student is one who maintains a minimum of twelve quarter hours as an undergraduate student or ten quarter hours as a graduate student ~~((, exclusive of correspondence courses))~~. Concurrent enrollment of husband and wife to maintain the minimum

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-015 Eligibility for university family housing.** Generally eligibility to lease and occupy university family housing is limited to students, full-time faculty, and full-time staff members of the university. A student is one who maintains a minimum of twelve quarter hours as an undergraduate student or ten quarter hours as a graduate student ~~((, exclusive of correspondence courses))~~. Concurrent enrollment of husband and wife to maintain the minimum

hours does not fulfill this requirement. This regulation applies to each quarter, with the exception of a tenant living in family housing during spring quarter who wishes to remain as a nonstudent during the summer. ~~((He))~~ The student may do so if he or she indicates in writing ~~((his))~~ an intention to reenroll fall quarter.

#### NEW SECTION

**WAC 106-160-050 Admission and registration procedures and catalog requirements.** The provisions of WAC 106-160-001 through 106-160-099 shall contain admission and registration procedures and catalog requirements of Central Washington University.

#### NEW SECTION

**WAC 106-160-060 Admission and registration procedures and catalog requirements—Changes in catalog.** The board of trustees reserves the right of the board of trustees or president to make changes in any of the provisions of the university's catalogs without prior notice. When changes are made, the changes shall be filed in the office of the president and other appropriate university offices and placed with the appropriate catalog in the reference area of the library.

#### NEW SECTION

**WAC 106-160-070 Finances.** Each applicant for admission to Central Washington University must pay the tuition and fees as established by the board of trustees or the president on or before the dates for payment as designated by the board of trustees or the president.

#### NEW SECTION

**WAC 106-160-080 Graduating students.** Students shall submit their applications for the appropriate degrees on or before the date designated for the purpose by the board of trustees or the president, which shall be published in the appropriate university catalog. No application shall be accepted after the designated dates. However, the president or his designee may waive this requirement.

#### NEW SECTION

**WAC 106-160-090 Registration.** Currently enrolled students and all other individuals desiring to enroll in Central Washington University shall do so on or before the preregistration or registration dates designated by the board of trustees or president, which shall be published in the appropriate university catalog. No registration or preregistration shall be accepted after the designated dates: *Provided*, That the registrar may, whenever possible, waive this requirement within the time designated by the board of trustees or president for late registration.

#### NEW SECTION

**WAC 106-160-100 Registration—Deadlines.** All students registering with the university must meet those deadlines as established by the board of trustees or the president for registration.

#### NEW SECTION

**WAC 106-160-110 Registration—Changes in registration and withdrawal.** Students who wish to change their registration or withdraw from a particular course or the university after having completed their registration must do so on or before the date established for such changes or withdrawal by the board of trustees or president and by the completion of the "change in registration" or "withdrawal" forms maintained by the university. Students who leave the university and do not withdraw shall receive failing grades for work not completed.

#### NEW SECTION

**WAC 106-160-120 Admission requirements—To freshman standing.** Central Washington University will admit qualified students who meet the published admissions criteria for any quarter. Admission to the university is based on the student's ability to successfully complete programs offered by the university. Eligibility for admission as a first-time freshman is based on evidence of potential success in university study at the completion of the freshman year. Eligibility for regular admission as a freshman will be guided by the following situations:

Situation 1: Regular admission of freshman under twenty-one years of age. Eligibility for regular admission as a freshman for those twenty-one years of age or younger will be determined using both the student's high school grade point average and a nationally normed standardized test, either the American College Test (ACT), or the Scholastic Aptitude Test (SAT). The high school grade point average and test score will be combined to produce, for each freshman applicant, an admission index number. An offer of acceptance to the university as a freshman will be based on the resulting index number. The minimum index number established by the higher education coordinating board for the three regional universities and The Evergreen State College for regular admission is 13. A 13 index indicates that applicants have at least a sixty-five percent probability of achieving a "C" or better grade point average at the completion of their freshman year at Central Washington University. Freshman applicants must have prescribed set of high school courses totaling fifteen units. The required high school courses include: Four years of English, three years of math, two years of science, three years of social studies, two years of single foreign language, and one year of fine, visual or performing arts, or any of the above college-prep courses.

Situation 2: Regular admission of freshmen twenty-one years of age or older. A student twenty-one years of age or older who is seeking initial entry at the freshman level may be offered regular admission if the student obtained a score of at least eighteen on the Enhanced ACT Exam or seven hundred minimum on the SAT Exam, or he or she has scored at least an eighty-three or higher on WPCT if they took that exam prior to June 1, 1989.

Situation 3: Alternate standards for freshman admissions. Students seeking freshman admission may be admitted through the use of alternative criteria. Students applying under the alternative standard must satisfy each of the following requirements:

- (1) Submit a score on the ACT or SAT;

(2) Submit a transcript showing achievement of a 2.0 or higher high school grade point average and/or a passing score on the General Education Development Test;

(3) Complete high school course pattern requirements as prescribed with no more than three subject year deficiencies waived; and

(4) Present evidence of success outside the classroom and strong motivation to succeed in college.

#### NEW SECTION

**WAC 106-160-130 Admission requirements for transfer applicants.** Eligibility for admission of transfer applicants with fewer than forty transferable quarter credits is the same as first-time freshmen as they must meet freshman requirements in addition to an assessment of the quality of previous college work.

Applicants who have earned more than forty transferable quarter credits will be admitted based on the quality of college work only. If transcripts do not provide evidence of academic ability, regardless of the grade point average, additional information may be required.

Central Washington University accepts academic credits earned at other accredited collegiate institutions which are essentially equivalent in academic level and nature of work offered at CWU. The university endorses the policy in the Intercollegiate Transfer and Articulation Agreement among Washington public colleges and universities.

Transfer students who have not earned a Washington community college academic associate of arts degree will be admitted on sliding scale. Priority will be given to students with the highest grade point average (gpa) computed from previous transferable college-level work and with the greatest number of hours completed in transfer.

#### NEW SECTION

**WAC 106-160-140 Readmission of former students.** Former CWU students who have interrupted their studies form one year, or who have attended another college or university, except for summer school, must file a returning CWU student application. Transcripts of any college work completed since last enrolled at Central Washington University must be submitted. Students will be admitted on a priority basis, based on the additional academic credits taken and the academic standing they had when they left CWU.

#### NEW SECTION

**WAC 106-160-150 Provisional enrollment.** Students who are applying for admission but who have been unable to submit all necessary materials before a registration period may be allowed to enroll as provisional students if space permits. This status will be available for one quarter during which time the student must complete the admission process and receive a favorable admission decision to register for the next term.

#### NEW SECTION

**WAC 106-160-160 Nonmatriculating students.** Students who are not seeking a degree or certificate may request enrollment as a nonmatriculant. Upon approval by the office of admissions, they may enroll for a maximum of

nine credits each quarter so long as they meet academic standards. Credits earned in this status may not be applied to any degree or certificate unless the student is formally admitted to the university, in which case a maximum of forty-five credits may be applied. Nonmatriculant students are not eligible for most financial aid, veterans' benefits, credit evaluations, or other university services.

#### NEW SECTION

**WAC 106-160-170 High school enrichment.** High school students who wish to enter Central Washington University before graduating from high school may apply for admission under one of the following situations:

Situation 1: Students who wish to enroll as full-time students at the completion of their junior year must have a cumulative gpa of 3.2 or higher and score at least a twenty-seven composite score on the American College Test, or a combined score of one thousand one hundred, including at least six hundred verbal, on the Scholastic Aptitude Test. They must be recommended by their high school principal, have parent or guardian approval if under eighteen years of age, and meet with the director of admissions prior to acceptance.

Situation 2: Students who wish to enrich their high school program may take one or more college level courses while still enrolled in high school. The opportunity is available to students who have completed their junior year and have at least a 3.0 cumulative grade point average. Prior to enrollment, courses must be approved by the high school principal or counselor and the director of admissions.

#### NEW SECTION

**WAC 106-160-180 Admission requirements—International students.** Central Washington University welcomes qualified students from other countries. Students demonstrating the greatest potential for success may be admitted after a thorough review and evaluation of their entire academic background.

Because educational systems vary widely around the world, there is no single uniform admission requirement for international students. However, they must meet the following basic minimum requirements:

(1) Completion of academic coursework and national examinations necessary to satisfy admission requirements to colleges and universities in their native country.

(2) Adequate financial support verified by a Confidential Financial Statement Form and a current bank letter or scholarship award from a United States bank or agency.

(3) Competency in English demonstrated by a score of at least five hundred twenty-five on the Test of English As A Foreign Language (TOEFL) or, in some cases, transferable English composition courses which would meet the general education writing requirement at Central Washington University.

(4) International students transferring from United States institutions must have a minimum grade point average of 2.75 in transferable courses, and must also meet the academic requirements for college entrance in their native country.

(5) International students must have two letters of recommendation from a professor or counselor with whom they are currently working.

NEW SECTION

**WAC 106-160-190 Application procedures.** New and former students must submit an application for admission. All forms are available in the office of admissions, which is located on the first floor of Mitchell Hall.

There is a twenty-five dollar nonrefundable application processing fee for new or former students.

\*Application deadline dates: Fall-June 1; winter-November 1; spring-February 1; summer-June 1.

\*Dates are subject to change. For example, if all seats at the university are filled, the deadline dates will be advanced.

NEW SECTION

**WAC 106-160-200 Required transcripts.** Freshman applicants must have official transcripts sent directly to the office of admissions from their high school and/or transfer applicants must have necessary transcripts mailed from each institution previously attended. All documents must be received by the announced closing dates to be considered for admission. Documents sent by the student received in open envelopes will not be considered official.

NEW SECTION

**WAC 106-160-210 Required tests.** Undergraduate students applying to the university must submit scores from the American College Test (ACT) or Scholastic Aptitude Test (SAT).

NEW SECTION

**WAC 106-160-220 Admission decision.** Completed application files are reviewed by the office of admissions and decisions are mailed to students in writing. Students may be admitted under the following situations:

Situation 1: Admitted, dean's distinction - indicating that academic requirements have been met with an outstanding high school or community college record. Students receiving this acceptance are recommended to the Douglas Honors College.

Situation 2: Admitted - indicating that all academic requirements have been satisfied.

Situation 3: Admitted, admissions deficiency - indicating that the student has a high school subject deficiency that needs to be completed prior to graduation from Central Washington University.

Situation 4: Admitted, probation - indicating that while admission requirements have been marginally met, the student enters on academic probation.

Situation 5: Denied - indicating that the admission requirements have not been met and the student is not being offered admission. Students denied admission may request a review of the decision by writing a letter of appeal. A letter should be submitted only to present new factual information which will overcome, not simply explain, the academic record. Letters of petition for the denial should be directed to the admission committee for final determination.

NEW SECTION

**WAC 106-160-230 Accepting the offer of admission.** Students must confirm their intention to enroll to Central Washington University by submitting a fifty-five dollar confirmation of admission payment that will be applied to their first quarter's tuition. This payment should not be made until requested by the university, which occurs when students are notified officially of their admission. This payment is due by May 1 for fall quarter, October 1 for winter quarter, and February 1 for spring quarter. Special attention must be observed for these dates are subject to change. Priority consideration for registration, as well as completion of financial aid packaging and assignments of advisors, are designated when this payment is received. Students are encouraged to submit the fifty-five dollar confirmation of admission payment as early as possible after receiving the offer of admission. Central Washington University will guarantee a registration position to any student that submits the confirmation of admission payment prior to the announced deadline dates listed below for each quarter: Fall-May 1; winter-September 1; spring-January 1.

NEW SECTION

**WAC 106-160-240 Admission requirements—Application and admission to graduate study.** (1) Each prospective graduate student must submit a formal application and receive a formal letter of admission before registering for courses. A graduate student is expected to have a bachelor's degree from a college or university of recognized standing. Prospective graduate students must submit their formal applications on or before those dates specified by the board of trustees or the president for such admission.

(2) Applicants for graduate assistantships should have their admission and assistantship applications completed and filed with the college on that date specified by the board of trustees or president for the filing of such applications.

(3) All prospective graduate students must apply for admission either in a degree program, fifth year or other certificate program, or nondegree study (professional improvement, scholarly development), or other study.

NEW SECTION

**WAC 106-160-250 Admission requirements—Application for study leading to a master's degree.** Applicants for admission to graduate study must make application on the "application for admission to graduate study" provided by Central Washington University. The form must be returned to the office of graduate admissions and records prior to the dates established by the board of trustees or president for such application. Each applicant for graduate study is required to have official transcripts of all undergraduate and graduate study sent directly to the office of graduate admissions and records. Three letters of recommendation should be sent to graduate admissions and records directly from the persons making the recommendations. Two of the letters should come from instructors familiar with the applicant's academic preparation. Scores on the general test and appropriate subject test of the graduate record examination must be submitted to graduate

admissions and records before admission to graduate study will be considered.

#### NEW SECTION

**WAC 106-160-260 Admission requirements—Application for fifth year or nondegree study.** The "university admission form" supplied by the university must be filed with the office of admissions prior to the deadlines as established by the board of trustees or the president for the submission of such applications for admission to the university. In addition to the filing of the application, two official transcripts of all undergraduate and graduate study must be sent directly to the office of admissions.

(1) An applicant for fifth year certification must contact the office of teacher education and certification to organize an approved program.

(2) Admission to nondegree study is subject to the approval of the graduate office.

(3) An applicant admitted to nondegree study desiring to apply for degree study must reapply for admission to graduate study.

#### NEW SECTION

**WAC 106-160-270 Admission requirements—Admission procedure.** Applicants for graduate study may not be admitted where they have not completed all the application requirements. Admission to master's degree study is determined by the graduate office upon the recommendation of the department involved. A formal letter of admission will be directed to the student from the graduate office. Applicants not meeting the scholastic requirements may be admitted on probation provided the department to which admission is requested provides justification for admission to master's degree study and no more than ten percent are admitted on probation. If admitted, the student must meet those requirements as established by the university for progress in the university. Upon the recommendation of the appropriate department, applicants may be admitted to masters' programs with additional conditions stipulated.

#### NEW SECTION

**WAC 106-160-280 Admission requirements—Procedures for high school graduates.** All high school graduates must file the "uniform application for admission to colleges and universities in the state of Washington" together with a transcript of all high school work with the office of admissions prior to registration. The results of the "Washington precollege test" may be filed in lieu of the transcript until the high school program is complete.

#### NEW SECTION

**WAC 106-160-290 Admission requirements—Procedures for advanced undergraduate standing.** Resident and nonresident students making application for advanced standing must file the "uniform application for admission to colleges and universities in the state of Washington" and two official transcripts of all previous scholastic work from each school or college attended with the office of admissions of the college. Applicants who have completed less than thirty-five transferable college credits are also

required to file the results of the "Washington precollege test" and their high school transcript with the office of admissions.

#### NEW SECTION

**WAC 106-160-300 Admission requirements—Admission to credential program.** Admission to the university as a student does not constitute admission to the teacher education program. Students who plan to work toward a teaching certificate must apply to the director of teacher education and certification.

#### NEW SECTION

**WAC 106-160-310 Summer session admission and registration procedures.** Students registering for summer session must pay all fees and complete registration on or before the dates indicated on the calendar as published in the summer session bulletin. Students planning to attend the entire summer session, the first or second term only must complete admission procedures by the date so specified and register on the date so specified by the board of trustees or president for such purposes, as published in the summer session bulletin. All summer session students must pay fees and tuition to the appropriate university office as established by the board of trustees or the president, as published in the summer session bulletin.

#### NEW SECTION

**WAC 106-160-320 Summer session admission and registration procedures—Workshop registration.** Workshop registration shall be permitted and must be completed in the manner established by the board of trustees or the president, as published in the appropriate catalog.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 106-160-001	Admission and registration procedures and catalog requirements.
WAC 106-160-002	Admission and registration procedures and catalog requirements—Changes in catalog.
WAC 106-160-005	Finances.
WAC 106-160-010	Graduating students.
WAC 106-160-015	Registration.
WAC 106-160-016	Registration—Deadlines.
WAC 106-160-017	Registration—Changes in registration and withdrawal.
WAC 106-160-020	Admission requirements—To freshman standing.
WAC 106-160-021	Admission requirements—Prospective students.
WAC 106-160-022	Admission requirements—Admission to advanced undergraduate standing.

- WAC 106-160-023 Admission requirements—Admission of international students.
- WAC 106-160-024 Admission requirements—Readmission of former students.
- WAC 106-160-026 Admission requirements—Admission of nonmatriculated students.
- WAC 106-160-027 Admission requirements—Admission of veterans.
- WAC 106-160-029 Admission requirements—Application and admission to graduate study.
- WAC 106-160-030 Admission requirements—Application for study leading to a master's degree.
- WAC 106-160-031 Admission requirements—Application for fifth year or nondegree study.
- WAC 106-160-032 Admission requirements—Admission procedure.
- WAC 106-160-033 Admission requirements—Procedures for high school graduates.
- WAC 106-160-034 Admission requirements—Procedures for advanced undergraduate standing.
- WAC 106-160-035 Admission requirements—Admission to credential program.
- WAC 106-160-040 Summer session admission and registration procedures.
- WAC 106-160-041 Summer session admission and registration procedures—Workshop registration.

**AMENDATORY SECTION** (Amending Order 50, filed 12/10/82)

**WAC 106-168-009 Food, beverages, smoking.** Users are expected to maintain appropriate public behavior while using the library facilities. Eating food or drinking beverages is not allowed in any of the areas open to public use. Smoking is ~~((restricted to those areas designated by the dean of))~~ prohibited in the library ((services or his designee)).

**AMENDATORY SECTION** (Amending Order 50, filed 12/10/82)

**WAC 106-168-065 Borrower identification cards.** In order to borrow library materials, borrowers must present ~~((an))~~ an authorized university library identification card.

(1) University library identification cards are issued to all members of the university community.

(2) Individuals outside the university community may purchase library identification cards which permit limited use of resources and services.

(3) ~~((A))~~ A library identification card is authorized for use only by the individual whose name appears on the card.

(4) Cards used in an unauthorized manner may be confiscated.

(5) Each borrower is responsible for notifying the appropriate university office of changes of address or loss of card.

**AMENDATORY SECTION** (Amending Order 50, filed 12/10/82)

**WAC 106-168-097 Payment of charges.** (1) Charges may be paid at the ~~((library circulation desk until the charges have been referred to the controller))~~ cashier's office. Payment may be made by cash, check, or money order. Departmental purchase orders or interdepartmental funds transfers are not acceptable in payment of charges.

(2) Failure to pay charges will result in the total amount assessed being referred to the controller's office for collection. The controller may ~~((if other collection methods fail,))~~ deduct outstanding charges from salary warrants of employees, or withhold outstanding charges from damage deposits or other funds held by the university for any student. ~~((When collection efforts are unsuccessful,))~~ The controller may notify the registrar to withhold permission to enroll until outstanding charges are paid, to refrain from issuing requested transcript copies or to forward the amount outstanding to a collection agency for recovery.

(3) Failure to pay charges may result in the revocation of borrowing privileges.

**WSR 94-17-156**

**PROPOSED RULES**

**FOREST PRACTICES BOARD**

[Filed August 23, 1994, 2:35 p.m.]

Original Notice.

Title of Rule: Amendment to forest practices rules, Title 222 WAC.

Purpose: The purpose of this proposed rule is to identify critical wildlife habitat (state) for the northern spotted owl and the marbled murrelet.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Statute Being Implemented: Chapter 76.06 RCW.

Summary: Northern Spotted Owl Proposed Rules: Washington Forest Protection Association Proposal, WAC 222-16-010, 222-16-075 new section, and 222-16-080; Washington Forest Practices Board Wildlife Committee Proposal, WAC 222-10-040 new section, 222-16-010, and 222-16-080; new chapter 222-21 WAC, WAC 222-21-010, 222-21-020, 222-21-030, 222-21-040, 222-24-030, 222-30-050, 222-30-060, 222-30-065 new section, 222-30-070, 222-30-075 new section, 222-30-100, 222-38-020 and 222-38-030; Yakama Indian Nation-Washington Environmental Council Proposal, WAC 222-10-030 new section, 222-10-040 new section, 222-16-010, 222-16-080, 222-24-030, 222-30-050, 222-30-060, 222-30-065 new section, 222-30-070, 222-30-075 new section, 222-30-100, 222-38-020, and 222-38-030.

Marbled Murrelet Proposed Rules: Occupied Stand Approach, WAC 222-16-010 and 222-16-080; and Marbled Murrelet-Watershed Administrative Unit Approach, WAC 222-16-010 and 222-16-080.

Reasons Supporting Proposal: Both of these species are listed as threatened by the United States Fish and Wildlife

Service and by the state Fish and Wildlife Commission. The Forest Practices Board is required to identify forest practices which have the potential for a substantial impact on the environment.

Name of Agency Personnel Responsible for Drafting: Judith Holter, 1111 Washington Street S.E., Olympia, WA 98504-7012, (206) 902-1412; Implementation and Enforcement: John Edwards, 1111 Washington Street S.E., Olympia, WA 98504-7012, (206) 902-1730.

Name of Proponent: Forest Practices Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules identify critical wildlife habitat (state) for two threatened species: The northern spotted owl and the marbled murrelet. Any applications for forest practices within such habitat are classed as Class IV-Special and require additional environmental review in order to identify the potential for substantial material damage to public resources. Three alternatives are proposed for the northern spotted owl: The Washington Forest Protection Association proposal; the Forest Practices Board Wildlife Committee's proposal; and the Yakama Indian Nation-Washington Environmental Council proposal. The rule also places restrictions on certain forest practices to minimize disturbance impacts on the northern spotted owl. Two alternatives are proposed for the marbled murrelet: The occupied stand approach; and the marbled murrelet watershed administrative unit approach. The Forest Practices Board is soliciting public comments on all of these alternatives. The board's responsible official for SEPA has directed the Department of Natural Resources to prepare an environmental impact statement on the alternatives for the proposed rules. The purpose of the proposed rule is to capture all forest practices that have the potential for a substantial adverse impact on the environment.

Proposal Changes the Following Existing Rules: Changes to existing rules include: For the northern spotted owl, each alternative: Designates a differing number of "spotted owl special emphasis areas" (SOSEAs); identifies the function(s) for each SOSEA as dispersal habitat and/or demographic support; an optional planning provision that provides landowners with more flexibility that might be available under SEPA; lists varying amounts of suitable habitat; and identifies disturbance factors. For the marbled murrelet, each alternative: Includes several new definitions; and identifies critical wildlife habitat (state).

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: Forest Practices Board Recording Secretary, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (206) 902-1413, or FAX (206) 902-1784.

Hearing Location: Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA, on January 31, 1995, at 1 p.m. and 7 p.m.; in addition to Olympia, the Forest Practices Board intends to hold public hearings at the following locations. The are tentatively scheduled for the last two weeks of January 1995. Ellensburg, Seattle, Bellingham, Port Angeles, Vancouver. Exact dates, locations and times will be published in a future issue of the Washing-

ton State Register as soon as these are arranged. Hearings notices will also be mailed to all parties who have requested such notifications. For more information, please contact: Forest Practices Board Recording Secretary, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (206) 902-1413, FAX (206) 902-1784.

Assistance for Persons with Disabilities: Contact Forest Practices Board Recording Secretary by January 5, 1995, TDD (206) 902-1431, or (206) 902-1413.

Submit Written Comments to: Judith Holter, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, FAX (206) 902-1784, by February 3, 1995.

Date of Intended Adoption: April 27, 1995.

August 23, 1994

Jennifer M. Belcher

Commissioner of Public Lands

WASHINGTON FOREST PROTECTION ASSOCIATION  
PROPOSED RULES FOR  
THE NORTHERN SPOTTED OWL

August 4, 1994

AMENDATORY SECTION (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations:

"**Act**" means the Forest Practices Act, chapter 76.09 RCW.

"**Affected Indian tribe**" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"**Appeals board**" means the forest practices appeals board established in the act.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"**Borrow pit**" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Chemicals**" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"**Clearcut**" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Commercial tree species"** means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

**"Completion of harvest"** means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

**"Constructed wetlands"** means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

**"Contamination"** means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

**"Conversion option harvest plan"** means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

**"Conversion to a use other than commercial timber operation"** shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**"Critical habitat (federal)"** means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3(5)(A) and 4(a)(3) of the Federal Endangered Species Act.

**"Critical wildlife habitat (state)"** means those habitats designated by the board in accordance with WAC 222-16-080.

**"Cultural resources"** means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

**"Cumulative effects"** means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

**"Debris"** means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities

which would reasonably be expected to cause significant damage to a public resource.

**"Department"** means the department of natural resources.

**"Eastern Washington"** means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing

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or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Fen"** means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

**"Fertilizers"** means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

**"Fill"** means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

**"Flood level - 50 year."** For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring

in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

**"Forest trees"** excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

**"Green recruitment trees"** means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

**"Herbicide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

**"Historic site"** includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history;

or  
Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

**"Identified watershed processes"** means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

**"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

**"Interdisciplinary team"** (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

- Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;
- Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Northern spotted owl site center"** means a point location indicating the center of northern spotted owl activities as determined by the department under the protocols set forth in the forest practices board manual, using the department's own data as well as information provided by the department of fish and wildlife, forest landowners, and the U.S. Fish & Wildlife Service, for Status 1, 2 or 3 northern spotted owls using the following criteria:

**Status 1** Reproductive pair - the presence or response of two birds of the opposite sex where past or current reproductive activities has been documented.

**Status 2** Two birds, status unknown - the presence or response of two birds of the opposite sex where pair status cannot be determined and where at least one of the birds meets the requirements of a resident territorial single.

**Status 3** Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within one or two breeding seasons where there is no response by an owl of the opposite sex after a complete survey has been completed.

The department shall review the status and location of northern spotted owl site centers annually upon the request of an affected landowner. After up to three consecutive years of surveys conducted pursuant to protocols set forth in the forest practices board manual which reveal no Status 1, 2, or 3 owls at the site center (as defined in the protocol), or if actual evidence demonstrates at any time that a site is no longer occupied, the location shall no longer be classified as a northern spotted owl site center. Territorial areas occupied by northern spotted owls after the approval of local option plans under WAC 222-16-075 will not become northern spotted owl site centers under these regulations.

**"Notice to comply"** means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

**"Operator"** shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

**"Ordinary high-water mark"** means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

**"Other forest chemicals"** means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

**"Park"** means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

**"Partial cutting"** means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

**"Pesticide"** means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

**"Plantable area"** is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

**"Power equipment"** means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

**"Public resources"** means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

**"Rehabilitation"** means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

**"Relief culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

**"Resource characteristics"** means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

**"Riparian management zone"** means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

**"Rodenticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

**"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

**"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

**"Shorelines of the state"** shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

**"Side casting"** means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

**"Site preparation"** means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

**"Skid trail"** means a route used by tracked or wheeled skidders to move logs to a landing or road.

**"Slash"** means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

**"Spoil"** means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

**"Spotted owl special emphasis area"** means a geographic area identified in WAC 222-16-075(2) and described in WAC 222-16-075(6).

**"Stop work order"** means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

**"Threatened or endangered species"** means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

**"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

**"Water bar"** means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

**"Watershed administrative unit (WAU)"** means an area shown on the map specified in WAC 222-22-020(1).

**"Watershed analysis"** means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

**"Weed"** is any plant which tends to overgrow or choke out more desirable vegetation.

**"Western Washington"** means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

**"Wetland"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

**"Wetland functions"** include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

**"Wetland management zone"** means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

**"Wildlife"** means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

**"Wildlife reserve trees"** means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and

roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

**NEW SECTION**

**WAC 222-16-075 Northern spotted owl protection—Special emphasis areas, dispersal habitat and site center management plans.** (1) **Policy and findings.** The board finds that as a matter of policy the principal responsibility for the conservation of the northern spotted owl as a species must and will fall on public lands, and that the board and the department should look first to those lands to provide for the conservation of the species. A contribution to the protection of the species, beyond maintaining seventy acres of suitable habitat around a northern spotted owl site center, is appropriate only in spotted owl special emphasis areas ("SOSEA's") defined below. Within those SOSEA's, development of local option plans is preferred. Those plans should be developed and approved in as simple and expeditious a manner as possible. It is important to avoid conflicting regulations between state and federal governments. Therefore, federally approved habitat conservation plans, habitat management plans accompanied by a "no-take" letter, practices covered by an incidental take statement or practices consistent with a rule adopted pursuant to 16 U.S.C. §1533(d) ("federally approved plans") will be exempt from this section.

In light of the actions which are being taken on public land to conserve the owl, the board finds that there is a potential for substantial impact on the northern spotted owl as a species in only the following circumstances:

(a) Outside of the SOSEA's described below, only where harvesting, road construction or concentrated helicopter use will occur within seventy acres of most suitable habitat surrounding a northern spotted owl site center. Such forest practices are prohibited unless permitted under a federally approved plan.

(b) Inside of the SOSEA's described below, where harvesting or road construction occurs in suitable habitat within 1.8 miles of a northern spotted owl site center, or where the practice calls for concentrated helicopter use during the period from March 1 to July 31 within seventy acres of suitable habitat around the northern spotted owl site center, except those practices which:

(i) Are covered by and consistent with a previously approved local option plan under subsection (4) of this section which has not been amended by a subsequent local option plan, or a federally approved plan under subsection (5) of this section;

(ii) Are in habitat determined to be excess under subsection (6) of this section;

(iii) Will not degrade habitat below the limits specified in subsection (6) of this section; or

(iv) Constitute small harvests specified in subsection (7) of this section: *Provided*, That in all cases unless permitted by a federally approved plan, harvesting, road construction and concentrated use of helicopters within seventy acres of suitable habitat surrounding a northern spotted owl site center are prohibited.

(c) Inside of the SOSEA's described below, where harvesting or road construction occurs outside 1.8 miles of a northern spotted owl site center which conflicts with a local option plan which has been approved under subsection (4) of this section and not amended by a new approved plan, or a federal plan under subsection (5) of this section.

(2) **Prohibited acts.** Both within and without SOSEA's, no harvesting, road construction, or concentrated helicopter use inside seventy acres of suitable habitat surrounding a northern spotted owl site center will be permitted unless permitted by a federally approved plan.

(3) **Spotted owl special emphasis areas.** The board finds that the following geographic areas should receive special attention to prevent a potential for substantial impact on the environment due to impacts on the northern spotted owl population in Washington, and hereby designates them as SOSEA's. For each area so identified, the board has separately considered the nature of the contribution needed from lands within its jurisdiction and has determined that plans which meet the criteria set forth in subsection (4) (b), (c), and (d) of this section will preclude the potential for a substantial impact on the environment. The following table identifies these geographic areas and specifies the type of contribution called for.

Spotted Owl Special Emphasis Areas	Type of Protection
Columbia Gorge	dispersal
Finney Block	dispersal
Mineral Block	pair maintenance
Mineral Link	dispersal
I-90 West	pair maintenance
I-90 East	pair maintenance

The boundary description for each SOSEA is as follows:

**COLUMBIA GORGE:** This area is generally described as the two contiguous blocks (185,325 acres combined) of nonfederal lands in southern Skamania County (as far north as Township 5 N) between the Gifford Pinchot National Forest (NF) and the Columbia River.

PROPOSED

**FINNEY BLOCK:** This area is generally described as the contiguous block (231,593 acres) of nonfederal lands north of the disjunct portion of Mt. Baker-Snoqualmie (MBS) NF east of Range 6 E in Skagit County, and east of Range 7 E on the south side of this MBS NF block in northern Snohomish County. The area extends to the northeast along Highway 20 only as far as the southwest 1/4 of Township 36 N, Range 11 E.

**MINERAL BLOCK:** This area is generally described as lands in eastern Lewis County north of Highway 508, west of Highway 7, east of Township 2 E, and bounded on the north by the county line.

**MINERAL LINK:** This area is generally described as the contiguous block (190,203 acres) of nonfederal lands between the Mineral Block and the main body of the Gifford Pinchot National Forest, west of Range 7 E, south of the Nisqually River, north of Riffe Lake and east of that portion of Goat Creek north of the Gifford Pinchot NF in Lewis County.

**I-90 WEST:** This area is generally described as the eastern portion of King County west of the Cascade Mountain crest, south of Highway I-90 to the Pierce County line, and east of Range 8 E.

**I-90 EAST:** Starting at the northeast corner of Township 23 North, Range 14 East, WM; running west along the north line of that township to the northwest corner of Section 3, T23N, R14E; then south following section lines to the north line of Township 22 North, Range 14 East; then west to the northwest corner of Section 4, Township 22 North, Range 13 East; then south to the intersection with the east shore of Lake Kachess; following the east shore of Lake Kachess south to the intersection with the west line of Section 35, Township 21 North, Range 13 East; then south along this section line to the intersection with the north line of Township 20 North, Range 13 East; then west along the north line of Township 20 North, Range 13 East and Township 20 North, Range 12 East to the intersection with the Kittitas-King County line; then southerly following the county line to the intersection, in Section 35, Township 19 North, Range 11 East, with the Yakima-Kittitas County line; then generally to the southeast along the Kittitas-Yakima County line to the intersection with the north line of Township 18 North, Range 11 East; then east along the township line to the northeast corner of Township 18 North, Range 14 East; then south to the southeast corner of Township 18 North, Range 14 East; then east to the southeast corner of Township 18 North, Range 15 East; then north along the township line to the northeast corner of Section 13, Township 19 North, Range 15 East; then west following section lines to the west township line of T19N, R15E; then north to the northeast corner of Section 12, Township 19 North, Range 14 East; then west following section lines to the southwest corner of Section 3, T19N, R14E; then north along the west line of Section 3 to the north line of Township 19 North, Range 14 East; continuing north along section lines to the intersection with the south line of Township 21 North, Range 14 East; then east along this township line to the southeast corner of T21N, R14E; then north along the east township line of T21N, R14E, Township 22 North, Range 14 East and Township 23 North, Range 14 East to the beginning point at the northeast corner of Township 23 North, Range 14 East.

The department or a landowner within a SOSEA may petition the board to remove the SOSEA from the list, change the type of protection called for in the SOSEA, or revise the SOSEA boundaries, upon a showing that a contribution to the conservation of the owl as a species in Washington is no longer needed from lands subject to the board's jurisdiction within all or a part of that SOSEA.

**(4) Local option plans for lands within SOSEA's.**

(a) Overview. As a part of an application for harvesting or road construction within 1.8 miles of a northern spotted owl site center inside a SOSEA, a landowner may submit a local option plan or incorporate by reference a previously approved local option plan concerning the management of owl habitat. Such application shall be reviewed by the department and approved as a Class III forest practice application if the local option plan meets the criteria set forth in (b), (c) and (d) of this subsection, unless the application of which the local option plan is a part would be a Class IV application irrespective of the northern spotted owl. Local option plans are plans designed to avoid the potential for substantial impact on the environment due to impacts on the northern spotted owl as a species by applying known biological information to a site center or centers, or other area, as specified below. These plans are the most effective and efficient way to achieve an appropriate contribution from private land to the protection of the owl, and are preferred. They are intended to be plans which can be developed quickly and with reasonable certainty. A plan cannot be required to include more than one ownership. Local option plans shall not restrict a landowner's right to respond to a catastrophic event such as a fire, disease outbreak, or wind damage. Once approved, subsequent forest practice applications which are within the area covered by a plan may incorporate the plan by reference and be approved as a Class III practice without a new approval of the plan unless the practice would be a Class IV practice irrespective of the owl. Once approved, a plan can be amended by submitting a new local option plan as part of a forest practice application within the area covered by the original plan.

In those SOSEA's for which dispersal habitat is identified in subsection (2) of this section as the goal, the landowner may either submit a dispersal habitat plan which meets the dispersal habitat criteria set forth in (b) of this subsection, or submit a site management plan under (c) of this subsection covering that portion of its property in that SOSEA which lie within 1.8 miles of a northern spotted owl site center. In SOSEA's for which maintenance of owl pairs is the goal identified in subsection (2) of this section, landowners may submit site center management plans pursuant to (c) of this subsection. Local option plans meeting the criteria set forth in (b) and (c) of this subsection shall be approved by the department as a Class III forest practice. In (d) of this subsection it permits a landowner to submit either a dispersal plan or a site center management plan which does not meet the criteria of (b) or (c) of this subsection, but which is tailored to the landowner's property and meets the objectives of dispersal or pair maintenance.

(b) Dispersal habitat plans. Dispersal habitat is intended to facilitate the movement of juvenile, subadult and adult owls among populations or subpopulations. Dispersal plans shall include all of the landowners' forest land within the WAU in which a northern spotted owl site center is located,

provided that a dispersal plan need not include area outside of the SOSEA. The department shall approve a plan which demonstrates that the lands included in the plan will be managed to develop dispersal habitat over time. Specifically, the plan must show that the landowner is managing the size and spacing of harvest units such that, as rapidly as is feasible for the landowner, the resulting forest stands will meet the following criteria:

(i) Amount and spacing.

(A) In Western Washington, the average distance between dispersal stands shall not exceed one-half mile, excluding openings caused by nonforest land;

(B) In Eastern Washington, a minimum of twenty-five percent of the landowners forest land with a site index eighty or greater (base age fifty) shall be in stands of dispersal habitat; and

(C) A stand of dispersal habitat in both Eastern and Western Washington shall be a minimum of five acres, and the average size of all stands of dispersal habitat within the plan area shall be forty acres or greater.

(ii) Definition.

(A) Dispersal habitat in Western Washington shall be stands with seventy square feet of basal area or greater per acre of trees at least ten inches dbh or greater, at least seventy percent of which are conifers, with the average height of dominant and codominant trees being eighty feet or greater.

(B) Dispersal habitat in Eastern Washington shall be stands composed of at least seventy percent conifer tree species having between fifty and two hundred trees per acre with an average size of six inches dbh or greater. These criteria shall apply to dominant and codominant trees in even-aged stands, or to trees four inches dbh or larger in uneven-aged stands.

Recognizing that it will take time to achieve those conditions, plans will provide for harvesting to continue prior to and after achieving the goal set forth above. The conditions described above are recognized to be average conditions, and reasonable deviations reflecting topography and site-specific conditions shall be approved. In addition, the plan shall provide for protection during the breeding season (March 1 to July 31) of seventy acres of suitable habitat on the landowner's property around other territorial areas of northern spotted owl use that are found to be established after approval of the plan by the department.

(c) Site center management plans. Site center management plans are designed to give a reasonable degree of protection to owls occupying northern spotted owl site centers. Plans may, at the landowner's option, cover one or more northern spotted owl site centers. While the board directs the department to approve any plan which is demonstrated to provide reasonable protection on the landowner's property, the board has reviewed the plan criteria set forth below and finds that adherence to them will prevent a potential for substantial impact on the northern spotted owl as a species, and accordingly plans which meet these criteria shall be approved by the department.

(i) A plan which protects the suitable roosting and foraging habitat, as defined in the board manual, owned by the landowner within 0.7 mile of and including the northern spotted owl site center and which provides foraging habitat in amounts and as defined below. Within 0.7 mile of the

northern spotted owl site center, the landowner shall not be required to maintain more than fifty percent of the area as suitable roosting and foraging habitat, including all suitable habitat on both public land and the landowner's property. Once that standard is met, and so long as it is maintained, the landowner can substitute new habitat which becomes suitable roosting and foraging habitat, for previously existing habitat, which can be harvested. Outside of 0.7 mile, the plan shall provide for additional foraging habitat, so that the total of foraging habitat and suitable roosting and foraging habitat shall equal forty percent (in Western Washington) or thirty percent (in Eastern Washington) of the area within the 1.8 mile circle. Suitable roosting and foraging habitat and foraging habitat on public land shall be counted first, to reduce the obligation on private land. In circles with multiple private owners, any individual owner may submit a plan which provides for maintaining a proportionate amount of the required habitat on the landowner's property. No net increase in roosting and foraging habitat or foraging habitat created after the date of a local option plan can be counted by any other landowner, for purposes of an excess habitat determination under subsection (6) of this section. Foraging habitat is all forest stands which meet the following criteria:

Western Washington. Foraging habitat in Western Washington shall be stands with seventy square feet of basal area or greater per acre of trees at least ten inches dbh or greater, at least seventy percent of which are conifers, with the average height of dominant and codominant trees being eighty feet or greater, and which contain an average of three Type 1 wildlife reserve trees per acre.

Eastern Washington. Foraging habitat in Eastern Washington shall be stands composed of at least seventy percent conifer tree species having between fifty and two hundred trees per acre with an average size of six inches dbh or greater and which contain an average of three Type 1 wildlife trees per acre. These criteria shall apply to dominant and codominant trees in even-aged stands, or to trees four inches dbh or larger in uneven-aged stands.

Such plans may provide for the harvest of foraging habitat as other stands reach a condition which meet the foraging habitat condition, so that the minimum amount of foraging habitat is maintained over time. In addition, the plan shall provide for protection during the breeding season (March 1 to July 31) of seventy acres of suitable habitat on the landowner's property subject to the plan around other northern spotted activity areas that are found to have been established after approval of the plan, less the amount of suitable habitat on federal land around those owl activity areas.

(ii) In the case of a resident single owl which has less than one thousand five hundred acres of suitable habitat within 1.8 miles of its activity center, and for which following three years of annual surveying according to U.S. Fish & Wildlife survey protocols there is no evidence that it has mated, a plan may call for protection of only seventy acres of suitable habitat surrounding the site center.

(d) Site specific owl management plans. In those SOSEA's identified as requiring dispersal habitat only, a plan for providing dispersal habitat which is tailored to the specific circumstances of a landowner's property and the dispersal habitat being provided under other federal or state protection plans shall be approved by the department. In all

SOSEA's, a plan tailored to the specific circumstances of the particular owl site center or centers, which identifies the contribution from private land needed to support the owl or owls in question and demonstrates that contribution will continue to be made, shall be approved by the department. In cases where there are multiple private landowners within 1.8 miles of a northern spotted owl site center, any landowner may submit a plan for that landowner's property. At the landowner's sole option, such plans may include elements of operational research and adaptive management opportunities.

(e) **Plan contents.** Plans shall include maps at a reasonable scale, and a narrative or graphic proposal, including the time frame for the plan. The specific requirements for documentary support for plans are set forth in the *Forest Practices Board Manual*. Plans that provide for long-term management are preferred.

(f) **Plan evaluation process.** A forest practice application which includes a local option plan shall be approved unless the department finds that the plan fails to meet the criteria set forth in (b), (c), or (d) of this subsection, as appropriate. In evaluating plans, the department shall follow the procedures established in the forest practices board manual.

(5) **Federally approved plans.** The board finds that forest practices conducted pursuant to and consistent with a federally approved plan will suffice to eliminate the potential for substantial impact on the environment due to impacts on the northern spotted owl in Washington as a species. Practices pursuant to a federally approved plan shall be exempt from the provisions of this section.

(6) **Determination of whether there is excess habitat and whether habitat will be degraded.** An application covering forest practices which will require the harvest of suitable habitat to be conducted within 1.8 miles of a northern spotted owl site center in a SOSEA identified in subsection (3) of this section may be made without submitting a local option plan. In such case, the department shall first evaluate whether sufficient habitat exists on public land within 1.8 miles of the northern spotted owl site center. Habitat will be determined using the criteria set forth in the forest practices board manual, looking first to suitable habitat on public land. Counting suitable habitat on public land first, to the extent that suitable habitat equal to forty percent in Western Washington (thirty percent in Eastern Washington) of the forested area within a 1.8 mile radius of the site center exists (without counting the area covered by the application, the area covered by previously approved forest practice applications or any net increase in suitable habitat created under a local option plan submitted by another landowner within 1.8 miles of the site center), the department will determine that habitat included within the area covered by the application is excess. In instances where the area within 1.8 miles of two or more site centers overlaps, suitable habitat which is not within 0.7 mile of any site center can be counted when making the excess habitat determination for each site center for which it is within 1.8 miles. Suitable habitat within 0.7 mile of a site center can be counted for only one site center. Forest practices conducted in excess habitat will not be classified as Class IV forest practices on account of potential impacts on the northern spotted owl.

Where the practices are proposed for lands within 1.8 miles of a site center for which no local option plan or federally approved plan has been approved and which are proposed in stands of suitable habitat determined not to be excess habitat, the department shall then determine whether the proposed practices will reduce the habitat to conditions below foraging habitat as defined in subsection (4)(c) of this section. If not, the practices are not Class IV-special because of the northern spotted owl.

The foregoing determinations will be made within thirty days of the receipt of the application by the department.

(7) **Small harvest exception.** Without regard to any other provision of this rule, landowners may harvest by clearcut up to ten acres of suitable habitat not found to be excess habitat under subsection (6) of this section in each calendar year that lie beyond 0.7 mile but within 1.8 miles of the site center which is not excess habitat. Beginning with the adoption of this rule, up to four years of this acreage may be accumulated over time and included in a single harvest.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.** (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - ~~((harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.~~

~~This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.~~

~~The department shall rely upon the department of wildlife for the determination of status based on the following definitions:~~

~~Status 1 Pair or reproductive — the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.~~

~~Status 2 Two birds, pair status unknown — the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.~~

~~Status 3 Resident territorial single — the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area.)~~

(i) Inside of the SOSEA's described in WAC 222-16-075(3), where harvesting or road construction occurs in suitable habitat within 1.8 miles of a northern spotted owl site center, or where the practice calls for concentrated helicopter use during the period from March 1 to July 31 within the seventy acres of suitable habitat around the northern spotted owl site center, except those practices which:

(A) Are covered by and consistent with a previously approved local option plan under WAC 222-16-075(4) which has not been amended by a subsequent local option plan, or a federally approved plan or under WAC 222-16-075(5);

(B) Are in habitat determined to be excess under WAC 222-16-075(6);

(C) Will not degrade habitat below the limits specified in WAC 222-16-075(6); or

(D) Constitute small harvests specified in WAC 222-16-075(7): *Provided*, That in all cases, harvesting, road construction and concentrated use of helicopters within the seventy acres of suitable habitat surrounding a northern spotted owl site center are prohibited.

(ii) Inside of the SOSEA's described in WAC 222-16-075(3), where harvesting or road construction occurs outside 1.8 miles of a northern spotted owl site center which conflicts with a local option plan approved under WAC 222-

16-075(4) which has not been amended by a subsequent local option plan, or a federal plan under WAC 222-16-075(5).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and

recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service, as applicable, pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by an agreement in the nature of a "prelisting agreement" or a habitat management plan accompanied by a "no-take" letter issued by the U.S. Fish & Wildlife Service or National Marine Fisheries Service, as applicable, consistent with that agreement or letter; or

(c) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

FOREST PRACTICES BOARD  
WILDLIFE COMMITTEE  
PROPOSED RULES FOR  
THE NORTHERN SPOTTED OWL

August 4, 1994

### NEW SECTION

**WAC 222-10-040 Class IV—Environmental impact evaluation.** The department shall consider the following species-specific policies when evaluating environmental impacts, developing mitigation measures and conditioning or denying permits.

Northern spotted owls.

(1) The forest practices board intends to:

(a) Contribute to maintaining the long-term viability of owl populations in Washington state;

(b) Complement the federal conservation strategy for owl populations in Washington state;

(c) Promote flexibility by maximizing the use of landowner planning;

(d) Minimize the economic impacts on landowners; and

(e) Minimize conflicts between federal and state standards.

(2) In SOSEAs, suitable northern spotted owl habitat for the nesting, roosting and foraging requirements of a particular owl site shall be selected to provide the highest probability

of maintaining site viability. Selection of suitable habitat shall be as follows:

(a) Within 2.0 miles of known site centers three thousand two hundred acres in Western Washington and two thousand four hundred acres in Eastern Washington must be retained as nesting, roosting, and foraging habitat.

(b) The seventy acres of nesting, roosting and foraging habitat surrounding the known site center must be maintained.

(c) Habitat nearest to the site center is preferred when determining the required acreage.

(d) Within 0.7 mile of known site centers five hundred acres of habitat suitable for nesting, roosting and foraging must be maintained, including the seventy acres immediately surrounding the site center. If less than five hundred acres is available within 0.7 mile, then the balance can be added outside of 0.7 mile and within the 2.0 mile circle.

(e) Within 0.7 mile of a known site center, the first priority for habitat selection is old-forest habitat, followed by submature habitat, followed by young forest marginal habitat.

(f) All suitable habitat within 0.7 mile of a known site center that is retained for one site center shall not be utilized for meeting suitable habitat needs of any other site center.

(g) Beyond 0.7 mile of known site centers and within the 2.0 mile circle, up to forty percent of the area (or two thousand seven hundred acres) must be maintained as foraging habitat in Western Washington and up to thirty percent of this area (or one thousand nine hundred acres) in Eastern Washington. Younger forests that meet the definition of foraging habitat may be substituted for older forests.

(3) Outside SOSEAs, suitable northern spotted owl habitat for the nesting, roosting and foraging requirements of a particular owl site shall be selected to provide the highest probability of maintaining site viability. Selection of suitable habitat shall be as follows:

(a) The seventy acres of nesting, roosting and foraging habitat surrounding the known site center must be maintained.

(b) The first priority for habitat selection is old-forest habitat, followed by submature habitat, followed by young forest marginal habitat.

(c) The seventy acres retained for one site center shall not be utilized for meeting suitable habitat needs of any other site center.

**AMENDATORY SECTION** (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations: "Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

**"Board"** means the forest practices board established by the act.

**"Bog"** means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

**"Borrow pit"** shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

**"Chemicals"** means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

**"Clearcut"** means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Commercial tree species"** means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

**"Completion of harvest"** means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

**"Constructed wetlands"** means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

**"Contamination"** means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

**"Conversion option harvest plan"** means a voluntary plan developed by the landowner and approved by the local

government entity indicating the limits of harvest areas, road locations, and open space.

**"Conversion to a use other than commercial timber operation"** shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**"Critical habitat (federal)"** means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3(5)(A) and 4(a)(3) of the Federal Endangered Species Act.

**"Critical wildlife habitat (state)"** means those habitats designated by the board in accordance with WAC 222-16-080.

**"Cultural resources"** means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

**"Cumulative effects"** means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

**"Debris"** means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

**"Demographic support"** means maintaining the viability of spotted owl sites (status 1, 2 or 3) within the identified SOSEAs by providing for the maintenance of habitat essential for nesting, roosting and foraging for each of the known spotted owl sites.

**"Department"** means the department of natural resources.

**"Dispersal habitat"** means habitat that may be developed over time which allows the movement of juvenile, subadult and adult owls among populations or subpopulations and can be described as either old-forest, submature, or young forest marginal habitat, or stands having the following characteristics:

Western Washington:

• Stands of at least five acres (average size of all stands of dispersal habitat within a planning area shall be at least forty acres AND the average distance between dispersal stands shall not exceed one-half mile excluding openings caused by nonforest land) with at least seventy square feet of basal area per acre of trees at least 10" dbh;

• At least a seventy percent conifer component; and an average height of dominant and co-dominant trees of at least eighty feet;

• At least seventy percent crown closure;

• Three wildlife reserve trees per acre;

• Two green recruitment trees that were dominant or co-dominant; and

• Two down logs twenty feet or more in length with a small end diameter of twelve inches or more per acre.

Eastern Washington:

• Stands of at least five acres (average size of all stands of dispersal habitat within a planning area shall be at least forty acres and a minimum of twenty-five percent of the forest land with a site index of at least eighty (base age fifty) shall be in stands of dispersal habitat with at least a fifty percent conifer component;

• At least fifty percent crown closure and average height of the dominates and co-dominates of at least sixty-five feet in height;

• Two green recruitment trees that were dominant or co-dominant;

• Two wildlife reserve trees ten or more feet in height and ten or more inches in dbh per acre;

• Two down logs twenty feet or more in length with a small end diameter twelve inches or more per acre;

• Between fifty and two hundred trees/acre with an average size of at least 6" dbh (at least 4" dbh in uneven-aged stands); and

• Douglas fir trees with a moderate to heavy mistletoe index rating may be substituted for residual snags.

"**Eastern Washington**" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"**End hauling**" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"**Erodible soils**" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"**Even-aged harvest methods**" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Fen**" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"**Fertilizers**" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"**Fill**" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"**Flood level - 50 year.**" For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary

high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Foraging habitat"** means old-forest, submature or young forest marginal habitat.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

**"Forest trees"** excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

**"Green recruitment trees"** means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

**"Herbicide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

**"Historic site"** includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

**"Identified watershed processes"** means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

**"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

**"Interdisciplinary team"** (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Landowner option plans (LOP)"** means landowner generated plans approved by the department which are designed to avoid the potential for adverse impacts to the northern spotted owl.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Natural disasters"** means those catastrophic events that occur such as flood, fire, wind or insect infestation which rapidly results in a loss of timber value. These normally occur over a large area.

**"Northern spotted owl site center"** means the location documented by the department of fish and wildlife for status

1, 2 or 3 northern spotted owls. The department shall consult with the department of fish and wildlife for the determination of status based on the following definitions:

**Status 1** Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

**Status 2** Two birds, pair status unknown - the presence or response of two birds of the opposite sex where pair status cannot be determined and where at least one member must meet the resident territorial single requirements.

**Status 3** Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

"**Notice to comply**" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"**Old-forest habitat**" means habitat that provides for all the characteristics needed by northern spotted owls for nesting, roosting, foraging and dispersal. Such habitats can be characterized by greater abundance of prey, trees with broken tops and large cavities while exhibiting greater horizontal and vertical diversity. These stands can be described as follows:

- Forests with moderate to high canopy closure (sixty to eighty percent);

- A multilayered, multispecies canopy dominated by large (>30" dbh) overstory trees;

- A high incidence of large trees with various deformities (i.e., large cavities, broken tops, dwarf mistletoe infections, and other indications of decadence);

- Numerous large snags;

- Large accumulations of fallen trees and other woody debris on the ground; and

- Considerable open space through which owls can fly within and beneath the canopy (definition from Thomas et.al. 1990).

"**Operator**" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"**Ordinary high-water mark**" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"**Other forest chemicals**" means fire retardants when used to control burning (other than water), nontoxic repel-

lents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"**Park**" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"**Partial cutting**" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"**Pesticide**" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"**Plantable area**" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"**Power equipment**" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"**Public resources**" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"**Rehabilitation**" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"**Relief culvert**" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"**Resource characteristics**" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"**Riparian management zone**" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"**Rodenticide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"**Salvage**" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

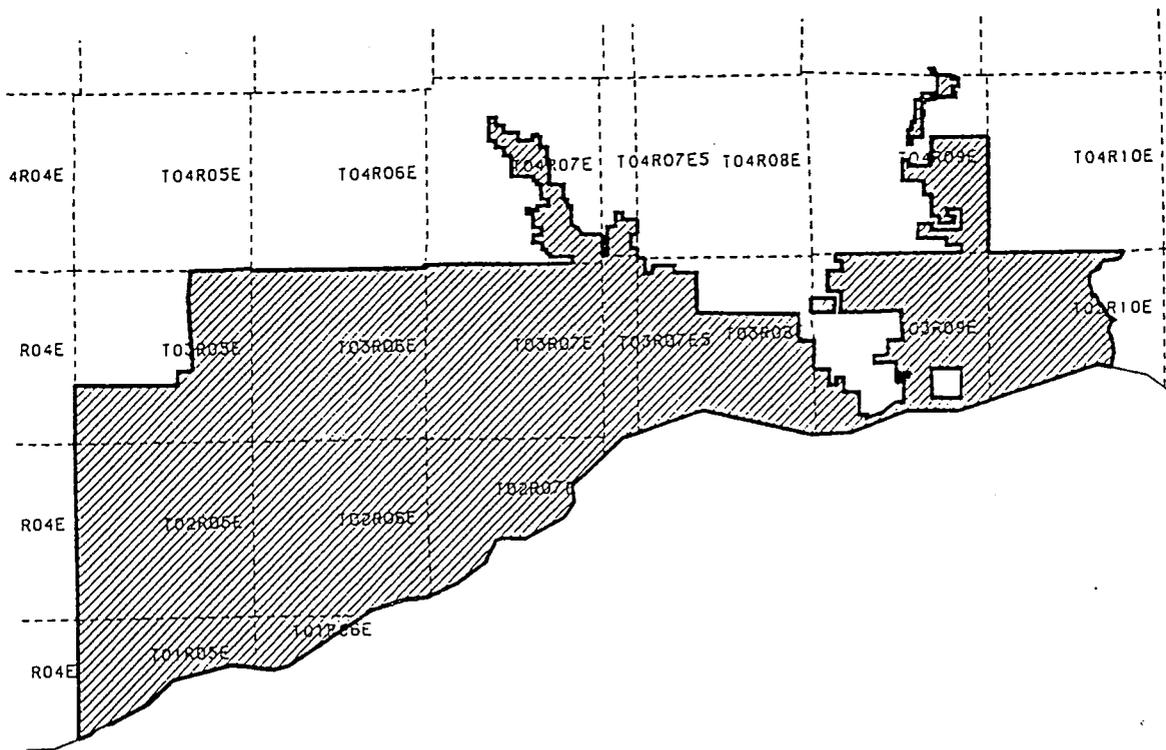
"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl special emphasis areas (SOSEA)" means the following geographic areas and their associated conservation functions:

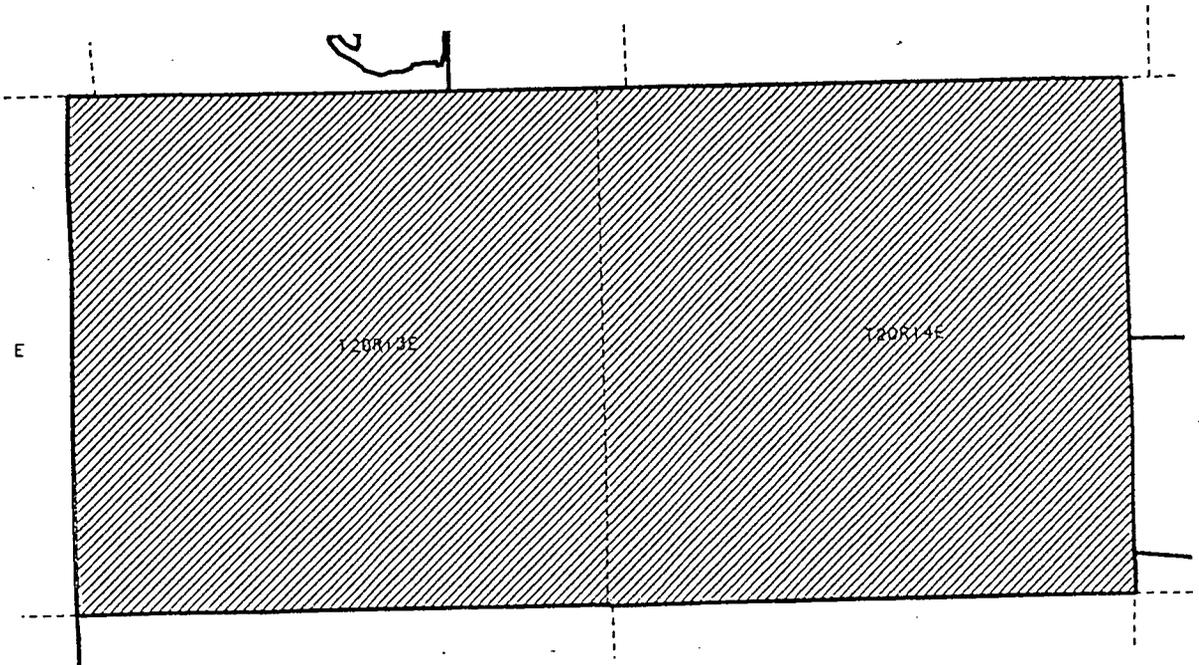
PROPOSED

### Columbia Gorge - dispersal

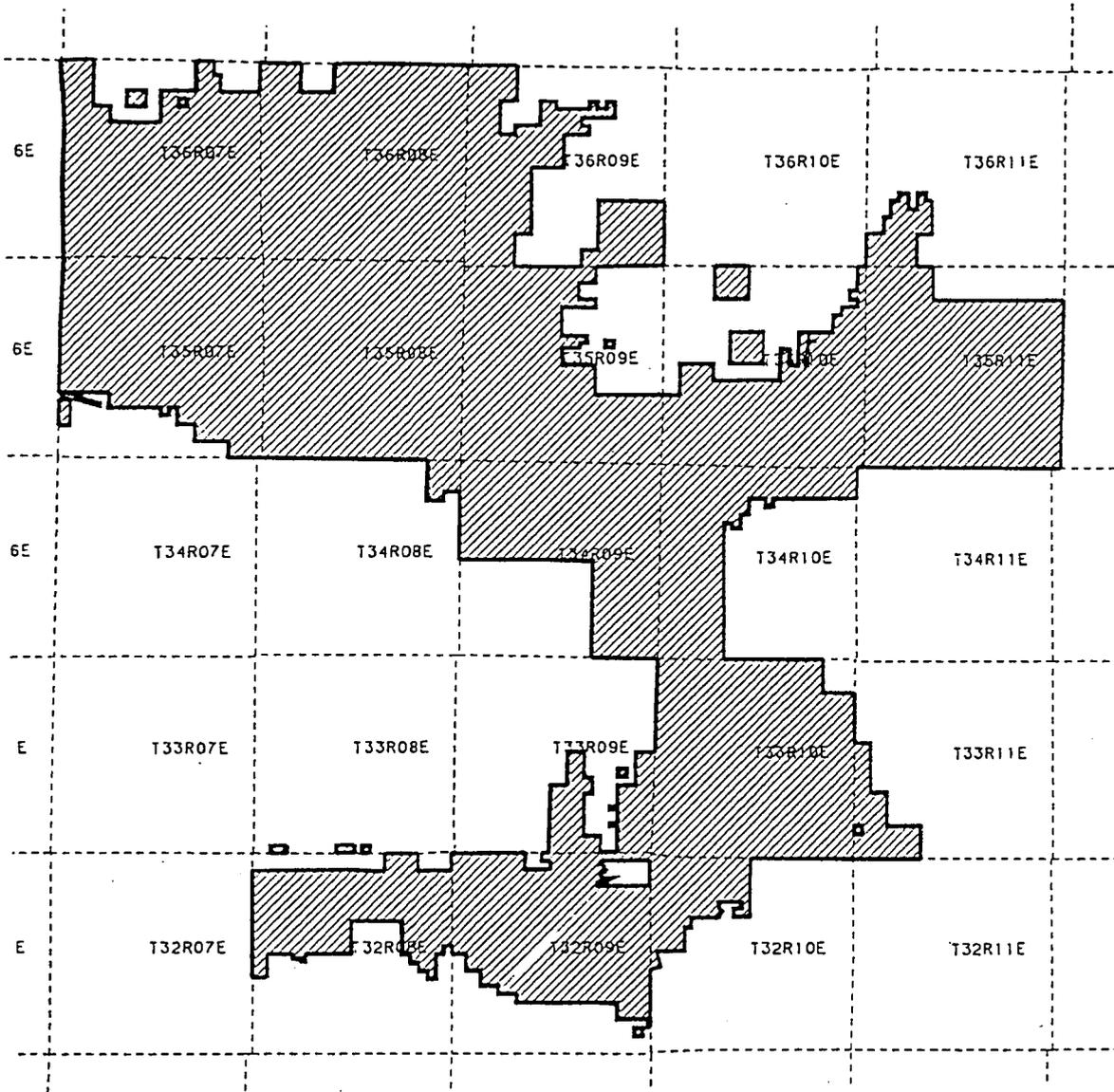


Easton - dispersal

PROPOSED



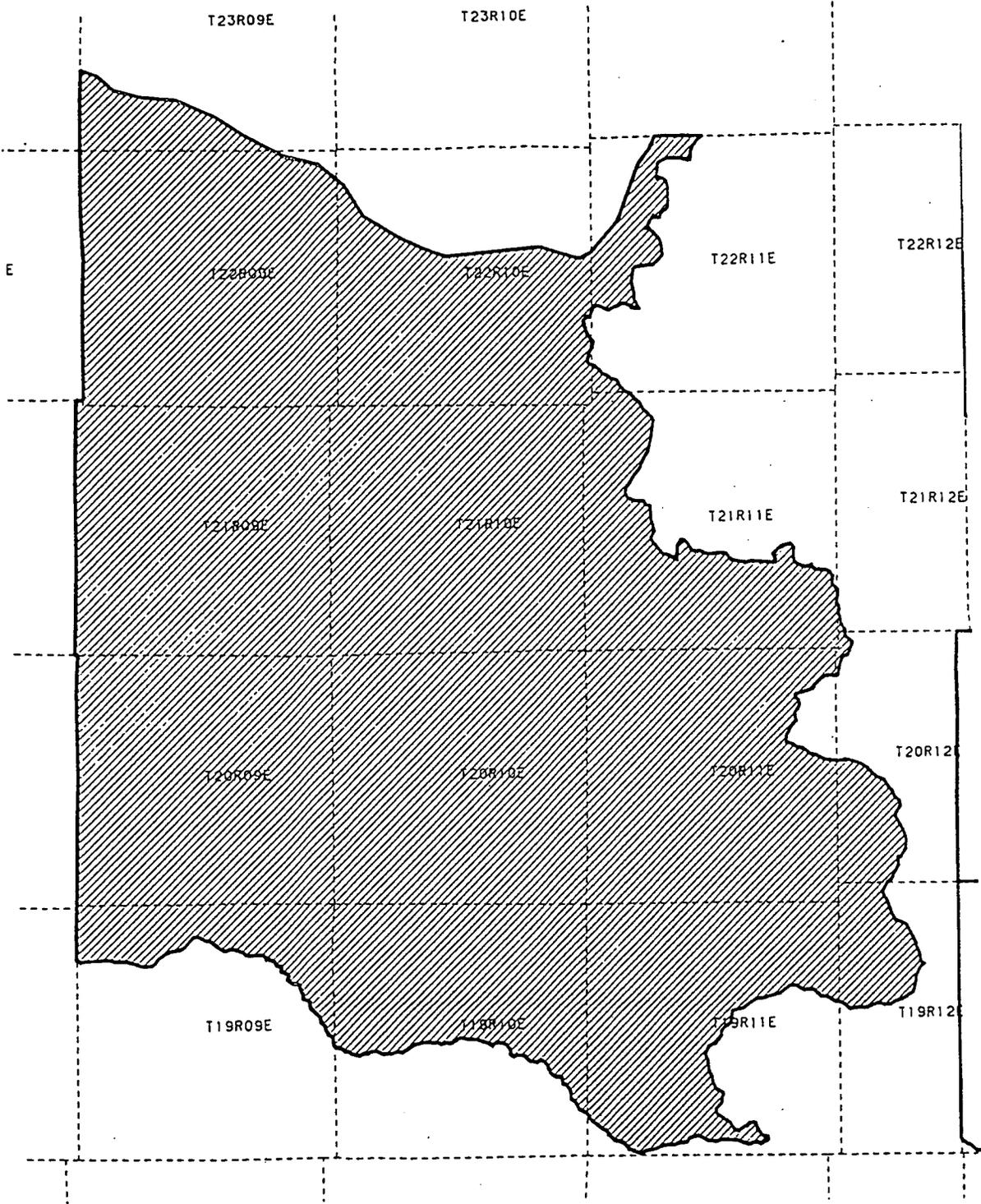
# Finney Block - dispersal



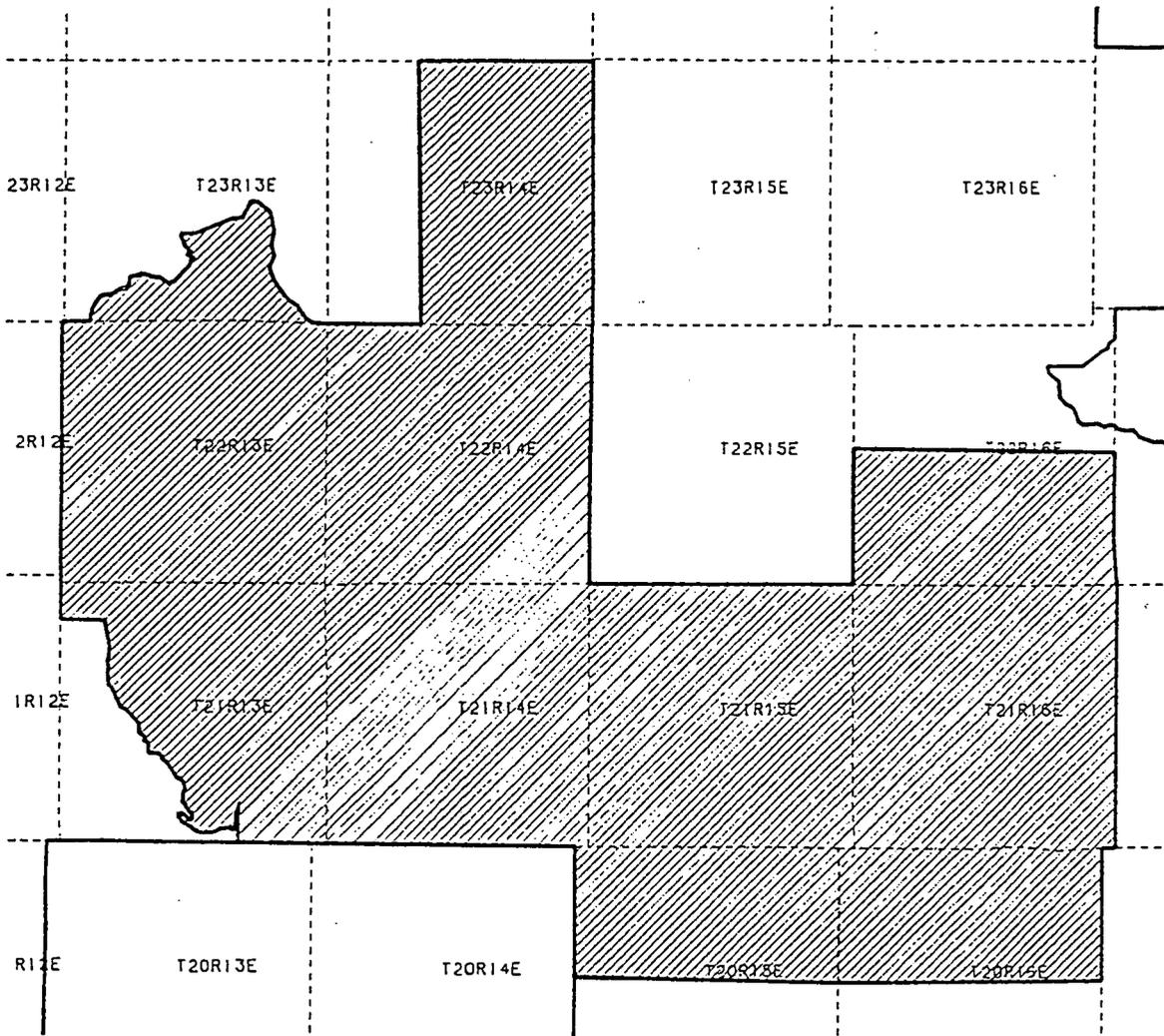
PROPOSED

# I-90 West - demographic support

PROPOSED



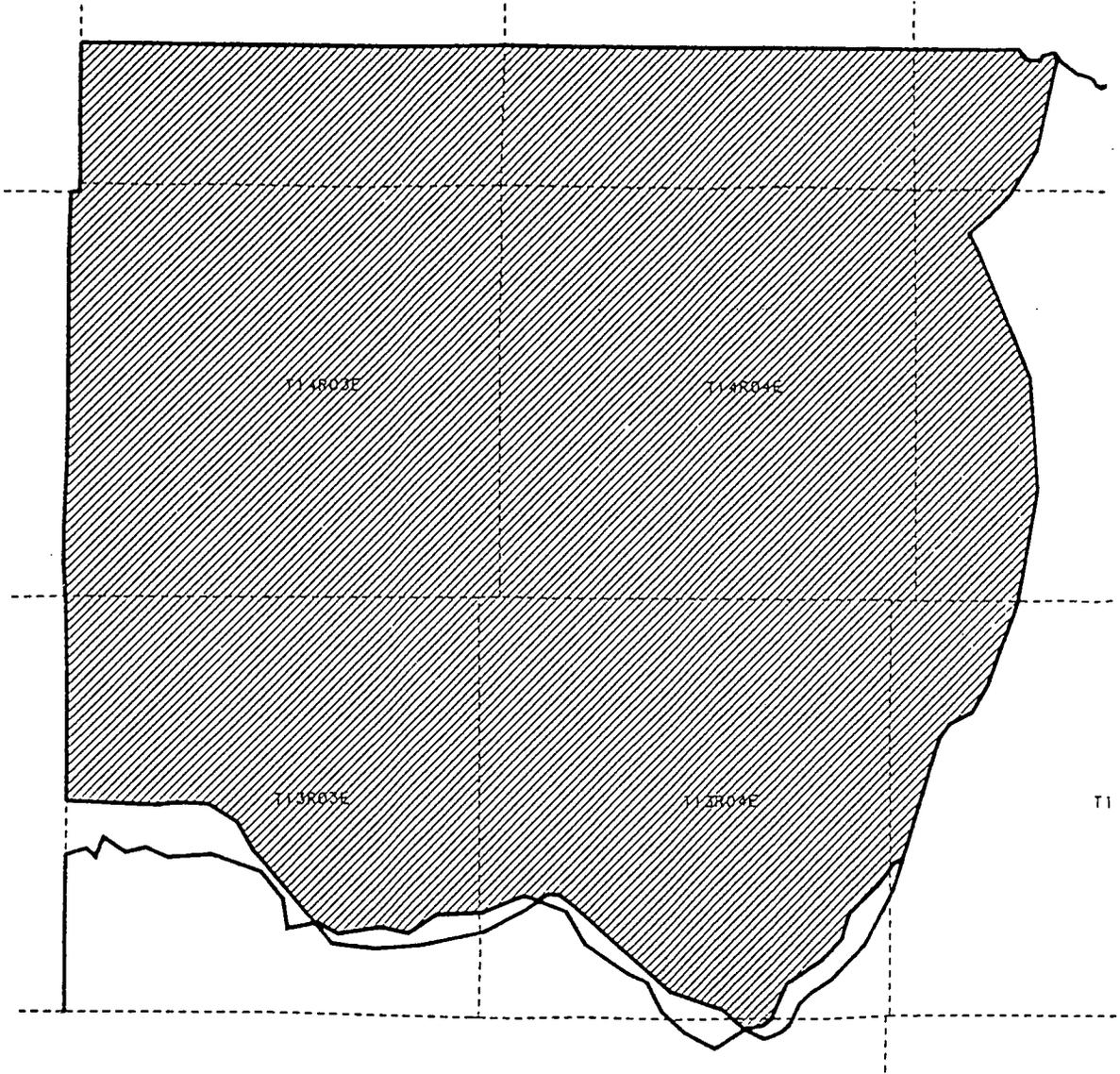
# I-90 East/Teanaway - demographic support



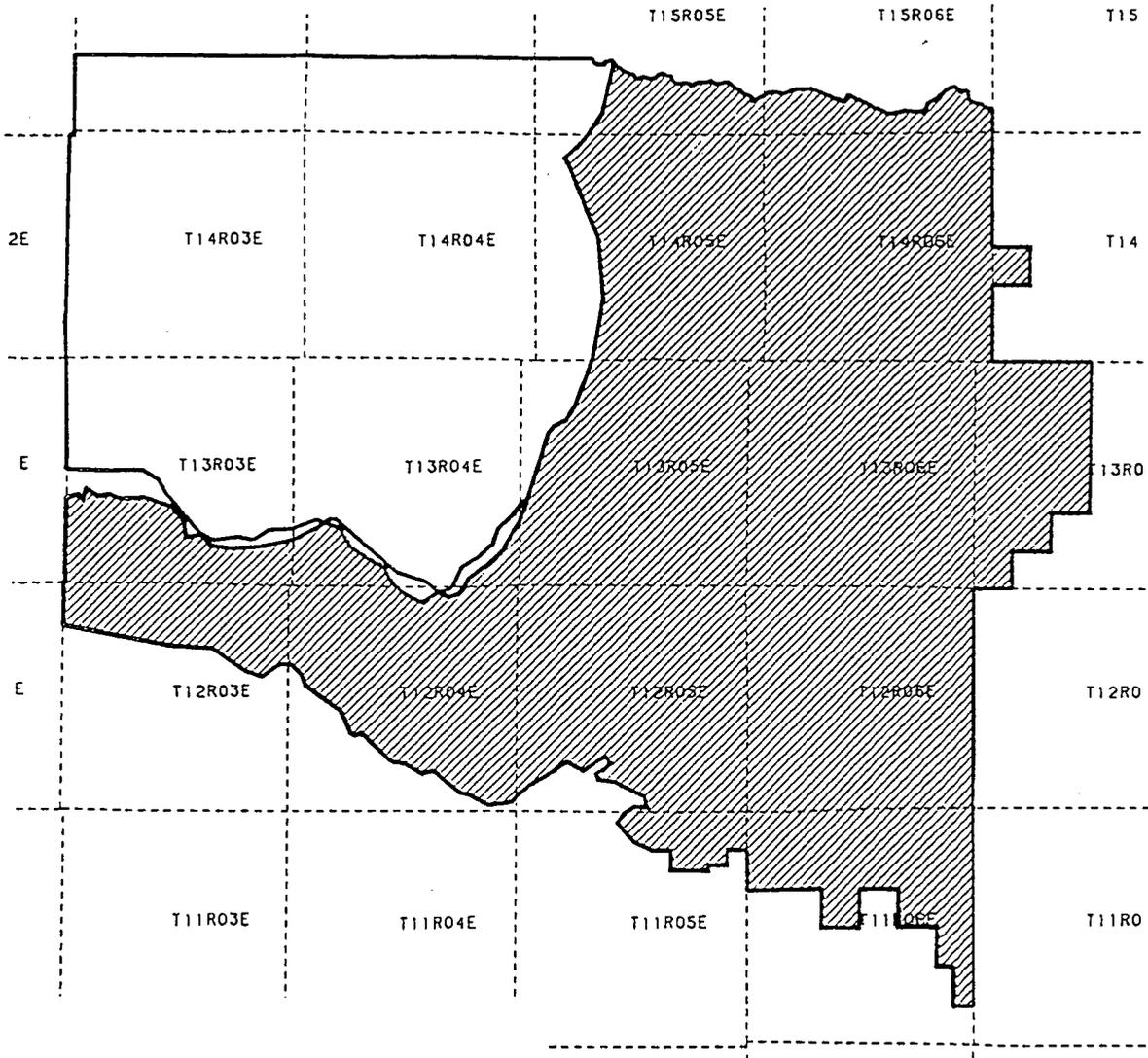
PROPOSED

# Mineral Block - demographic support and dispersal

PROPOSED



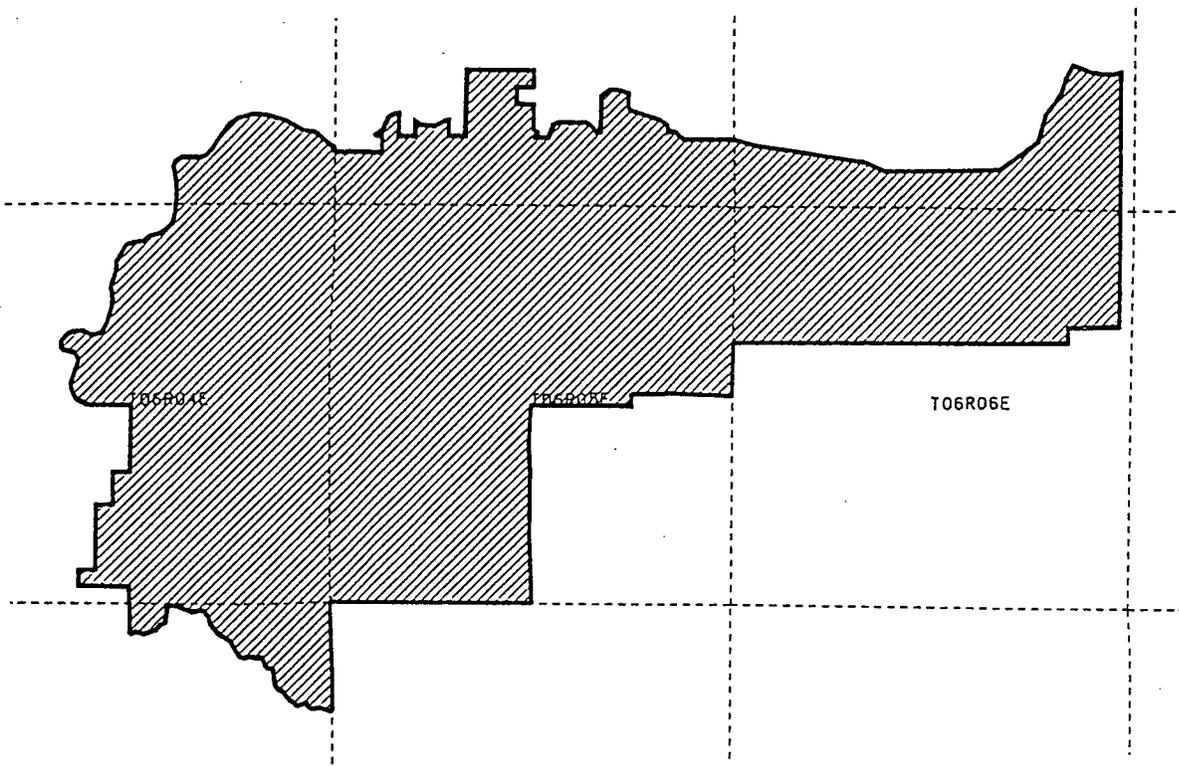
# Mineral Link - dispersal



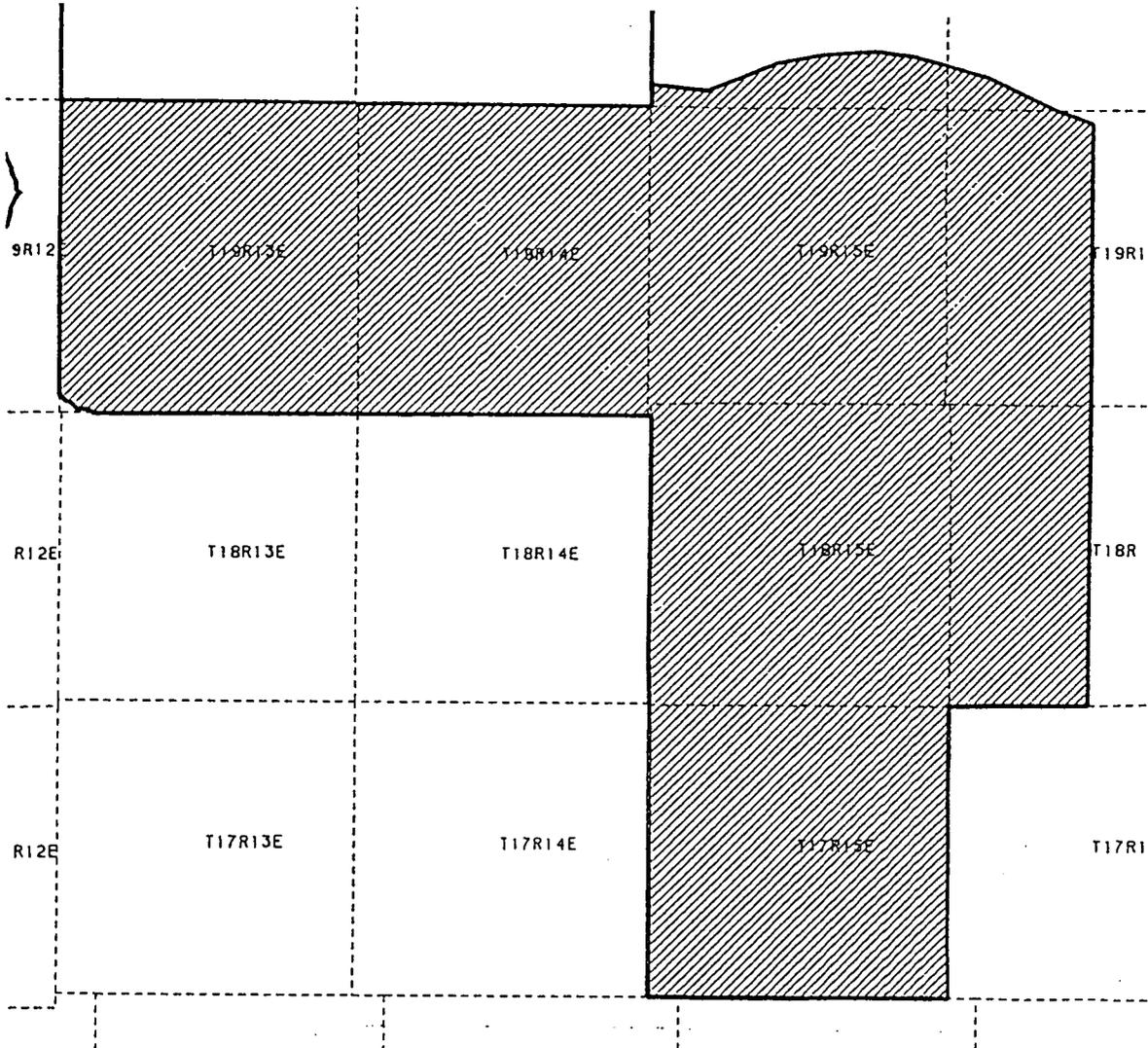
PROPOSED

PROPOSED

# Siouxon - demographic support



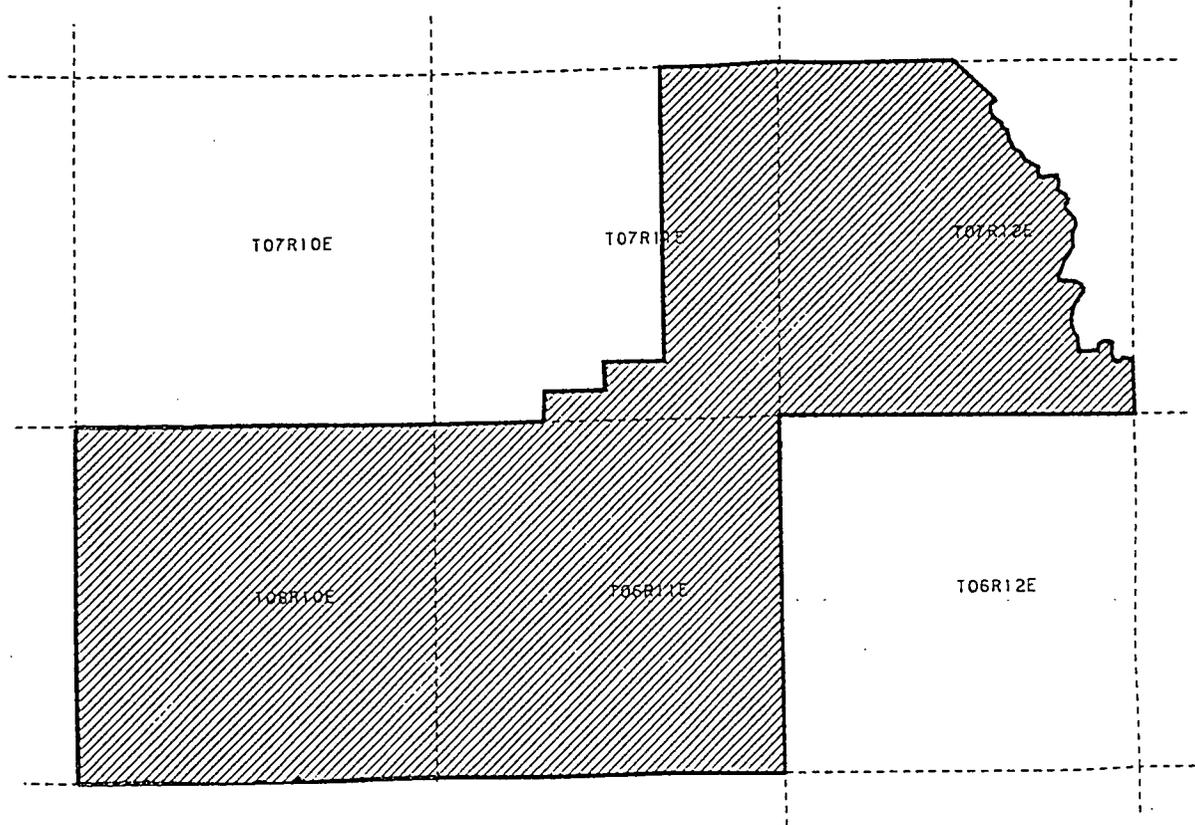
# Taneum - demographic support



PROPOSED

# White Salmon - dispersal

PROPOSED



**"Stop work order"** means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

**"Submature habitat"** means habitat that provides all of the characteristics needed by northern spotted owls for roosting, foraging and dispersal. Such habitats are characterized by moderate abundance of prey and described as follows:

Western Washington:

- Conifer dominated or conifer-hardwood (at least thirty percent conifer) stands with at least seventy percent canopy closure;

- At least three snag/cavity trees per acre that are at least 20" dbh and at least sixteen feet in height; and

- Either high vertical foliage diversity (BPI score of 2.7 or greater), or appropriate tree density and height (between one hundred fifteen and two hundred eighty trees/acre over 4" dbh and dominant/co-dominants of at least eighty-five feet in height).

Eastern Washington:

- Stands with at least a forty percent fir component;
- At least seventy percent canopy closure;
- At least five percent ground cover of woody debris that is at least four inches in diameter; and

- Either high vertical foliage diversity (two or more canopy layers, numerous intermediate trees, numerous low perches) or appropriate tree density and height (between one hundred ten and two hundred sixty trees/acre at least 4" dbh and dominant/co-dominants of at least ninety feet in height);

- Either three or more snag/cavity trees per acre at least 20" dbh and at least sixteen feet in height or high to moderate dwarf mistletoe infection.

**"Suitable spotted owl habitat"** means forest stands which meet the definitions of old-forest, submature habitat or young forest marginal habitat. Dispersal habitat is not suitable spotted owl habitat.

**"Threatened or endangered species"** means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

**"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"**Water bar**" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"**Watershed administrative unit (WAU)**" means an area shown on the map specified in WAC 222-22-020(1).

"**Watershed analysis**" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"**Weed**" is any plant which tends to overgrow or choke out more desirable vegetation.

"**Western Washington**" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"**Wetland**" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"**Wetland functions**" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"**Wetland management zone**" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"**Wildlife**" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"**Wildlife reserve trees**" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the

landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"**Young forest marginal habitat**" means habitat that provides some of the characteristics needed by northern spotted owls for roosting, foraging and dispersal. Such habitats are characterized by roosting opportunities and/or with healthy prey populations and are described as follows:

Western Washington:

- Stands with at least seventy percent canopy closure;
- High vertical foliage diversity (BPI value greater than 2.7) or appropriate tree density and height (between one hundred fifteen and two hundred eighty trees/acre at least 4" dbh and dominant/co-dominants at least eighty-five feet in height); and

- Either at least two snag/cavity trees per acre that are at least 20" dbh and at least sixteen feet in height or either at least ten percent ground cover of dead and down wood greater than four inches in diameter OR fifteen to twenty-four percent or sixty-one to seventy percent shrub cover.

Eastern Washington:

- Stands with at least a forty percent fir component;
- At least seventy percent canopy closure; or
- At least fifty percent canopy closure and at least two snag/cavity trees per acre that are at least 20" dbh and at least sixteen feet in height;
- Either at least low vertical foliage diversity (one canopy layer, few intermediate trees, and few low perches); and
- Appropriate tree density and height (between one hundred and three hundred trees/acre at least 4" dbh and dominant/co-dominants at least seventy feet in height).

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.** (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates

of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides (~~on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.~~

~~This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.~~

~~The department shall rely upon the department of wildlife for the determination of status based on the following definitions:~~

~~Status 1 - Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.~~

~~Status 2 - Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.~~

~~Status 3 - Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area)).~~

(i) Within SOSEAs identified in WAC 222-16-010, on suitable spotted owl habitat below the following threshold levels: Western Washington three thousand two hundred

acres within a 2.0 mile radius from known status 1, 2 or 3 site centers; Eastern Washington two thousand four hundred acres within a 2.0 mile radius from known status 1, 2 or 3 site centers.

(ii) Outside the SOSEAs identified in WAC 222-16-010 within the seventy acres of suitable habitat surrounding a known status 1, 2 or 3 site center.

(iii) The following operations that would occur within an owl circle will continue to be a Class I forest practice if they are conducted between August 1 and February 28:

(A) Road maintenance except:

(I) Replacement of bridge and culverts across Type 1,2,3 or flowing Type 4 Waters; or

(II) Movement of material that has a direct potential for entering Type 1,2,3 or flowing Type 4 Waters or Type A or B Wetlands.

(B) Precommercial thinning and pruning.

(iv) If the entire harvestable acreage of an ownership is within a status 1, 2, or 3 northern spotted owl site center in a SOSEA, then timber harvest, road construction or aerial application of pesticides in the habitat that would otherwise be critical habitat (state) are Class III forest practices, and:

(A) All harvesting must comply with disturbance avoidance criteria; and

(B) The annual harvest must be twenty acres or smaller; and

(C) Within a ten-year period, no more than two percent of the ownership between the outer edge of the seventy acres around the site center and the outer edge of the circle can be harvested.

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(2) A site specific special wildlife management plan, or LOP, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner (~~shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of wildlife~~) is preferred. Once approved, subsequent forest practice applications compatible with the plan may incorporate the plan by reference and be approved as a Class III practice unless the practice would be a Class IV practice irrespective of the threatened or endangered species. The plan shall be approved by the department in accordance with the criteria established in this rule.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing

of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a habitat conservation plan and permit or an incidental take statement for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; ~~((or))~~

(b) Forest practices ~~((covered by))~~ consistent with a rule adopted by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d);

(c) Forest practices within the Olympic Experimental State Forest covered by a plan approved by the U.S. Fish & Wildlife Service pursuant to P.L. 102-435 Title II;

(d) Forest practices covered by an agreement in the nature of a "prelisting agreement" or a habitat management plan accompanied by a "no-take" letter issued by the U.S. Fish & Wildlife Service or National Marine Fisheries Service, as applicable, consistent with that agreement; or

(e) Forest practices beyond seventy acres from any site center covered by an approved dispersal LOP.

## Chapter 222-21 WAC LANDOWNER OPTION PLANS

### NEW SECTION

**WAC 222-21-010 Policy.** (1) **Landowner option plans** (LOPs) are to be designed to avoid the potential for substantial impact to northern spotted owls and to maintain the owl populations across the state as a species by incorporating known biological information. These plans are the most efficient and effective way to achieve an appropriate contribution from nonfederal lands for the protection of the northern spotted owl, and are preferred. Within SOSEAs, demographic support for all existing status 1, 2, and 3 owls must be retained unless a landowner option plan is submitted and approved by the department. Within SOSEAs designated as important for demographic support, a LOP can propose to manage a site or habitat within a site differently than required in these rules. Within SOSEAs designated as important for dispersal habitat, a landowner can submit either a dispersal plan that meets the requirements of WAC 222-21-020(1) or a site management plan that meets the requirements of WAC 222-21-020(2).

(2) **Landowner option plans** are intended to be plans which can be developed quickly and with reasonable certainty. A plan may, but is not required to cover multiple ownerships.

(3) **In circles with multiple owners**, any individual owner may submit a plan which provides for maintaining a proportionate amount of the required habitat on the landowner's property. Any net increase in habitat resulting from a LOP can only be counted toward excess habitat by the landowner who created it.

### NEW SECTION

**WAC 222-21-020 Landowner planning options.** Two types of landowner option plans may be developed:

(1) **Dispersal habitat plans.** Dispersal habitat plans are intended to facilitate the movement of juvenile, subadult and adult owls among populations or subpopulations. Dispersal plans shall include all of the landowner's forest land within the WAU in which the northern spotted owl site center is located. The plan does not need to include lands outside the SOSEA. The plan must show how the landowner intends to manage their lands to meet the SOSEA objectives for dispersal habitat over time. The landowner must show how size and spacing of units will meet the dispersal criteria described in this rule.

(2) **Site center management plans.** Site center management plans are designed to provide demographic

support. Plans may, at the landowner's option, cover one or more northern spotted owl site centers.

### NEW SECTION

**WAC 222-21-030 Elements of a landowner option plan.** The level of detail to be included in a landowner option plan will depend on the area of ownership involved, the time period for which the plan will be in effect, and the complexity of the management strategy. Each landowner option plan shall contain the following elements:

(1) **Goals and objectives.** The goals and objectives for the landowners contributions proposed under the LOP within the SOSEA shall be discussed. Unique habitat characteristics provided by adjacent federal lands and how they complement the objectives of the LOP and assist in meeting the SOSEA objectives shall be discussed. Discussions of unique habitat covered by an approved adjacent LOP or federally approved plan is optional. Specific short- (one to five-year) and long-term (greater than five-year) goals and objectives for the LOP should be clearly stated.

(2) **Description of landowner option planning area.** The plan shall describe the boundaries of the landowner option plan.

(a) A landowner option dispersal plan shall not contain less than all of the landowner's forest land within a SOSEA which is within the WAU in which a northern spotted owl site center is located.

(b) A landowner option site center management plan shall not contain less than all the landowner's forest land within 2.0 miles of a known northern spotted owl site center.

(c) At the discretion of the landowners, two or more landowners may submit a joint landowner option plan governing properties in proximity.

(3) **Physical features.** Physical features (e.g., geology, topography, or hydrology) within the LOP that are later used as part of the biological rationale behind the plan shall be described. Details of land use history and unique habitat characteristics that are important for the biological rationale should be described here. The physical description shall be accompanied by an ownership map of the landowner's property within the LOP depicting total area of ownership for the landowner within the LOP (only forest lands owned by the landowner must be mapped), and any important physical features that are mentioned in text.

(4) **Current spotted owl habitat status.** Maps shall be provided depicting the following:

(a) All suitable owl habitats currently on the landowner's property; and

(b) All suitable owl habitat on federal ownership referenced in the LOP and may include state and private lands within approved LOPs.

(c) Current status of the owl habitat should be categorized as old forest, submature, young forest marginal, or dispersal. Landowners may use the habitat definitions for old forest, submature, young forest marginal, and dispersal habitat contained in this rule without further justification. Site specific definitions of suitable habitat may be developed in the landowner option plan with sufficient biological justification. The biological justification may rely upon site specific detections of owls such as known nesting sites,

daytime roost sites, evidence of adequate forage resources, or any other data that might be considered useful.

(5) **Spotted owl status.** All information that is known to the landowner concerning site specific detections and locations of northern spotted owls referenced in the LOP shall be included in this section. A summary of all surveys and subsequent Washington department of fish and wildlife determinations of owl status should be presented. The spotted owl status summary shall be supplemented by map(s) and descriptions of the LOP depicting the following:

(a) All private forest land within two miles of all known status 1, 2, and 3 spotted owl site centers referenced in the LOP. All status 1, 2, and 3 site centers that are within two miles of any of the landowner's property within the LOP must be depicted on the map.

(b) All federal and state forest land within two miles of all known status 1, 2, and 3 spotted owl site centers referenced in the LOP. Public ownership maps may be provided by the department to the landowner at cost.

(c) Any supplementary biological data; habitat-use locations (nest locations, day-time roosting sites, foraging habitat use-sites, radio-telemetry locations) and/or reproductive data known to the landowner.

(6) **Management proposals and operations plans.** Proposed management activities that will alter spotted owl habitat and specific protection measures to be taken during the life of the plan shall be described. In addition, any silvicultural activities that are prescribed in order to accelerate the development of suitable habitat shall be described. For example, if the landowner proposes to accelerate the development of forested stands suitable for dispersal habitat by fertilizing, thinning, and pruning, the acreage and placements of these practices should be described.

(a) Site-specific considerations such as habitat configuration, site productivity, topography, and site center history may be used to develop a management proposal. LOPs will replace site-by-site management planning by incorporating considerations for overall needs for population maintenance and/or dispersal across a defined geographic area. Alternative site-specific definitions of suitable habitat and/or dispersal habitat may be developed as an integral portion of the plan.

(b) The description of management proposals should demonstrate how the specific placement and timing of activities will meet the objectives of the plan, and the objectives for the SOSEA. This section should include an operations map displaying the harvest activities that are proposed for the life of the plan within the LOP. The plan may provide for alteration of those harvest plans to respond to landowner objectives, within limits which will allow the plan to continue to achieve its objectives. To the extent possible, maps indicating all proposed harvests by \_\_\_-year increments should be submitted if a plan is proposed for a time period longer than \_\_\_ years. Each silvicultural procedure (e.g., thinning, partial harvest, clearcut, etc..) should be depicted separately.

(7) **Projected spotted owl habitats.** This section shall describe the projected extent of suitable habitat within the LOP incrementally during the planning period and at the end of the planning period. This section shall demonstrate how the landowner option plan's objectives are expected to be attained. A projected owl habitat map for the LOP, depict-

ing all suitable owl habitat that is projected to be on the landowner's property by the end of the planning period shall be included.

(8) **Training.** This section shall provide a schedule of employee and contractor training for field implementation of the proposed management plan. It is the responsibility of the landowner to ensure foresters, engineers, and technicians are familiar with all disturbance avoidance and habitat measures outlined in the management proposals and operations plans section of the plan. It is the landowners responsibility to ensure all contractors are familiar with and understand all disturbance avoidance measures outlined in the management proposal and operations plans section of the plan. A written summary of protective measures shall be distributed to all workers working within the planning area during the breeding season.

(9) **Monitoring.** This section shall present details for all monitoring efforts to be conducted by the landowner during the planning period to evaluate the effectiveness of the plan in meeting its goals and objectives. The appropriate intensity of monitoring will depend upon the risk, uncertainty, and magnitude of a proposed activity. If results of proposed management activities are relatively predictable, given known data, then monitoring efforts may be minimal. However, if results have not been previously documented, and the potential risk is relatively high, then initial monitoring may take the form of designed experimentation. In that case the plan should also provide a process for revision of the plan if monitoring discloses unanticipated adverse impacts on the owl.

(a) Surveys for spotted owl occupancy, and/or breeding, and/or reproductive status shall be conducted to evaluate northern spotted owl population objectives. In meeting stated habitat objectives, evaluation (alone, or in combination with habitat-use studies) may be used to determine whether silvicultural activities conducted under the plan are successful in meeting the stated objectives.

(b) Site specific data obtained from the monitoring process may be subsequently used to modify habitat management plans with approval of the department. This adaptive management process should be used where possible to provide for more effective habitat management strategies while increasing a landowner's management flexibility. The \_\_\_-year reports required under subsection (10) of this section shall include an evaluation of the monitoring data. The landowner option plan should include, in this section, a process to modify the plan based on the five-year monitoring results if necessary to meet the goals and objectives of the plan.

(10) **Reporting.** This section shall identify a process for submitting annual and periodic reports to the department relating to the implementation of the LOP.

(a) Annual progress reports should be submitted to the department documenting:

(i) All harvest activities conducted within suitable habitat on the landowner's property within the LOP during the previous year;

(ii) A summary of spotted owl status surveys and habitat monitoring efforts conducted during the previous year;

(iii) A summary demonstrating compliance with the approved plan and describing progress toward achieving the plan's goals; and

(iv) Any proposed changes to the plan from the results of monitoring. Forest practices maps should be provided for all harvest activities in which suitable habitats may have been modified.

(b) Periodic reports should be submitted to the department at \_\_\_ year intervals. These reports should describe in detail the cumulative results of all monitoring efforts and provide an updated operations outlook for the coming \_\_\_ year period.

(11) **Plan modification.** The plan shall include a process to modify the current plan if survey results indicate establishment of new site centers, redesignation of site centers to historic status, or shifts in current site centers, or if monitoring results indicate plan goals and objectives or SOSEAs objectives are not being met or in the event of a natural disaster.

(12) **Duration of the plan.**

(a) A dispersal habitat plan must be for a term of at least thirty years.

(b) A site center management plan is dependent on the specific characteristics associated with habitat and land ownership and as a result, the duration of the plan shall be agreed to by the department and the department of fish and wildlife in advance of submitting the plan for approval.

#### NEW SECTION

**WAC 222-21-040 Approval of plans.** The department within sixty days of receipt of a completed plan or plan modifications shall approve or disapprove the plan using criteria set out in this rule. If the plan deviates from the criteria, the department in consultation with the Washington department of fish and wildlife and, if it deems appropriate, may request an independent wildlife biologist with expertise in spotted owl ecology to review the plan prior to plan approval.

(1) Upon receipt of the plan, the department shall provide notice to interested parties as defined in WAC 222-20-100, 222-20-110 and 222-20-120.

(2) Upon approval of the plan, the plan shall be filed at the DNR regional office and interested parties shall be notified of its acceptance.

(3) Upon approval of the plan, the landowner is required to file the LOP with the county(s) for recording.

AMENDATORY SECTION (Amending WSR 92-23-056, filed 11/17/92, effective 12/18/92)

**WAC 222-24-030 Road construction.** (1) **Right of way timber.** Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

\* (2) **Debris burial.**

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across wetlands or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

(3) **Compact fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

\*(4) **Stabilize soils.** When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. Avoid introduction of nonnative plant species, as listed in the board manual, to wetlands and wetland management zones.

\*(5) **Channel clearance.** Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

\*(6) **Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsloping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

\*(7) **Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

\*(8) **End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

\*(9) **Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

(10) Disturbance avoidance. Road construction, operation of heavy equipment and blasting shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

**WAC 222-30-050 Felling and bucking. \*(1) Falling along water.**

(a) No trees will be felled into Type 1, 2 and 3 Waters, or Type A or B Wetlands except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulic project approval of the departments of fisheries or wildlife.

(b) Within riparian management zones, and wetland management zones fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

(c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

\*(2) **Bucking in water.**

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Waters or in open water areas of Type A Wetlands, except as necessary to remove the timber from the water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the water.

\*(3) **Falling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

(4) **Falling in selective and partial cuts.** Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

(5) Disturbance avoidance. Felling and bucking shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

**WAC 222-30-060 Cable yarding. \*(1) Type 1, 2 and 3 Waters.** No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones and removals from Type 1, 2 or 3 Water

have hydraulic project approval of the departments of fisheries or wildlife.

**\*(2) Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

**\*(3) Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries or wildlife.

**\*(4) Yarding in riparian management zones and wetland management zones.** Where timber is yarded from or across a riparian management zone, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

**(5) Direction of yarding.**

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

**\*(c)** When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

**(6) Disturbance avoidance.** The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

#### NEW SECTION

**WAC 222-30-065 Helicopter yarding.** Helicopter yarding shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

**AMENDATORY SECTION** (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

**WAC 222-30-070 Tractor and wheeled skidding systems.** **\*(1) Typed waters and wetlands.**

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with approval by the department and with a hydraulic project approval of the departments of fisheries or wildlife.

(b) In order to maintain wetland water movement and water quality, and to prevent soil compaction, tractor or wheeled skidders shall not be used in Type A or B Wetlands without prior written approval of the department.

(c) Within all wetlands, tractors and wheeled skidder systems shall be limited to low impact harvest systems. Ground based logging systems operating in wetlands shall only be allowed within wetlands during periods of low soil moisture or frozen soil conditions.

(d) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

(e) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

**\*(2) Riparian management zone.**

(a) Logging will be permitted within the zone. However, any use of tractors, wheeled skidders, or other yarding machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) Where skidding in or through the riparian management zone is necessary, the number of skidding routes through the zone shall be minimized.

(c) Logs shall be skidded so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

**\*(3) Wetlands management zones.**

(a) Logging will be permitted within wetland management zones.

(b) Where feasible logs shall be skidded at least with one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

**\*(4) Deadfalls.** Logs firmly embedded in the bed or bank of Type 1, 2, 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulic project approval of the departments of fisheries or wildlife.

**\*(5) Moisture conditions.** Tractor and wheeled skidders shall not be used on exposed erodible soils or saturated soils when soil moisture content is so high that unreasonable soil compaction, soil disturbance, or wetland, stream, lake or pond siltation would result.

**(6) Protection of residual timber.** Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

**\*(7) Skid trail construction.**

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 50-year flood level.

(c) Skid trails shall be outsloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

**\*(8) Skid trail maintenance.** Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

**\*(9) Slope restrictions.** Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.

**(10) The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.**

NEW SECTION

**WAC 222-30-075 Timber and rock hauling.** When the site center is on the applicant's land, the following limits on timber and rock hauling shall apply within 0.25 mile of northern spotted owl site center between March 1 and August 31:

- (1) At all times of the day vehicle speed shall be limited to fifteen miles per hour; and
- (2) Timber and rock hauling shall be limited to one hour after official sunrise to one hour before official sunset; and
- (3) All reasonable attempts shall be made to minimize traffic within suitable habitat, attempt to route traffic through nonhabitat.

**AMENDATORY SECTION** (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

**WAC 222-30-100 Slash disposal or prescribed burning.** (1) **Slash disposal techniques:**

\*(a) Any conventional method of slash disposal may be used, except in Type A or B Wetlands, wetland management zones, and riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity. Conventional methods of slash disposal include the following: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: *Provided*, That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian management zones, slash disposal shall be by hand, unless approved by the department. Scarification shall not be allowed within wetlands. Machine piling is discouraged in wetlands.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to protect Type A and B Wetlands, wetland management zones, riparian management zones, soil, residual timber, public resources, and other property.

\*(c) Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the 50-year flood level of any Type 1, 2, 3 or 4 Water or in locations from which it could be expected to enter any stream, lake or pond.

(2) **Slash isolation, reduction, or abatement** is required when the department determines there is an extreme fire hazard according to law (see WAC 332-24-360).

(3) **Slash disposal** is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

\*(4) **Removing slash and debris** from streams.

"Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2, 3 or 4 Waters, to above the 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substan-

tial accumulations of slash exist below the 50-year flood level of Type 1, 2, 3 or 4 Waters, slash disposal is required. See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

\*(5) **Fire trails.**

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

(c) Fire trails shall not be located within Type A or B Wetlands, wetland management zones, or riparian zones without prior written approval of the department. Hand constructed fire trails are preferred within forested wetlands. When machine built fire trails are necessary for control of burning, trail width and excavation shall be minimized.

(6) Burning shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-38-020 Handling, storage, and application of pesticides.** \*(1) **No pesticide leakage, contamination, pollution.**

Transportation, handling, storage, loading, application, and disposal of pesticides shall be consistent with applicable label requirements and other state and federal requirements.

\*(2) **Mixing and loading areas.**

(a) Mix pesticides and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of pesticides will not enter surface water or wetlands. If any pesticide is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

\*(3) **Riparian management zone.** Pesticide treatments within the riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

\*(4) **Wetland management zone.** Pesticide treatment within the wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

\*(5) **Aerial application of pesticides.**

(a) To keep pesticides out of the water, leave a 50 foot buffer strip on all typed waters, except segments of Type 4 and 5 Waters with no surface water and other areas of open water, such as ponds or sloughs.

(b) Apply the initial swath parallel to the buffer strip in (a) of this subsection unless a deviation is approved in advance by the department. Drift control agents shall be required adjacent to buffer strips. Avoid applications that might result in drift causing direct entry of pesticides into riparian management zones, Type A and B Wetlands, wetland management zones, and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

(c) Use a bucket or spray device capable of immediate shutoff.

(d) Shut off spray equipment during turns and over open water.

(e) Leave at least a 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(f) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the pesticide an over-flight of the area shall be made by the pilot with the marked photos or maps.

(g) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete. The department may require an extended posting period in areas where human use or consumption of plant materials is probable. Posting at formal, signed trailheads that are adjacent to aerially treated units is required. The signs will contain the name of the product used, date of treatment, a contact telephone number, and any applicable restrictions.

**\*(6) Ground application of pesticides with power equipment.**

Leave a 25-foot buffer strip on each side of Type A or B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

**\*(7) Hand application of pesticides.**

Apply only to specific targets, such as vegetation, trees, stumps, and burrows, or as bait or in traps.

**\*(8) Limitations on application.** Pesticides shall be applied only in accordance with all limitations:

(a) Printed on the United States Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the state department of agriculture.

(c) Established by state and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

(e) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage until the deficiency has been corrected to the satisfaction of the department suspending its usage.

**\*(9) Container disposal.** Pesticide containers shall be either:

(a) Removed from the forest and disposed of in the manner consistent with label directions; or

(b) Removed and cleaned for reuse in a manner consistent with any applicable regulations of the state department of agriculture or the state or local health departments.

**\*(10) Daily records - aerial application of pesticides.** On all aerial applications of pesticides, the operator shall maintain for 3 years daily records of spray operations as required by the state department of agriculture WAC 16-228-190.

**\*(11) Reporting of spills.** All potentially damaging chemical spills shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

**\*(12) Disturbance avoidance.** Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-38-030 Handling, storage, and application of fertilizers.** **\*(1) Storage and loading areas.** Storage and loading areas should be located where accidental spillage of fertilizers will not enter surface water or wetlands. If any fertilizer is spilled, immediate appropriate procedures shall be taken to contain it.

**\*(2) Riparian management zone.** Fertilizer treatments within a riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

**\*(3) Wetland management zone.** Fertilizer treatments within a wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

**\*(4) Aerial application of fertilizer.**

(a) Proposed fertilization units shall be planned to avoid and to minimize the direct or indirect introduction of fertilizer into waters and wetlands.

(b) Leave a 25 foot buffer on all Type 1, 2, and 3 Waters, except as noted in (f) of this subsection.

(c) When the helicopter flight path during fertilizer application is parallel to a water course or the WMZ edge, the centerline of the initial swath should be adjusted to prevent direct application within the buffers or WMZs.

(d) Leave at least a 200 foot buffer strip around residences and a 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(e) The landowner shall identify for the operator the units to be fertilized and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the fertilizer, an over-flight of the area shall be made by the pilot with the marked photos or maps.

(f) Where the department has been provided information by the department of ecology indicating that water quality in downstream waters is likely to be impaired by entry of fertilizer into waters, such waters shall be protected by site specific conditioning.

**\*(5) Ground and hand application of fertilizers.** Prevent fertilizer from entering Type A and B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

**\*(6) Reporting of fertilizer spills.** All fertilizer spills involving streams, lakes, wetlands, or other waters of the state shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

(7) Disturbance avoidance. Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

YAKAMA INDIAN NATION-  
WASHINGTON ENVIRONMENTAL COUNCIL  
PROPOSED RULES FOR THE  
NORTHERN SPOTTED OWL

August 4, 1994

NEW SECTION

**WAC 222-10-030 Class IV-Special—Threatened and endangered species.** (1) The department shall evaluate the impacts of forest practices on the essential life requisites of the threatened or endangered species. Identified adverse impacts shall be documented.

(2) The department shall evaluate whether these documented impacts on the individual(s) have a probable significant adverse impact on the population or major subpopulation.

(3) The department shall utilize the expertise of the department of fish and wildlife in determining specific essential life requisites; evaluating an application's impacts on those essential life requisites; and determining whether an application's impacts will have a probable significant adverse impact on the population or major subpopulation.

(4) The specific standards outlined above shall be performed in conjunction with the environmental review to assess probable significant adverse environmental impacts.

NEW SECTION

**WAC 222-10-040 Specific mitigation measures.** Mitigating measures related to prevention of adverse impacts to northern spotted owls shall consider the following:

(1) Habitat essential for maintaining the nesting, roosting and foraging requirements of northern spotted owls varies by province. The following acreages shall be requisite when evaluating habitat requirements for a particular northern spotted owl site center:

(a) For the Olympic province - 3,827 acres of suitable spotted owl habitat within 2.7 miles of the northern spotted owl site center;

(b) For the western Cascades province - 3,586 acres of suitable spotted owl habitat within 2.0 miles of the northern spotted owl site center;

(c) For the eastern Cascades province - 3,249 acres of suitable spotted owl habitat within 1.8 miles of the northern spotted owl site center.

(2) Habitat essential for maintenance of the nesting, roosting and foraging requirements of a particular owl site should be selected to provide the highest probability of maintaining site viability. Selection of essential habitat shall follow these guidelines:

(a) All suitable habitat within 0.7 mile of a northern spotted owl site center is important and should not be utilized for meeting the essential habitat needs of any other site center; and

(b) Beyond 0.7 mile from the northern spotted owl site center, the first priority is old-forest habitat, followed by

submature habitat, followed by young forest marginal habitat; and

(c) Beyond 0.7 mile from the northern spotted owl site center, suitable spotted owl habitat closer to the site center is more important than suitable spotted owl habitat which is further from the site center; and

(d) Dispersal habitat does not meet all spotted owl life requisites and cannot be considered suitable.

(3) Protection of spotted owl sites within the important northern spotted owls landscape is important to:

(a) Provide demographic support by protecting a cluster of spotted owl sites that provide support to spotted owl populations or major subpopulations through increasing the density of owls and the capacity for population expansion; or

(b) Provide demographic interchange through ensuring the dispersal of juvenile, subadult, and adult spotted owls among populations and major subpopulations; or

(c) Maintain the distribution of the species in Washington.

AMENDATORY SECTION (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations: "Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Commercial tree species"** means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

**"Completion of harvest"** means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

**"Constructed wetlands"** means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

**"Contamination"** means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

**"Conversion option harvest plan"** means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

**"Conversion to a use other than commercial timber operation"** shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**"Critical habitat (federal)"** means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

**"Critical wildlife habitat (state)"** means those habitats designated by the board in accordance with WAC 222-16-080.

**"Cultural resources"** means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

**"Cumulative effects"** means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

**"Debris"** means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

**"Degraded habitat"** means old-forest habitat which has been altered to such an extent that it becomes submature forest habitat or habitat not suitable for northern spotted owls; submature habitat which has been altered to such an extent that it becomes young forest marginal habitat or habitat not suitable for northern spotted owls; or young forest marginal habitat which has been altered to such an extent that it is no longer suitable northern spotted owl habitat.

**"Department"** means the department of natural resources.

**"Dispersal habitat"** includes old-forest, submature, and young forest marginal habitat, as well as other younger forest conditions that provide the characteristics spotted owls need for successful dispersal. Some key important characteristics are insufficient in quantity or quality to support designation as suitable. See the forest practices board manual for the characteristics.

**"Disturbance avoidance plan"** means a plan designed to mitigate the disturbance of threatened and endangered wildlife species by forest practices. Plans are prepared by the landowner, recommended by the department of fish and wildlife and approved by the department.

**"Eastern Washington"** means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Essential life requisites for wildlife"** means those habitat elements necessary for continued breeding, feeding, sheltering, and travel/migration.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Fen"** means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

**"Fertilizers"** means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

**"Fill"** means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

**"Flood level - 50 year."** For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

**"Forest trees"** excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*,

That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

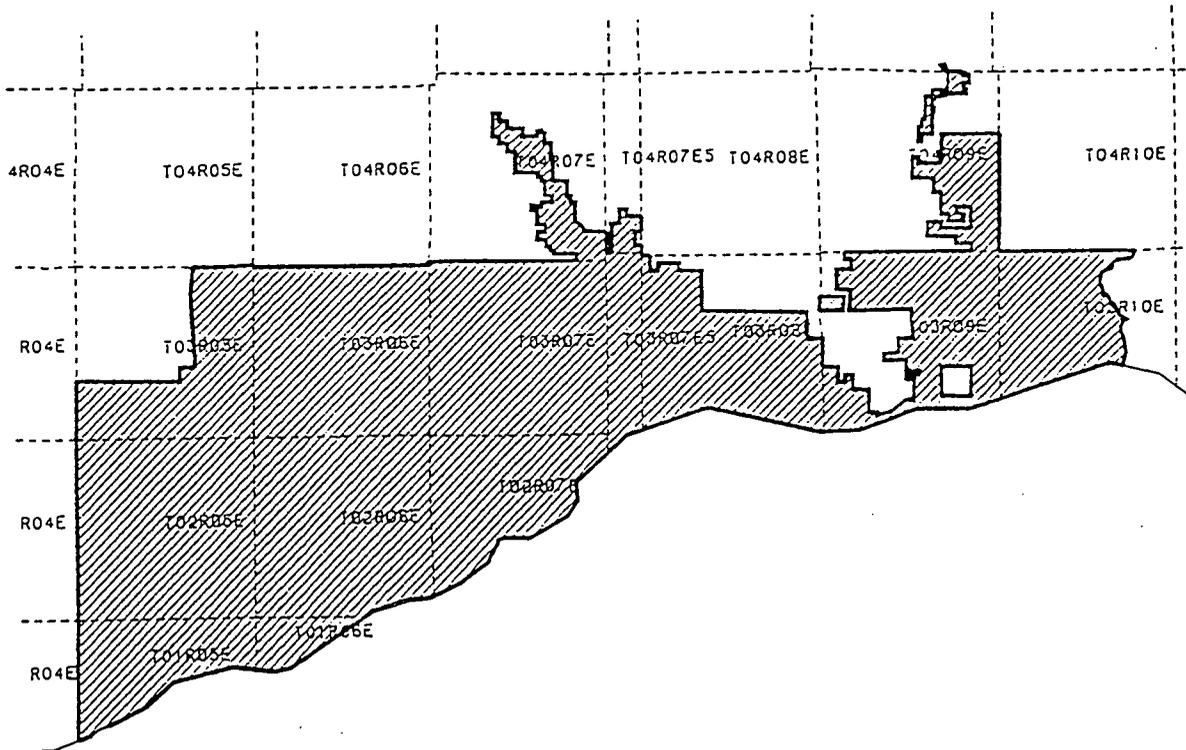
Stream bank and bed stability.

"Impacts on the population or major subpopulations of northern spotted owls" means any degradation of essential habitat below provincial area requirements at one or more owl sites within important northern spotted owl landscapes.

"Important northern spotted owl landscapes" means the following landscapes:

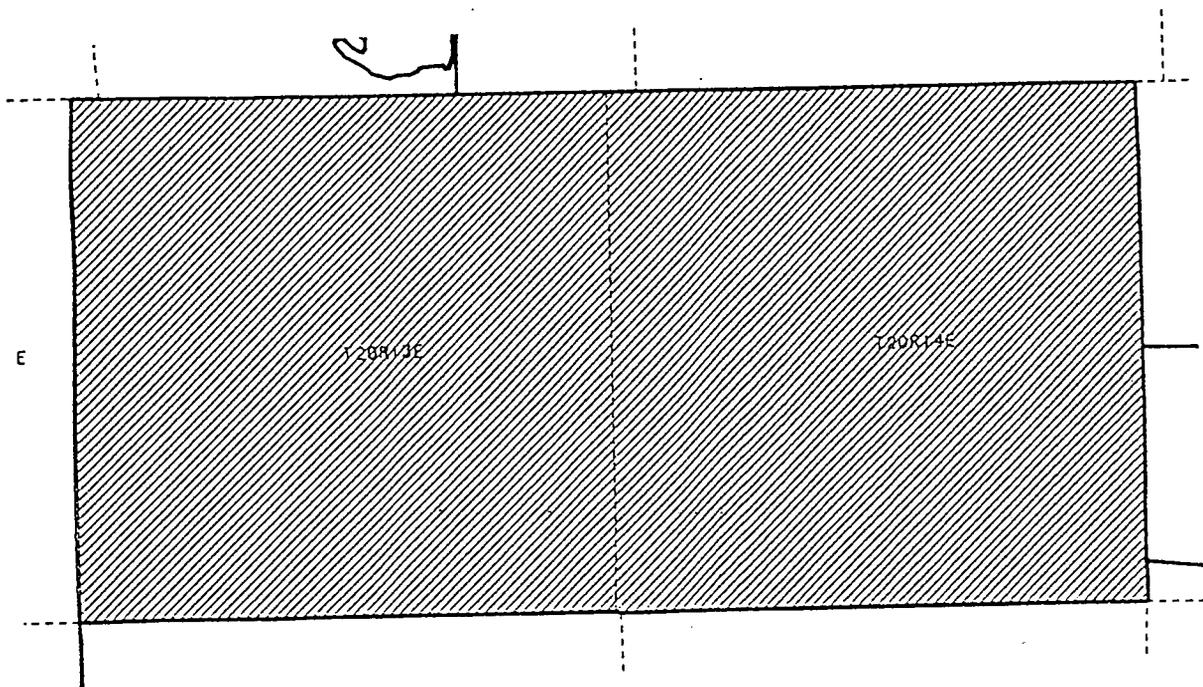
PROPOSED

### Columbia Gorge

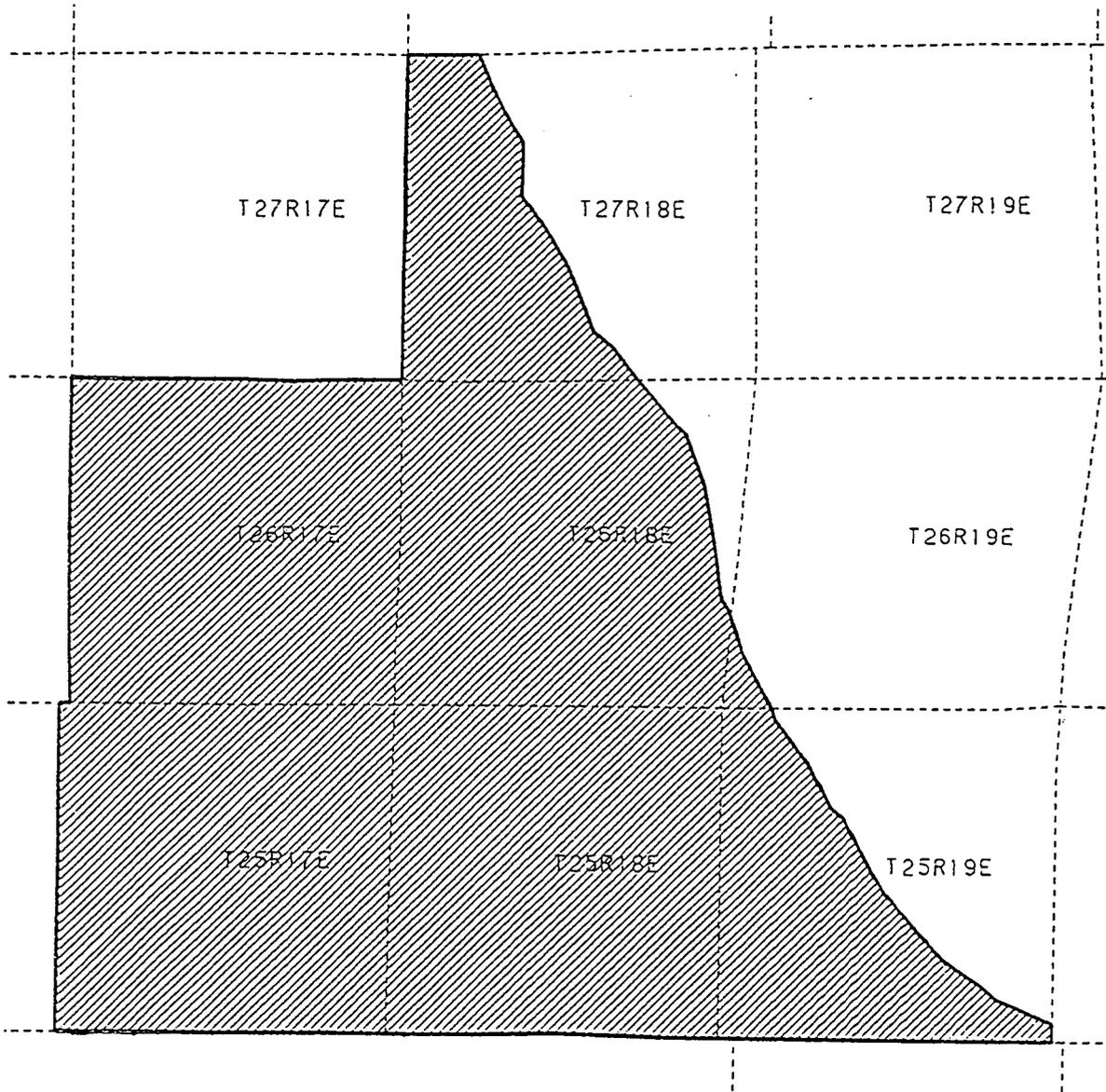


Easton

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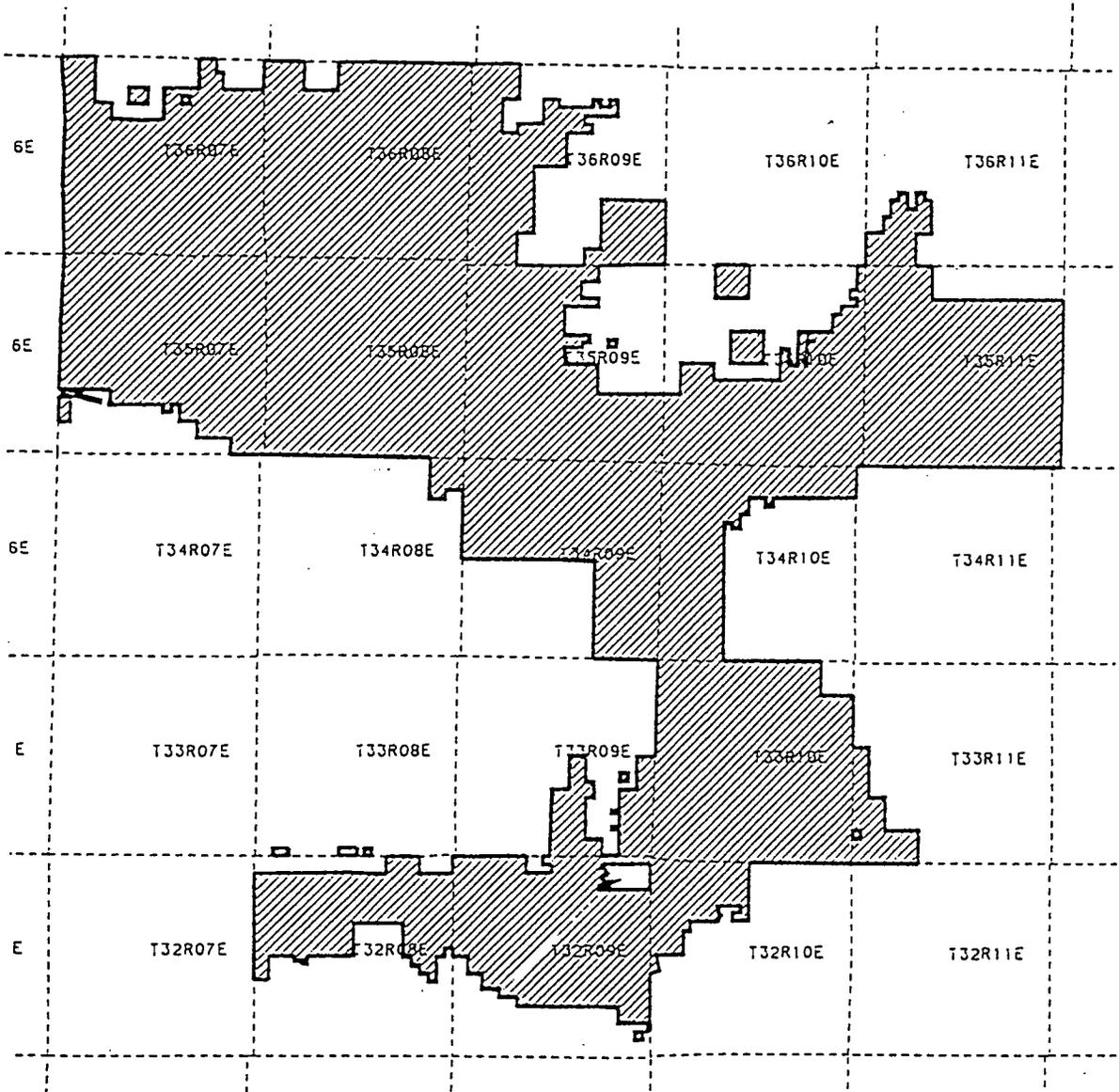
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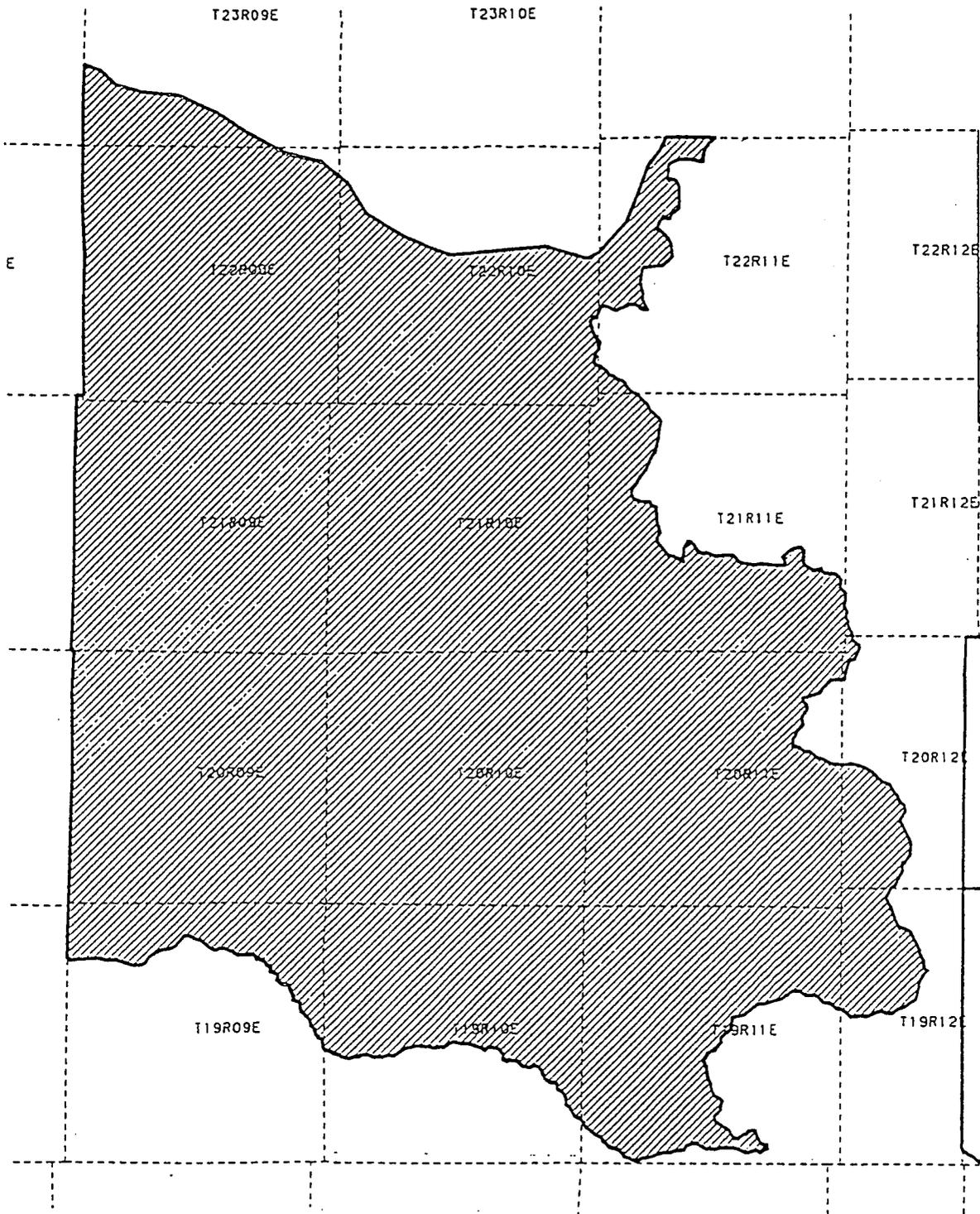
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# Finney Block

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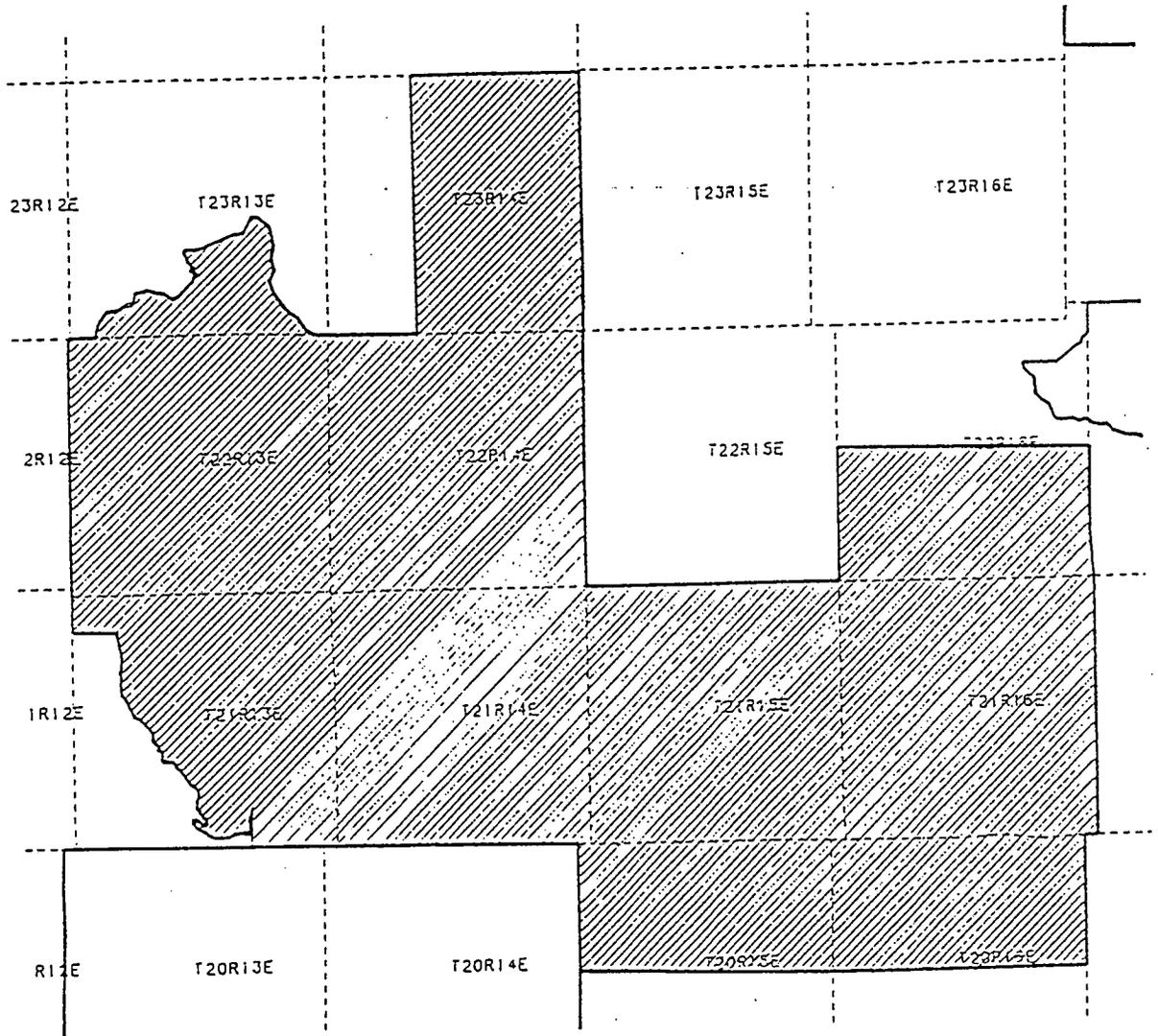
# I-90 West



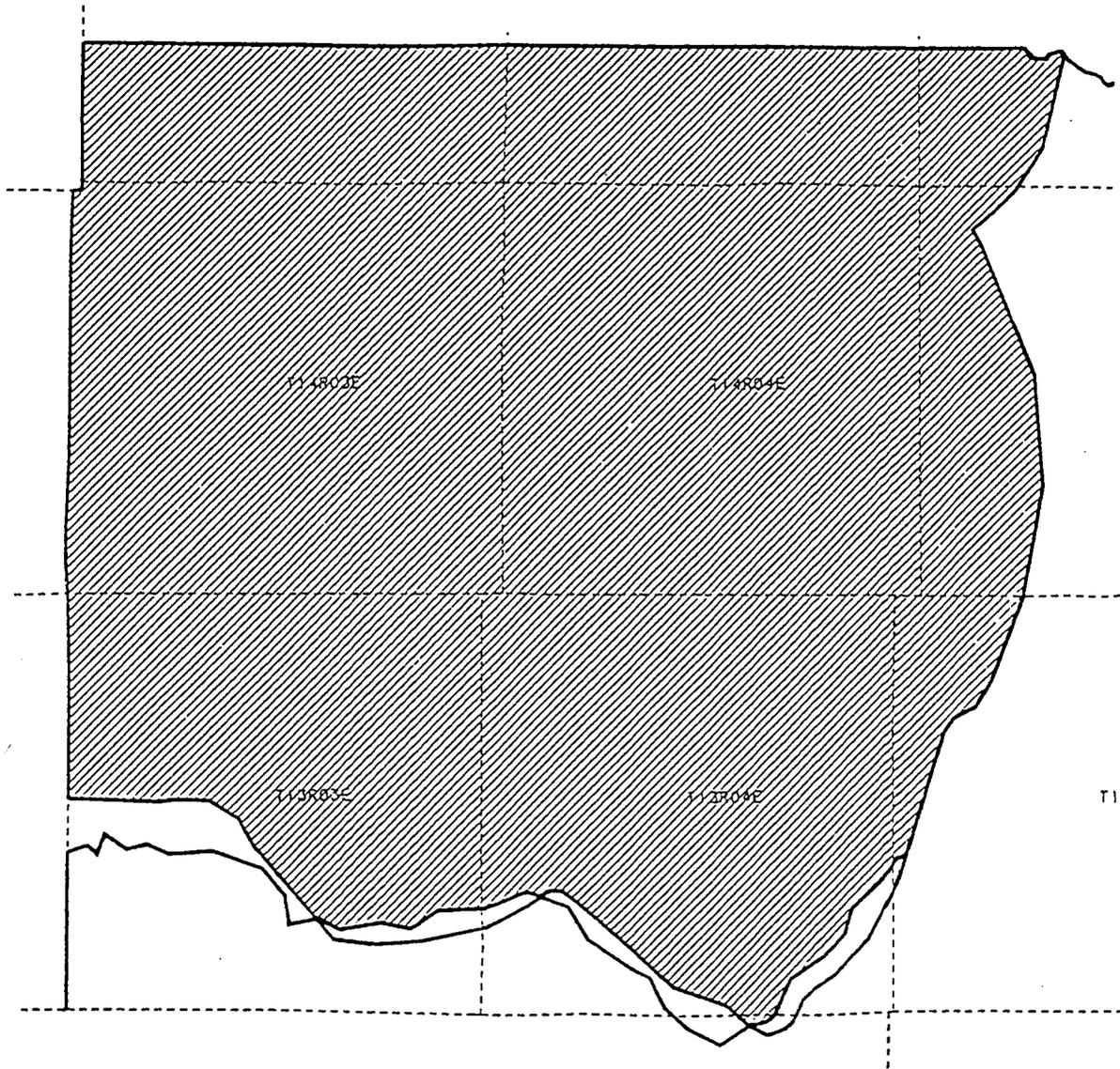
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# I-90 East/Teanaway

PROPOSED



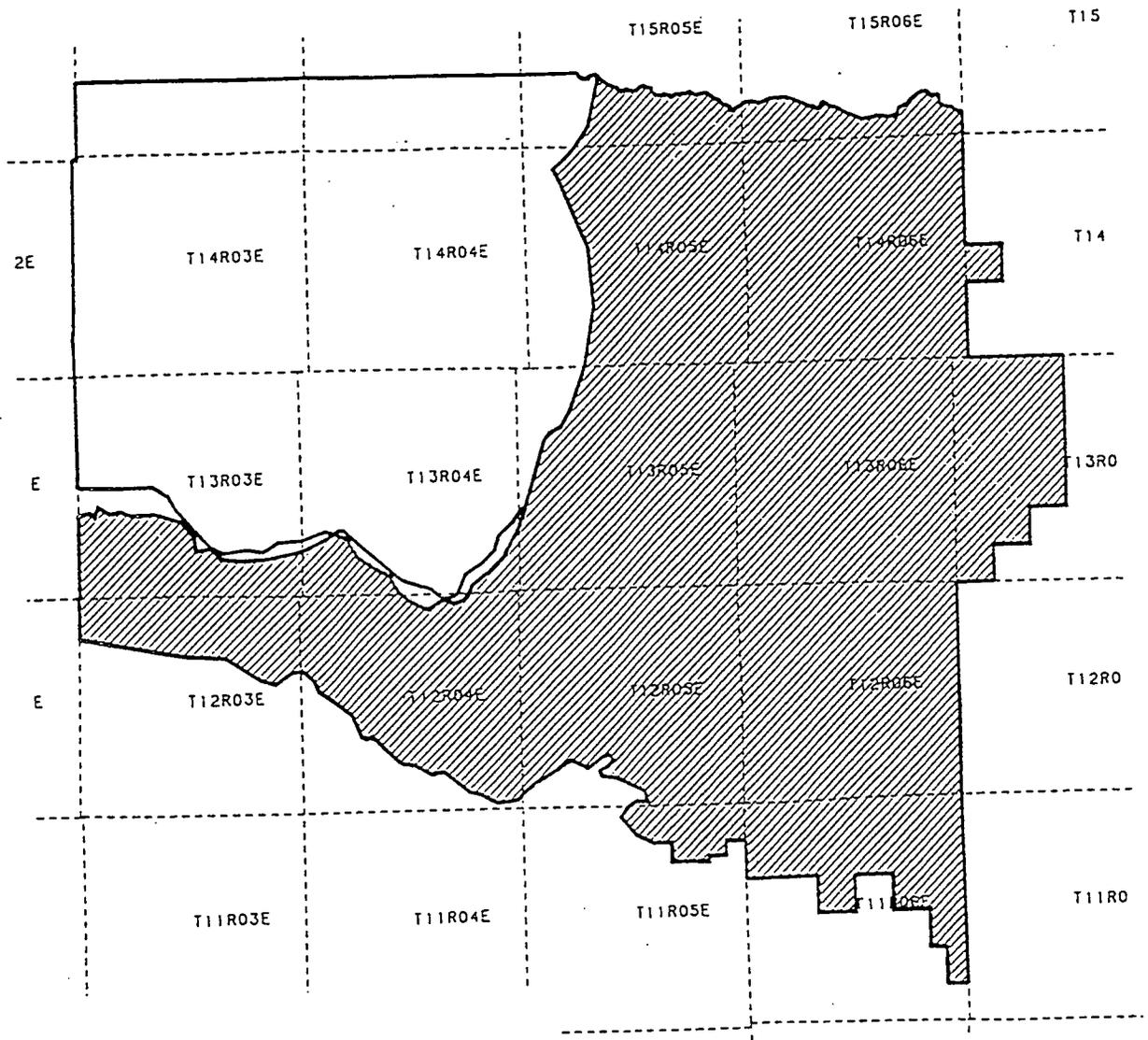
# Mineral Block



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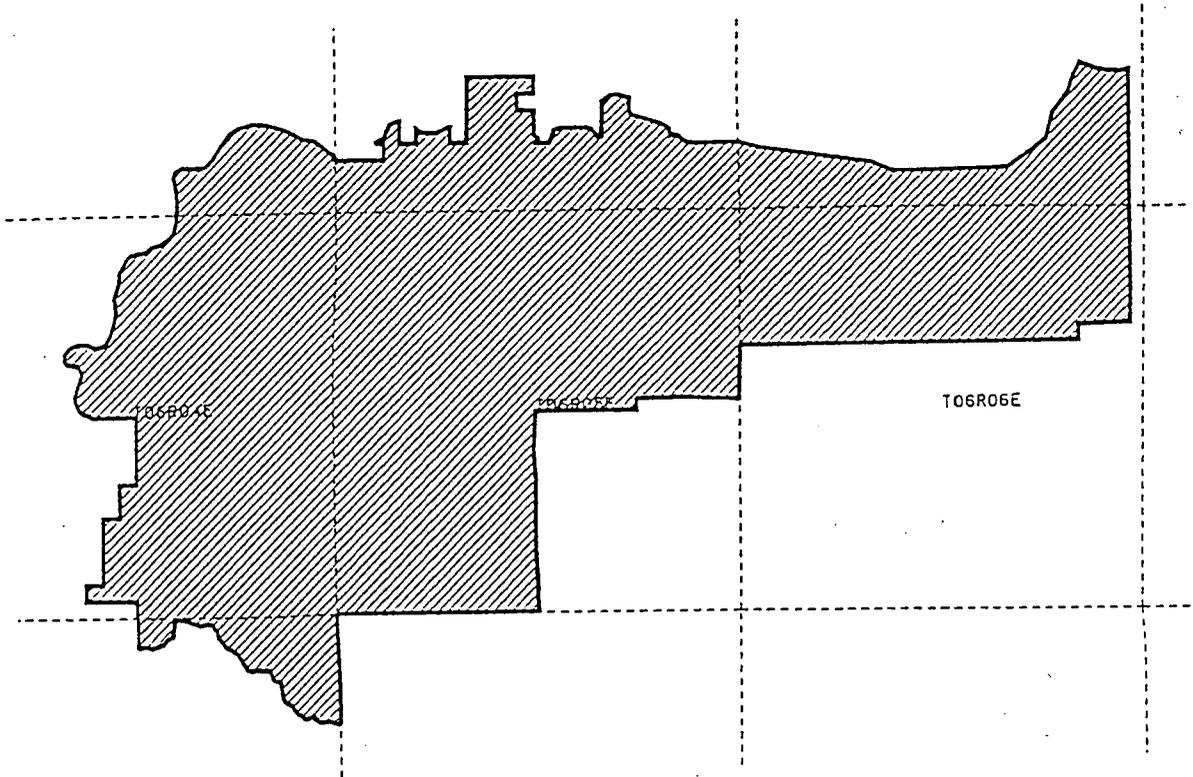
# Mineral Link

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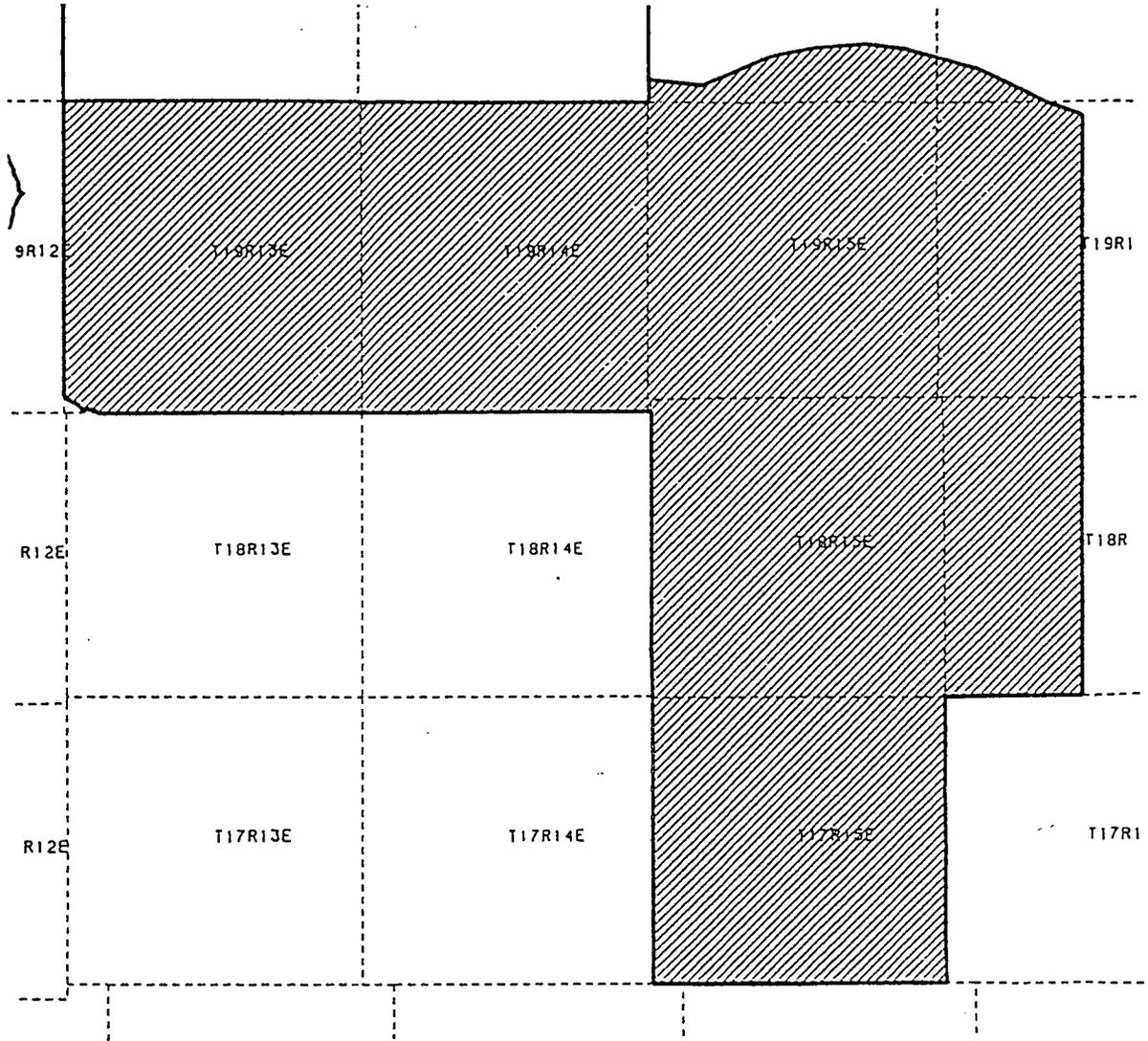
Siouxon

PROPOSED



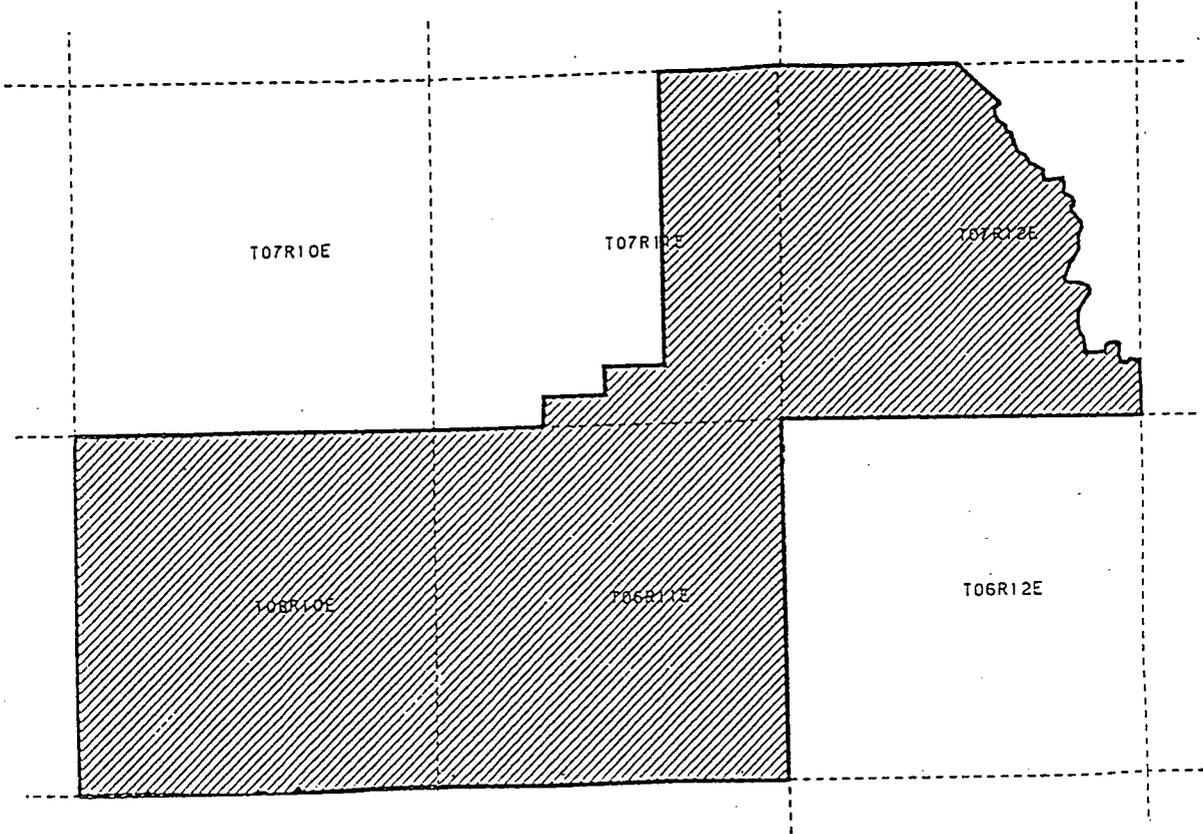
# Taneum

PROPOSED



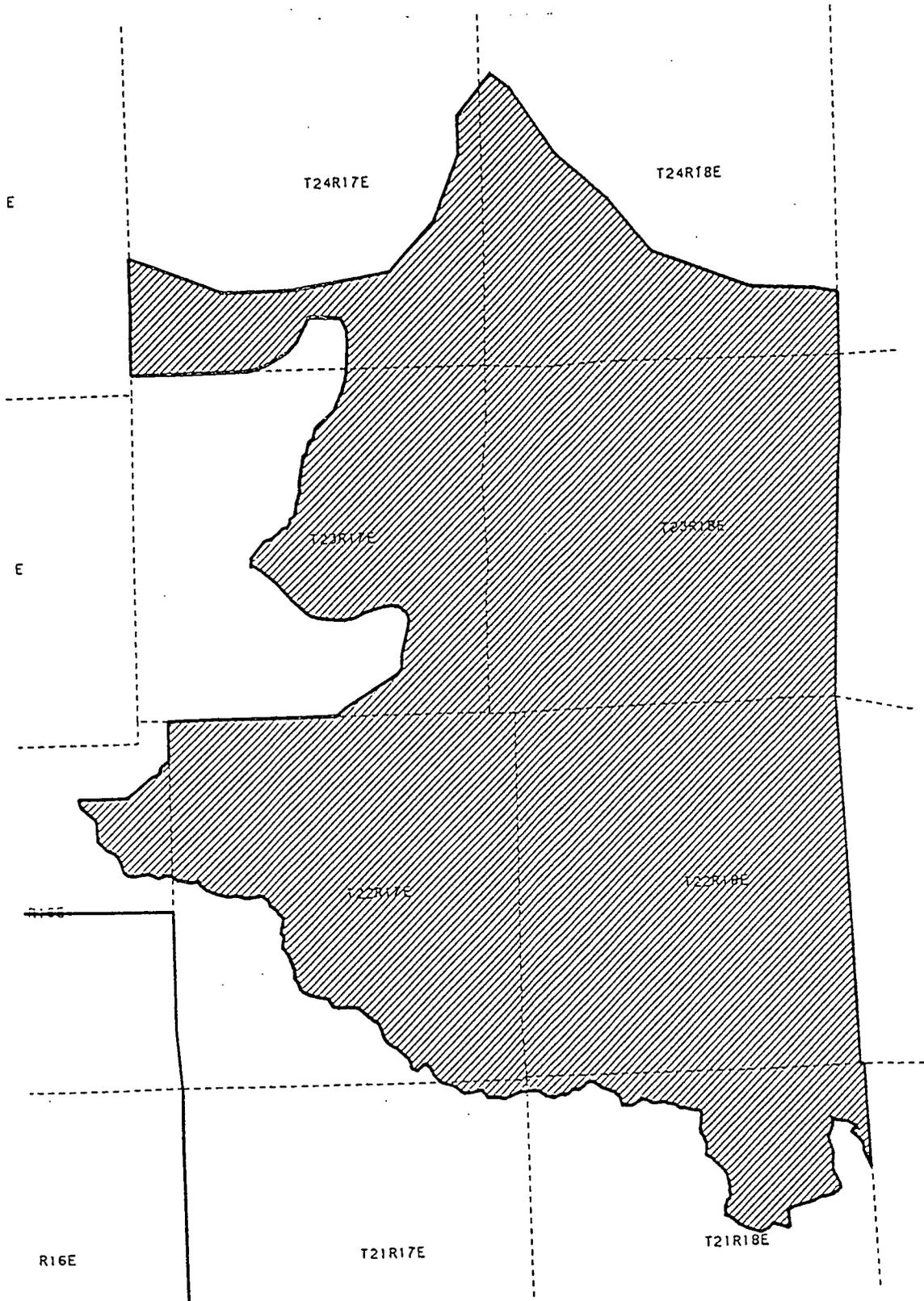
# White Salmon

PROPOSED

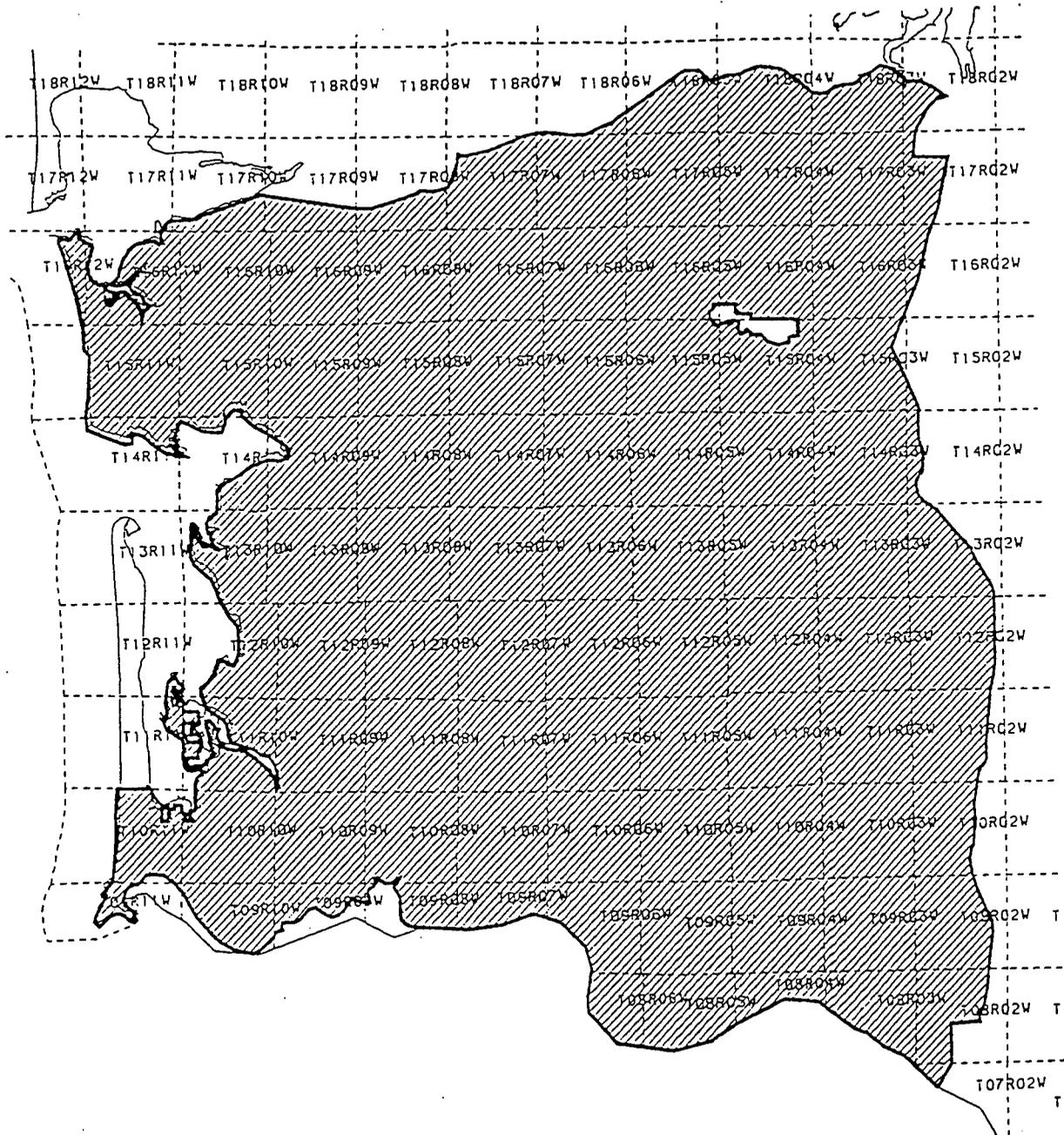


# North Blewett

PROPOSED



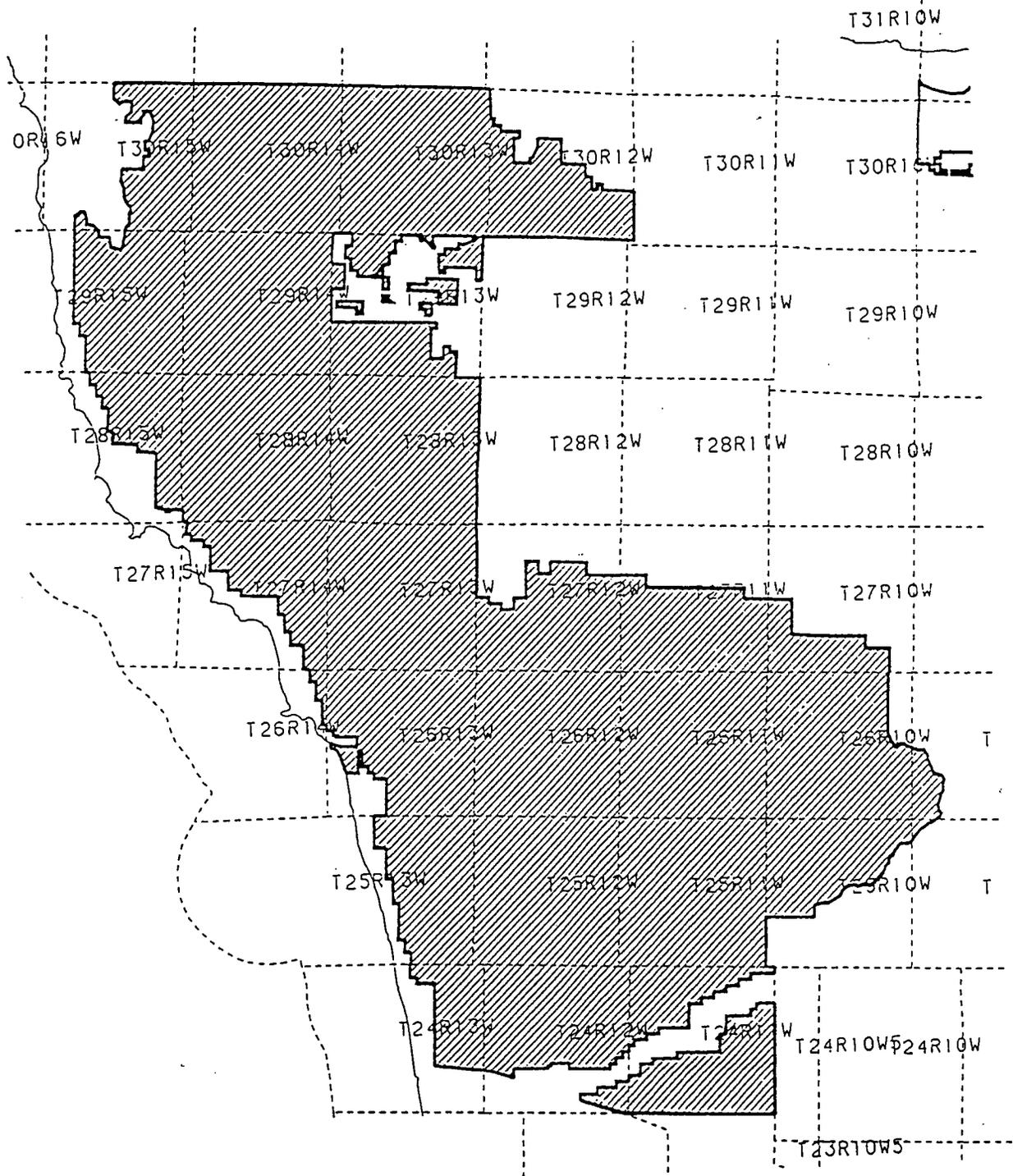
# Southwest



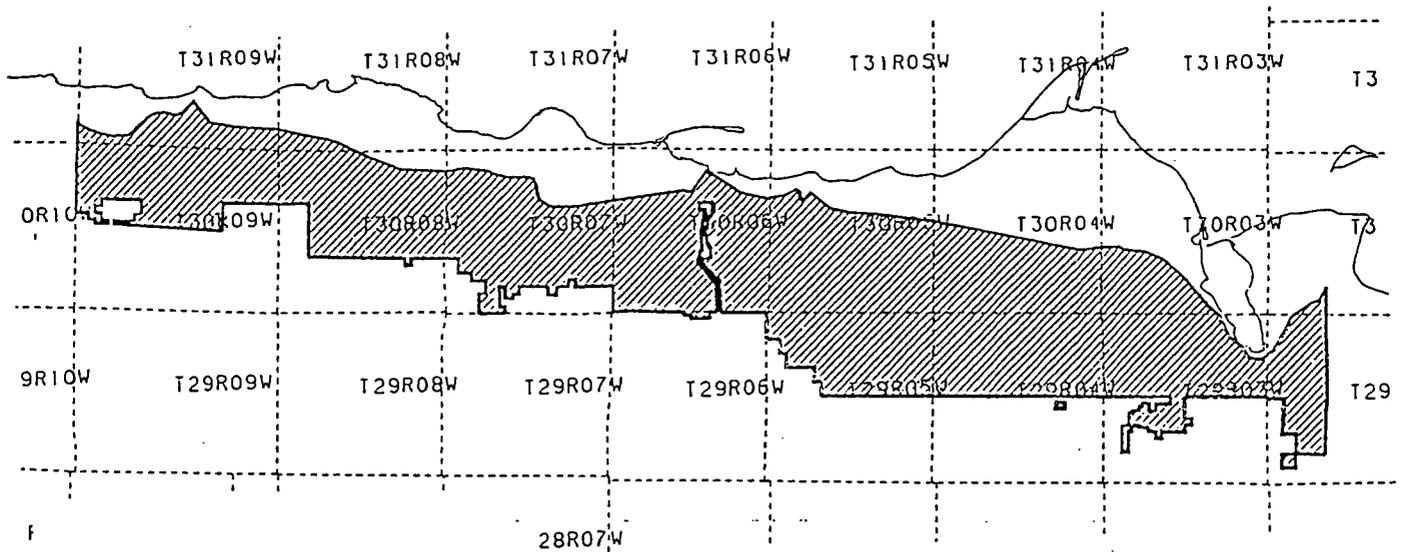
PROPOSED

# Hoh/Clearwater

PROPOSED



# North Olympic Coast



PROPOSED

**"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

**"Interdisciplinary team" (ID Team)** means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Modified submature and modified young forest marginal habitat"** includes habitat that results from forest practices which meet the following standards:

- The operation shall be conducted in compliance with an operations plan or site plan for the northern spotted owl site center; and

- The operations plan or site plan shall, as a secondary objective, promote the retention and/or the development of suitable spotted owl habitat; and

- The forest practice shall maintain the structural habitat characteristics required for the habitat class (i.e., submature habitat or young forest marginal habitat) that existed before harvest. Any such forest practice shall require a site specific special wildlife management plan as outlined under WAC 222-16-080(2); and

- Modified habitat shall not be considered suitable for two years following modification. In order to determine whether habitat has been degraded, field inspection of modified habitat by the department is required. If at the two-year post treatment inspection, the habitat is determined degraded, no additional modification shall be permitted on any designated spotted owl habitat associated with the site until an equivalent amount of habitat has been restored or added to the site from a comparable or better location; and

- No more than five percent of that portion of a landowner's land which is considered suitable spotted owl habitat essential to a northern spotted owl site center shall be in transition, i.e., considered unsuitable as a result of modification within the past two years, or if over two years, which has not received a department inspection and approved as suitable.

**"Northern spotted owl site center"** means the location documented by the department of fish and wildlife for Status 1, 2 or 3 northern spotted owls. The department shall rely upon the department of fish and wildlife for the determination of status based on the following definitions:

**Status 1** Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

**Status 2** Two birds, pair status unknown - the presence or response of two birds of the opposite sex where pair status cannot be determined and where at least one member must meet the resident single requirements.

**Status 3** Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (e.g., two responses in year one and one response in year two, for the same general area).

**"Notice to comply"** means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

**"Old-forest habitat"** means habitat that provides all of the characteristics needed by northern spotted owls for nesting, roosting, foraging and dispersal. Such habitats are characterized by greater abundance of prey, trees with broken tops and large cavities while exhibiting greater horizontal and vertical diversity. See the forest practices board manual for the characteristics.

**"Operator"** shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

**"Ordinary high-water mark"** means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

**"Other forest chemicals"** means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

**"Park"** means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

**"Partial cutting"** means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil.

Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

**"Pesticide"** means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

**"Plantable area"** is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

**"Power equipment"** means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

**"Provincial median home range radii"** means for the Olympic province a 2.7 mile radius; for the western Cascades province a 2.0 miles radius; for the eastern Cascades province a 1.8 mile radius.

**"Public resources"** means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

**"Rehabilitation"** means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

**"Relief culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

**"Resource characteristics"** means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

**"Riparian management zone"** means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

**"Rodenticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

**"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

**"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

**"Shorelines of the state"** shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

**"Side casting"** means the act of moving excavated material to the side and depositing such material within the

limits of construction or dumping over the side and outside the limits of construction.

**"Site preparation"** means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

**"Skid trail"** means a route used by tracked or wheeled skidders to move logs to a landing or road.

**"Slash"** means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

**"Spoil"** means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

**"Stop work order"** means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

**"Submature habitat"** means habitat that provides all of the characteristics needed by northern spotted owls for roosting, foraging and dispersal. Such habitats are characterized by moderate abundance of prey. See the forest practices board manual for the characteristics.

**"Suitable spotted owl habitat"** means forest stands which meet the definitions of old-forest habitat, submature habitat or young forest marginal habitat. Dispersal habitat will contain both suitable and unsuitable forest conditions.

**"Threatened or endangered species"** means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

**"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

**"Water bar"** means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

**"Watershed administrative unit (WAU)"** means an area shown on the map specified in WAC 222-22-020(1).

**"Watershed analysis"** means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

**"Weed"** is any plant which tends to overgrow or choke out more desirable vegetation.

**"Western Washington"** means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

**"Wetland"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined

swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

**"Wetland functions"** include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

**"Wetland management zone"** means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

**"Wildlife"** means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

**"Wildlife reserve trees"** means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

**"Windthrow"** means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

**"Young forest marginal habitat"** means habitat that provides some of the characteristics needed by northern spotted owls for roosting, foraging and dispersal. Such habitats are characterized by the presence of some of the characteristics that provide roosting opportunities and/or are associated with healthy prey populations. See the forest practices board manual for the characteristics.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.** (1) Critical wildlife habitats (state) of

threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides (~~on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.~~

~~This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.~~

~~The department shall rely upon the department of wildlife for the determination of status based on the following definitions:~~

~~Status 1 Pair or reproductive — the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.~~

~~Status 2 Two birds, pair status unknown — the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1~~

~~member must meet the resident single requirements.~~

~~Status 3 Resident territorial single — the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area)).~~

(i) Within important northern spotted owl landscapes:

(A) On suitable northern spotted owl habitat within 0.7 miles of a northern spotted owl site center; or

(B) On old-forest habitat within the provincial median home range radii of a northern spotted owl site center; or

(C) On submature or young forest marginal suitable spotted owl habitat within the provincial median home range radii of a northern spotted owl site center where the forest practice will result in degraded habitat, provided that proposed forest practices that will result in modified submature or modified young forest marginal habitat beyond 0.7 miles from a spotted owl site center are not critical wildlife habitat (state); or

(ii) Outside important spotted owl landscapes on the seventy acres of suitable spotted owl habitat which includes a northern spotted owl site center. The seventy acres shall be selected based on the most contiguous habitat of the highest class (i.e., old forest habitat first, submature habitat second, young forest marginal last).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(2) A site specific special wildlife management plan (~~including a bald eagle site management plan under WAC 232-12-292;~~) developed by the landowner is preferred and shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with(~~and approved by~~) the department of fish and wildlife and approved by the department. The opinion of the department of fish and wildlife shall be given substantial weight in the decision to approve or disapprove. Appeals of the plan shall be to the director of the department of fish and wildlife and the supervisor of the department or directly to the forest practices appeals board. Appeals must be made within thirty days of the department's decision. For the northern spotted owl the following levels of planning shall be considered as a site specific special wildlife management plan:

(a) Beyond 0.7 miles from a spotted owl site center an operation specific plan which will result in modified submature habitat or modified young forest marginal habitat but not degraded habitat; or

(b) A spotted owl site management plan which considers all essential life requisites to maintain the viability of the northern spotted owl site center; or

(c) A landscape level management plan which considers all essential life requisites to maintain the viability of the existing multiple northern spotted owl site within the landscape.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific

forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

**AMENDATORY SECTION** (Amending WSR 92-23-056, filed 11/17/92, effective 12/18/92)

**WAC 222-24-030 Road construction.** (1) **Right of way timber.** Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

**\* (2) Debris burial.**

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across wetlands or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

(3) **Compact fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

**\* (4) Stabilize soils.** When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. Avoid introduction of nonnative plant species, as listed in the board manual, to wetlands and wetland management zones.

**\* (5) Channel clearance.** Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

**\* (6) Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsloping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

\***(7) Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

\***(8) End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

\***(9) Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

**(10) Road construction, operation of heavy equipment (except hauling), and blasting shall not be allowed within 0.25 mile of a northern spotted owl site center located during current survey season, between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center.**

**AMENDATORY SECTION** (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

**WAC 222-30-050 Felling and bucking.** \*(1) **Falling along water.**

(a) No trees will be felled into Type 1, 2 and 3 Waters, or Type A or B Wetlands except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulic project approval of the departments of fisheries or wildlife.

(b) Within riparian management zones, and wetland management zones fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

(c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

\***(2) Bucking in water.**

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Waters or in open water areas of Type A Wetlands, except as necessary to remove the timber from the water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the water.

\***(3) Falling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

(4) **Falling in selective and partial cuts.** Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

**(5) Felling and bucking shall not be allowed within 0.25 mile of a northern spotted owl site center located during current survey season, between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center.**

**AMENDATORY SECTION** (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

**WAC 222-30-060 Cable yarding.** \*(1) **Type 1, 2 and 3 Waters.** No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones and removals from Type 1, 2 or 3 Water have hydraulic project approval of the departments of fisheries or wildlife.

\***(2) Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

\***(3) Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries or wildlife.

\***(4) Yarding in riparian management zones and wetland management zones.** Where timber is yarded from or across a riparian management zone, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

**(5) Direction of yarding.**

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

\* (c) When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

(6) The operation of heavy equipment shall not be allowed within 0.25 mile northern spotted owl site center located during current survey season, between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center.

#### NEW SECTION

**WAC 222-30-065 Helicopter yarding.** Helicopter operations shall not be allowed within 0.25 mile northern spotted owl site center located during current survey season, between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center. Helicopter operations shall maintain a minimum above-ground-level altitude of five hundred feet when flying over designated "critical" spotted owl habitat.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

**WAC 222-30-070 Tractor and wheeled skidding systems.** \*(1) **Typed waters and wetlands.**

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with approval by the department and with a hydraulic project approval of the departments of fisheries or wildlife.

(b) In order to maintain wetland water movement and water quality, and to prevent soil compaction, tractor or wheeled skidders shall not be used in Type A or B Wetlands without prior written approval of the department.

(c) Within all wetlands, tractors and wheeled skidder systems shall be limited to low impact harvest systems. Ground based logging systems operating in wetlands shall only be allowed within wetlands during periods of low soil moisture or frozen soil conditions.

(d) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

(e) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

**\*(2) Riparian management zone.**

(a) Logging will be permitted within the zone. However, any use of tractors, wheeled skidders, or other yarding machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) Where skidding in or through the riparian management zone is necessary, the number of skidding routes through the zone shall be minimized.

(c) Logs shall be skidded so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

**\*(3) Wetlands management zones.**

(a) Logging will be permitted within wetland management zones.

(b) Where feasible logs shall be skidded at least with one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

**\*(4) Deadfalls.** Logs firmly embedded in the bed or bank of Type 1, 2, 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulic project approval of the departments of fisheries or wildlife.

**\*(5) Moisture conditions.** Tractor and wheeled skidders shall not be used on exposed erodible soils or saturated soils when soil moisture content is so high that unreasonable soil compaction, soil disturbance, or wetland, stream, lake or pond siltation would result.

(6) **Protection of residual timber.** Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

**\*(7) Skid trail construction.**

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 50-year flood level.

(c) Skid trails shall be outsloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

**\*(8) Skid trail maintenance.** Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

**\*(9) Slope restrictions.** Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.

(10) The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center located during current survey season, between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center.

#### NEW SECTION

**WAC 222-30-075 Hauling.** The following limits on timber, rock, or other forest practices related hauling shall apply within 0.25 mile northern spotted owl site center located during current survey season, between March 1 and August 31. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center:

(1) At all times of the day vehicle speed shall be limited to fifteen miles per hour; and

(2) Timber hauling shall be limited to one hour after official sunrise to one hour before official sunset; and

(3) All reasonable attempts shall be made to minimize traffic within suitable habitat, attempt to route traffic through nonhabitat; or

(4) The forest practice is in compliance with a disturbance avoidance plan.

**AMENDATORY SECTION** (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

**WAC 222-30-100 Slash disposal or prescribed burning.** (1) **Slash disposal techniques:**

\*(a) Any conventional method of slash disposal may be used, except in Type A or B Wetlands, wetland management zones, and riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity. Conventional methods of slash disposal include the following: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: *Provided*, That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian management zones, slash disposal shall be by hand, unless approved by the department. Scarification shall not be allowed within wetlands. Machine piling is discouraged in wetlands.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to protect Type A and B Wetlands, wetland management zones, riparian management zones, soil, residual timber, public resources, and other property.

\*(c) Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the 50-year flood level of any Type 1, 2, 3 or 4 Water or in locations from which it could be expected to enter any stream, lake or pond.

(2) **Slash isolation, reduction, or abatement** is required when the department determines there is an extreme fire hazard according to law (see WAC 332-24-360).

(3) **Slash disposal** is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

\*(4) **Removing slash and debris** from streams.

"Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2, 3 or 4 Waters, to above the 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the 50-year flood level of Type 1, 2, 3 or 4 Waters, slash disposal is required. See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

\*(5) **Fire trails.**

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

(c) Fire trails shall not be located within Type A or B Wetlands, wetland management zones, or riparian zones without prior written approval of the department. Hand constructed fire trails are preferred within forested wetlands. When machine built fire trails are necessary for control of burning, trail width and excavation shall be minimized.

(6) Burning shall not be allowed within 0.25 mile of a northern spotted owl site center located during current survey season, between March 1 and July 31. Burning shall not be allowed within 0.7 mile of a northern spotted owl site center between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. The disturbance avoidance plan should not allow smoke concentration within 0.25 mile of a northern spotted owl site center. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-38-020 Handling, storage, and application of pesticides.** \*(1) **No pesticide leakage, contamination, pollution.**

Transportation, handling, storage, loading, application, and disposal of pesticides shall be consistent with applicable label requirements and other state and federal requirements.

\*(2) **Mixing and loading areas.**

(a) Mix pesticides and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of pesticides will not enter surface water or wetlands. If any pesticide is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

\*(3) **Riparian management zone.** Pesticide treatments within the riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

\*(4) **Wetland management zone.** Pesticide treatment within the wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

\*(5) **Aerial application of pesticides.**

(a) To keep pesticides out of the water, leave a 50 foot buffer strip on all typed waters, except segments of Type 4 and 5 Waters with no surface water and other areas of open water, such as ponds or sloughs.

(b) Apply the initial swath parallel to the buffer strip in (a) of this subsection unless a deviation is approved in advance by the department. Drift control agents shall be required adjacent to buffer strips. Avoid applications that might result in drift causing direct entry of pesticides into riparian management zones, Type A and B Wetlands, wetland management zones, and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

(c) Use a bucket or spray device capable of immediate shutoff.

(d) Shut off spray equipment during turns and over open water.

(e) Leave at least a 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(f) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the pesticide an over-flight of the area shall be made by the pilot with the marked photos or maps.

(g) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete. The department may require an extended posting period in areas where human use or consumption of plant materials is probable. Posting at formal, signed trailheads that are adjacent to aerielly treated units is required. The signs will contain the name of the product used, date of treatment, a contact telephone number, and any applicable restrictions.

(h) Helicopter operations shall not be allowed within 0.25 mile northern spotted owl site center located during current survey season, between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center. Helicopter operations shall maintain a minimum above-ground-level altitude of five hundred feet when flying over designated "critical" spotted owl habitat.

**\*(6) Ground application of pesticides with power equipment.**

Leave a 25-foot buffer strip on each side of Type A or B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

**\*(7) Hand application of pesticides.**

Apply only to specific targets, such as vegetation, trees, stumps, and burrows, or as bait or in traps.

**\*(8) Limitations on application.** Pesticides shall be applied only in accordance with all limitations:

(a) Printed on the United States Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the state department of agriculture.

(c) Established by state and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

(e) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage until the deficiency has been corrected to the satisfaction of the department suspending its usage.

**\*(9) Container disposal.** Pesticide containers shall be either:

(a) Removed from the forest and disposed of in the manner consistent with label directions; or

(b) Removed and cleaned for reuse in a manner consistent with any applicable regulations of the state department of agriculture or the state or local health departments.

**\*(10) Daily records - aerial application of pesticides.** On all aerial applications of pesticides, the operator shall maintain for 3 years daily records of spray operations as required by the state department of agriculture WAC 16-228-190.

**\*(11) Reporting of spills.** All potentially damaging chemical spills shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

(12) Any application of pesticides shall not be allowed within 0.25 mile of a northern spotted owl site center located during current survey season, between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-38-030 Handling, storage, and application of fertilizers.** **\*(1) Storage and loading areas.** Storage and loading areas should be located where accidental spillage of fertilizers will not enter surface water or wetlands. If any fertilizer is spilled, immediate appropriate procedures shall be taken to contain it.

**\*(2) Riparian management zone.** Fertilizer treatments within a riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

**\*(3) Wetland management zone.** Fertilizer treatments within a wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

**\*(4) Aerial application of fertilizer.**

(a) Proposed fertilization units shall be planned to avoid and to minimize the direct or indirect introduction of fertilizer into waters and wetlands.

(b) Leave a 25 foot buffer on all Type 1, 2, and 3 Waters, except as noted in (f) of this subsection.

(c) When the helicopter flight path during fertilizer application is parallel to a water course or the WMZ edge, the centerline of the initial swath should be adjusted to prevent direct application within the buffers or WMZs.

(d) Leave at least a 200 foot buffer strip around residences and a 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(e) The landowner shall identify for the operator the units to be fertilized and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the fertilizer, an over-flight of the area shall be made by the pilot with the marked photos or maps.

(f) Where the department has been provided information by the department of ecology indicating that water quality in downstream waters is likely to be impaired by entry of fertilizer into waters, such waters shall be protected by site specific conditioning.

(g) Helicopter operations shall not be allowed within 0.25 mile northern spotted owl site center located during current survey season between March 1 and July 31, unless the forest practice is in compliance with a disturbance avoidance plan. Absent a current survey season site center location, distance restriction shall be extended to 0.5 mile from the previously located site center. Helicopter operations shall maintain a minimum above-ground-level altitude of five hundred feet when flying over designated "critical" spotted owl habitat.

**\* (5) Ground and hand application of fertilizers.** Prevent fertilizer from entering Type A and B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

**\* (6) Reporting of fertilizer spills.** All fertilizer spills involving streams, lakes, wetlands, or other waters of the state shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

MARbled MURRELET PROPOSED RULES:  
OCCUPIED STAND APPROACH

August 4, 1994

AMENDATORY SECTION (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations:

**"Act"** means the Forest Practices Act, chapter 76.09 RCW.

**"Affected Indian tribe"** means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

**"Appeals board"** means the forest practices appeals board established in the act.

**"Area of resource sensitivity"** means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

**"Board"** means the forest practices board established by the act.

**"Bog"** means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

**"Borrow pit"** shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

**"Chemicals"** means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

**"Clearcut"** means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Commercial tree species"** means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

**"Completion of harvest"** means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

**"Constructed wetlands"** means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

**"Contamination"** means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

**"Conversion option harvest plan"** means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

**"Conversion to a use other than commercial timber operation"** shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**"Critical habitat (federal)"** means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

**"Critical nesting season"** means for marbled murrelets - April 1 to August 15.

**"Critical wildlife habitat (state)"** means those habitats designated by the board in accordance with WAC 222-16-080.

**"Cultural resources"** means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

**"Cumulative effects"** means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

**"Daily peak activity"** means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

**"Debris"** means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

**"Department"** means the department of natural resources.

**"Eastern Washington"** means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Fen"** means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

**"Fertilizers"** means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

**"Fill"** means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

**"Flood level - 50 year."** For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the

ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

**"Forest trees"** excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

**"Green recruitment trees"** means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

**"Herbicide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

**"Historic site"** includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

**"Identified watershed processes"** means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

**"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

**"Interdisciplinary team"** (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Notice to comply"** means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

**"Occupied marbled murrelet site"** means:

• A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occurs:

- A nest is located; or

- Downy chicks or eggs or egg shells are found; or
- Marbled murrelets are detected flying below, through, into or out of the forest canopy; or
- Birds calling from a stationary location within the area; or
- Birds circling above the canopy; or
- A contiguous forested area which is not suitable marbled murrelet habitat in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

The outer perimeter of the occupied site shall be presumed to be the beginning of any gap greater than three hundred feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat." For sites defined in the above paragraph, it shall be the beginning of any gap greater than three hundred feet wide where one or more of the distinguishing vegetative characteristics important to murrelets is lacking.

The department shall rely upon the department of fish and wildlife for the determination of location of these occupied marbled murrelet sites.

**"Operator"** shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

**"Ordinary high-water mark"** means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

**"Other forest chemicals"** means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

**"Park"** means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

**"Partial cutting"** means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

**"Pesticide"** means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

**"Plantable area"** is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

**"Power equipment"** means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

**"Public resources"** means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

**"Rehabilitation"** means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

**"Relief culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

**"Resource characteristics"** means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

**"Riparian management zone"** means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

**"Rodenticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

**"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

**"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

**"Shorelines of the state"** shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

**"Side casting"** means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

**"Site preparation"** means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

**"Skid trail"** means a route used by tracked or wheeled skidders to move logs to a landing or road.

**"Slash"** means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

**"Spoil"** means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

**"Stop work order"** means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices

chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

**"Suitable marbled murrelet habitat"** means:

• A contiguous forested area with all of the following characteristics:

- Within forty miles of marine waters;
- Containing at least eight trees per acre equal to or greater than 32 inches dbh;
- At least forty percent of the trees equal to or greater than thirty-two inches are Douglas-fir, western hemlock, western red cedar or sitka spruce; and
- Containing at least two nesting platforms per acre.

Nesting platforms shall include any horizontal limb, tree structure, or deformity equal to or greater than seven inches in diameter and fifty feet or more in height above the ground.

**"Threatened or endangered species"** means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

**"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

**"Water bar"** means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

**"Watershed administrative unit (WAU)"** means an area shown on the map specified in WAC 222-22-020(1).

**"Watershed analysis"** means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

**"Weed"** is any plant which tends to overgrow or choke out more desirable vegetation.

**"Western Washington"** means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

**"Wetland"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

**"Wetland functions"** include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

**"Wetland management zone"** means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

**"Wildlife"** means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal,

bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

**"Wildlife reserve trees"** means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

**"Windthrow"** means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.** (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of

wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.

This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Operation of heavy equipment, during the critical nesting season, within an occupied marbled murrelet site.

(iii) Use of aircraft below one thousand three hundred feet above ground level, during the critical nesting season, over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site.

(iv) Harvesting within a three hundred foot wide managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stem stand density of seventy-five trees per acre greater than 6 inches dbh; provided that twenty-five of which shall be greater than 12 inches dbh including five trees greater than 20 inches dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of two hundred feet and extended to maximum of four hundred feet as long as an average of three hundred feet is maintained.

(v) Blasting and slash burning, during the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vi) Harvesting, road construction, operation of heavy equipment, timber hauling, or use of aircraft below one thousand three hundred feet above ground level, during the daily peak activity periods within the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vii) Marbled murrelet critical wildlife habitat (state) shall not include habitat where a current marbled murrelet survey has been conducted and no use of the suitable marbled murrelet habitat by a bird has been detected. Surveys shall be conducted utilizing a survey protocol which is acceptable to the department of fish and wildlife.

(viii) Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(ix) This rule is intended to be interim and shall be changed as necessary, such as upon completion of a state or federal recovery plan for the marbled murrelet or significant new information.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner is preferred and shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of fish and wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing

of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

MARBLED MURRELET PROPOSED RULES:

MARBLED MURRELET  
WATERSHED ADMINISTRATIVE UNIT APPROACH

August 4, 1994

AMENDATORY SECTION (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

**"Constructed wetlands"** means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

**"Contamination"** means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

**"Conversion option harvest plan"** means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

**"Conversion to a use other than commercial timber operation"** shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**"Critical habitat (federal)"** means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

**"Critical nesting season"** means for marbled murrelets - April 1 to August 15.

**"Critical wildlife habitat (state)"** means those habitats designated by the board in accordance with WAC 222-16-080.

**"Cultural resources"** means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

**"Cumulative effects"** means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

**"Daily peak activity"** means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

**"Debris"** means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

**"Department"** means the department of natural resources.

**"Eastern Washington"** means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Fen**" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"**Fertilizers**" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"**Fill**" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"**Flood level - 50 year.**" For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"**Forest land**" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"**Forest land owner**" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any

lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"**Forest practice**" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"**Forest trees**" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"**Green recruitment trees**" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"**Herbicide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"**Historic site**" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history;

or  
Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"**Identified watershed processes**" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

"**Insecticide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"**Interdisciplinary team**" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to

technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Marbled murrelet - watershed administrative units (MM-WAU)"** means those watershed administrative units containing an occupied marbled murrelet site or in which a marbled murrelet has been detected and documented by the department of fish and wildlife.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Notice to comply"** means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

**"Occupied marbled murrelet site"** means a stand of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occurs:

- Stands where a nest is located; or
- Stands where downy chicks or eggs or egg shells are found; or
- Stands where marbled murrelets are detected flying below, through, into or out of the forest canopy within or adjacent to a stand; or
- Birds calling from a stationary location within the stand; or
- Birds circling above the canopy.

The department shall rely upon the department of fish and wildlife for the determination of location of these occupied marbled murrelet sites.

**"Operator"** shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

**"Ordinary high-water mark"** means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect

to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

**"Other forest chemicals"** means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

**"Park"** means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

**"Partial cutting"** means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

**"Pesticide"** means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

**"Plantable area"** is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

**"Power equipment"** means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

**"Public resources"** means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

**"Rehabilitation"** means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

**"Relief culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

**"Resource characteristics"** means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:  
Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and  
Turbidity and volume for areas of water supply.  
For capital improvements of the state or its political subdivisions:

Physical or structural integrity.  
If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

**"Riparian management zone"** means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

**"Rodenticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

**"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

**"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

**"Shorelines of the state"** shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

**"Side casting"** means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

**"Site preparation"** means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

**"Skid trail"** means a route used by tracked or wheeled skidders to move logs to a landing or road.

**"Slash"** means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

**"Spoil"** means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

**"Stop work order"** means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

**"Suitable marbled murrelet habitat" means:**

- Timber stands with all of the following characteristics:
- Within forty miles of marine waters;
- Containing at least eight trees per acre equal to or greater than 32 inches dbh;
  - At least forty percent of the trees equal to or greater than thirty-two inches are Douglas-fir, western hemlock, western red cedar or sitka spruce; and
  - Containing at least two nesting platforms per acre. Nesting platforms shall include any horizontal limb, tree structure, or deformity equal to or greater than seven inches in diameter and 50 feet or more in height above the ground;
- At least (5) (10) (25) acres in size; or
- Any stand identified as an occupied marbled murrelet site documented by the department of fish and wildlife.

**"Threatened or endangered species"** means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

**"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

**"Water bar"** means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

**"Watershed administrative unit (WAU)"** means an area shown on the map specified in WAC 222-22-020(1).

**"Watershed analysis"** means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

**"Weed"** is any plant which tends to overgrow or choke out more desirable vegetation.

**"Western Washington"** means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

**"Wetland"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

**"Wetland functions"** include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

**"Wetland management zone"** means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

**"Wildlife"** means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

**"Wildlife reserve trees"** means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.** (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.

This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape

planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction in suitable marbled murrelet habitat within a MM-WAU, provided that, marbled murrelet critical wildlife habitat (state) shall not include suitable marbled murrelet habitat within a MM-WAU where a current marbled murrelet survey has been conducted and no use of the suitable marbled murrelet habitat by a bird has been detected. Surveys shall be conducted utilizing a survey protocol which is acceptable to the department of fish and wildlife.

(iii) Operation of heavy equipment, during the critical nesting season, within an occupied marbled murrelet site.

(iv) Use of aircraft below one thousand three hundred feet above ground level, during the critical nesting season, over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site.

(v) Harvesting within a three hundred foot wide managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stem stand density of seventy-five trees per acre greater than 6 inches dbh; provided that twenty-five of which shall be greater than 12 inches dbh including five trees greater than 20 inches dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of two hundred feet and extended to maximum of four hundred feet as long as an average of three hundred feet is maintained.

(vi) Blasting and slash burning, during the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vii) Harvesting, road construction, operation of heavy equipment, timber hauling, or use of aircraft below one thousand three hundred feet above ground level, during the daily peak activity periods within the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(viii) Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(ix) This rule is intended to be interim and shall be changed as necessary, such as upon completion of a state or federal recovery plan for the marbled murrelet or significant new information.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner is preferred and shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of fish and wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be

interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

**WSR 94-17-164**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 24, 1994, 8:57 a.m.]

Original Notice.

Title of Rule: See Purpose below.

Purpose: Chapter 296-52 WAC, Possession, handling and use of explosives, federal-initiated proposed amendments to chapter 296-52 WAC were initiated by Federal Register Volume 58, Number 124, dated June 30, 1993; Federal Register Volume 58, Number 174, dated September 10, 1993; and previous OSHA not-at-least-as-effective-as opinions. These proposed amendments add the requirement that the Department of Transportation placards remain on unattended trailers/vehicles containing blasting agents until all blasting agents are removed from the trailer; add the requirement that boreholes be checked prior to loading explosives; add the requirement that the use of black powder is prohibited for blasting operations; adds safety fuse and cap use requirements; corrects names and addresses of various associations or agencies; and minor housekeeping corrections. State-initiated proposed amendments to chapter 296-52 WAC were initiated by SHB 1118; RCW 70.74.010(21),

[70.74].340, [70.74].350, and [70.74].360. (Institute Makers of Explosives (IME) pamphlets #20 and 22 and BATF publications were also used as resources). These state-initiated amendments are made to change legal violation classifications; to increase licensing fees, add the provision that licensing fees will not be refunded when licenses are revoked for cause; add requirements for two-compartment transportation unit specifications; add requirements for blaster in charge and nonelectric blasting; add exemption for common fireworks; amends quantity restrictions for WAC 296-52-509; remove the requirement to report theft of explosives to the department; update radio frequency hazard requirements; amend the definition of natural barricade, improvised device, and source of ignition. Other wording changes are made for clarification. Other state-initiated proposed amendments are made to add the requirement for magazine inspections at seven day intervals; add general physical capability requirements for licensing and the authority to revoke existing licenses for physical reasons; add new magazine warning signs; add requirement that explosives be unloaded from trailers/vehicles before parking vehicle; add requirement that Department of Transportation placards remain on trailers/vehicles containing blasting agents while on jobsites and on off-highway roads; add exemption for common carriers from Department of Labor and Industries explosives licensing as they are under Department of Transportation jurisdiction on public highways; add exemption for guards and law enforcement officers to carry guns; amend specifications for explosive laden vehicle parking lots; add definitions from chapter 296-24 WAC, General safety and health standards, to chapter 296-52 WAC; add metric measurement references; add note regarding indoor type 2 magazine construction; correct NFPA references; change a section title and a table title; replace references to the Division of Industrial Safety and Health, or similar wording, with the Department of Labor and Industries or the Division of Consultation and Compliance; move items to more appropriate locations; and correct references. Other wording changes are made for clarification; chapter 296-56 WAC, Safety standards for longshore, stevedore and related waterfront operations, state-initiated proposed amendments to chapter 296-56 WAC are made to correct and define references necessitated by the federal initiated change to chapter 296-62 WAC, Part M, Permit-required confined spaces; replace references to the Division of Industrial Safety and Health, or similar wording, with the Department of Labor and Industries or the Division of Consultation and Compliance, correct WAC references; and correct references to specific gender; chapter 296-59 WAC, Safety standards for ski area facilities and operations, state-initiated proposed amendment to chapter 296-59 WAC is made to correct a reference necessitated by the federal-initiated change to chapter 296-62 WAC, Part M, Permit required confined spaces; chapter 296-62 WAC, General occupational health standards, federal-initiated proposed amendments and new sections to chapter 296-62 WAC are made to be at-least-as-effective-as the federal final rule relating to confined space, published in Federal Register Volume 58, Number 9, dated January 14, 1993; corrective amendments published in Federal Register Volume 58, Number 123, dated June 29, 1993; and corrective amendments published in Federal Register Volume 59, Number 96, dated May 19, 1994.

Federal-initiated proposed changes to chapter 296-62 WAC, Part M, Permit required confined spaces, are made to add requirements for a written permit-required confined space entry program to address monitoring, testing, and communication at workplaces which contain entry permit confined spaces. Significant new federal identical requirements amend twenty percent LEL/LFL to ten percent LEL/LFL as the action limit for flammable/explosive atmospheric gas; require a specifically designated entry supervisor and/or leadperson; and require a formal written permit for each entry into classified confined spaces. The following amendments are proposed to be at-least-as-effective-as the federal final rule: Proposed amendments to WAC 296-62-14500(1) Scope, emphasize "minimum" requirements; proposed amendments to WAC 296-62-14500(2) Application, are clarified and expanded to include all employers under the jurisdiction of the Washington Industrial Safety and Health Act, chapter 49.17 RCW. The note at WAC 296-62-14505(6) is amended to clarify the importance of assessing if it is appropriate or possible to have multiple permit spaces monitored by a single attendant. State-initiated proposed amendments to chapter 296-62 WAC are made to correct, define, and clarify references necessitated by the federal-initiated change to chapter 296-62 WAC, Part M, Permit-required confined spaces; and to delete numbering as requested by the code reviser; chapter 296-115 WAC, Safety requirements for charter boats, state-initiated proposed amendments to chapter 296-115 WAC are made to correct and define references necessitated by the federal-initiated change to chapter 296-62 WAC, Part M, Permit-required confined spaces; correct references to specific gender; and to delete numbering as requested by the code reviser; and chapter 296-155 WAC, Safety standards for construction work, state-initiated proposed amendments to chapter 296-155 WAC are made to correct and define references necessitated by the federal-initiated change to chapter 296-62 WAC, Part M, Permit-required confined spaces, replace references to the Division of Industrial Safety and Health with the Department of Labor and Industries or the Division of Consultation and Compliance; correct WAC references; and to correct references to specific gender. Other wording changes are made for clarification.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Marcia Holt, 7273 Linderson Way, Tumwater, WA, (206) 956-5530; Implementation and Enforcement: Suzanne L. Mager, 7273 Linderson Way, Tumwater, WA, (206) 956-5495.

Rule is necessary because of federal law, Federal Register Volume 58, Number 9, dated January 14, 1993; Federal Register Volume 58, Number 123, dated June 29, 1993; Federal Register Volume 59, Number 96, dated May 19, 1994; Federal Register Volume 58, Number 124, dated June 30, 1993; Federal Register Volume 58, Number 174, dated September 10, 1993; OSHA opinions standards not-at-least-as-effective-as federal standards; SHB 1118; RCW 70.74.010(21), [70.74].340, [70.74].350, and [70.74].360; and chapter 70.77 RCW.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

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: Department of Labor and Industries, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98504-4620, phone (206) 956-4615, or FAX (206) 956-5529. The department has completed small business economic impact statements for the proposed amendments for permit-required confined spaces and for explosives to meet the requirements of the Regulatory Fairness Act, chapter 19.85 RCW. In addition, the employees, participated in the development of the proposed amendments to chapter 296-52 WAC, Possession, handling and use of explosives.

Hearing Location: On October 5, 1994, at 9:30 a.m. Labor and Industries Building Auditorium, 7273 Linderson Way, Tumwater, WA; and Cavanaugh's River Inn, North 700 Division, Spokane, WA.

Assistance for Persons with Disabilities: Contact Linda Dausener by September 21, 1994, (206) 956-4615.

Submit Written Comments to: Suzanne L. Mager, Assistant Director, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620, by October 12, 1994. In addition to written comments, the department will accept comments submitted to the following voice mail number and telefacsimile machine number: Voice mail (206) 956-5525 and FAX (206) 956-5529. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: November 23, 1994.

August 24, 1994

Mark O. Brown  
Director

**AMENDATORY SECTION** (Amending Order 92-06, filed 8/10/92, effective 9/10/92)

**WAC 296-52-401 Scope and application.** (1) This chapter is adopted pursuant to the State Explosives Act, RCW 70.74.020, in accordance with chapter 34.05 RCW, the Administrative Procedure Act, and chapter 49.17 RCW, the Washington Industrial Safety and Health Act.

(2) This chapter shall be identified as chapter 296-52 WAC, "safety standards for possession, handling and use of explosives" and hereafter be called the "explosive code."

(3) This chapter shall apply to:

(a) All aspects of manufacture, possession, storage, selling, purchase, transportation, and the use of explosives or blasting agents as defined in this chapter.

(b) Any person, partnership, company, corporation, or other entity, including governmental agencies, except:

(i) Storage, handling, and use of (noncommercial) military explosives while under the control of the United States Government and/or United States Military authorities.

(ii) Those instances and actions identified by RCW 70.74.191, "Exemptions."

(4) Fireworks regulations.

(a) "Common fireworks" classified as Class C explosives (International Designation 1.4) by the U.S. Department

of Transportation shall be exempt from all requirements of this chapter. Common fireworks are subject to the requirements of chapter 70.77 RCW, State fireworks law, and chapter 212-17 WAC, fireworks regulations administered by the state department of community trade and economic development, fire protection services division.

(b) Fireworks classified as Class A or Class B explosives, (International Designation 1.1, 1.2 or 1.3) shall be subject to the storage (only) requirements of this chapter and shall be stored in magazines licensed by the department of labor and industries when unattended.

Notes: Fire protection services division administers requirements of the Uniform Fire Code and Uniform Building Code for Class C common fireworks storage.

(5) The manufacture of explosives ((as defined in WAC 296-52-417(24) shall also meet the requirements contained in chapter 296-67 WAC)) or pyrotechnics, as defined in this chapter, shall comply with the requirements of chapter 296-67 WAC, Safety standards for process safety management of highly hazardous chemicals.

((5) The manufacture of pyrotechnics as defined in WAC 296-52-417(58) shall also meet the requirements contained in chapter 296-67 WAC.))

(6) The enforcing authority of this chapter, the department of labor and industries, recognizes the obligation of other law enforcement agencies to enforce specific aspects or sections of chapter 70.74 RCW, the State Explosives Act, under local ordinance and with joint and shared authority as granted by RCW 70.74.201. The ((division of industrial safety and health)) department of labor and industries shall cooperate with all other law enforcement agencies in carrying out the intent of the explosive code and the State Explosives Act.

(7) In all activities governed by the State Explosives Act, chapter 70.74 RCW, the director shall administer this chapter with the full resources of the ((division of industrial safety and health, (WISHA))) department of labor and industries. Where materials classified by this chapter as explosives or blasting agents may be found or where the director has reasonable cause to expect they exist, administration of this chapter shall include the right of entry for inspection purposes into any location, facility, or equipment at any such times as the director or his designated representative deems appropriate and to issue penalty sanctions for all instances found not to be in compliance with the requirements of this chapter.

**AMENDATORY SECTION** (Amending Order 86-24, filed 5/6/86)

**WAC 296-52-409 Variance and procedure.** Realizing that conditions may exist in operations under which certain state standards will not have practical application, the director of the department of labor and industries or his authorized representative may, pursuant to this section, RCW 49.17.080 and/or 49.17.090 and appropriate administrative rules of this state and the department of labor and industries and upon receipt of application and after adequate investigation by the department, permit a variation from these requirements when other means of providing an equivalent measure of protection are afforded. Such variation granted shall be limited to the particular case or cases covered in the

application for variance and may be revoked for cause. The permit for variance shall be conspicuously posted on the premises and shall remain posted during the time it is in effect. All requests for variances from safety and health standards included in this or any other chapter of Title 296 WAC, shall be made in writing to the director of the department of labor and industries at Olympia, Washington, or his/her duly authorized representative, the assistant director, division of ~~(industrial safety and health)~~ consultation and compliance, department of labor and industries, Olympia, Washington. Variance application forms may be obtained from the department upon request.

**AMENDATORY SECTION** (Amending Order 86-24, filed 5/6/86)

**WAC 296-52-413 Equipment approval by nonstate agency or organization.** Whenever a provision of this chapter states that only that equipment or those processes approved by an agency or organization other than the department of labor and industries, such as the Underwriters Laboratories ~~((or the Bureau of Mines))~~, Mine Safety and Health Administration or the National Institute for Occupational Safety and Health, shall be construed to mean that approval of such equipment or process by the designated agency or group shall be prima facie evidence of compliance with the provision of this chapter.

**AMENDATORY SECTION** (Amending Order 90-18, filed 1/10/91, effective 2/12/91)

**WAC 296-52-417 Definitions.** Definitions as used in this chapter, unless a different meaning is plainly required by the context:

~~((1))~~ "American Table of Distances" ~~((also known as Quantity Distance Tables))~~ means American Table of Distances for Storage of Explosives as revised and approved by the Institute of the Makers of Explosives ~~((June 5, 1964))~~.

~~((2))~~ "Approved storage facility" means a facility for the storage of explosive materials conforming to the requirements of this part and covered by a license or permit issued under authority of the ~~((Internal Revenue Service))~~ department of labor and industries. (See WAC 296-52-441.)

~~((3))~~ "Attend" means the physical presence of an authorized person within the field of vision of explosives. The said attendant shall be awake, alert and not engaged in activities which may divert attention so that in case of an emergency the attendant can get to the explosives quickly and without interference, except for brief periods of necessary absence, during which absence simple theft of explosives is not ordinarily possible.

~~((4))~~ "Authorized," "approved" or "approval" means authorized, approved, or approval by the department of labor and industries or other approving agency or individual as specified by the provisions of this chapter.

"Authorized person" means a person approved or assigned by the employer, owner, or licensee to perform a specific type of duty or duties or to be at a specific location or locations at the jobsite.

~~((5))~~ "Barricaded" means the effective screening of a building containing explosives from a magazine or other building, railway, or highway by a natural or an artificial

barrier. A straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier.

~~((6))~~ "Blast area" means the area of a blast within the influence of flying rock missiles, gases, and concussion.

~~((7))~~ "Blast pattern" means the plan of the drill holes laid out on a bench; an expression of the burden distance and the spacing distance and their relationship to each other.

~~((8))~~ "Blast site" means the area where explosive material is handled during loading, including the perimeter of blast holes and 50 feet in all directions from loaded holes or holes to be loaded. In underground mines 15 feet of solid rib or pillar can be substituted for the 50 foot distance.

~~((9))~~ "Blaster" means that qualified person in charge of and responsible for the loading and firing of a blast.

"Blaster in charge" shall mean a person who is fully qualified in the blasting process to be used including all aspects of storage, handling and use as recommended by the manufacturer and as required by this chapter. He/she shall be adequately trained and experienced as to be capable of recognizing hazardous conditions throughout the blast site and has the authority to take prompt corrective action.

~~((10))~~ "Blasting agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when ~~((unconfined))~~ confined by means of a No. 8 test blasting cap.

~~((11))~~ "Blockholing" means the breaking of boulders by firing a charge of explosives that has been loaded in a drill hole.

"Competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to personnel or property, and who has authorization to take prompt corrective action to eliminate them.

~~((12))~~ "Conveyance" means any unit for transporting explosives or blasting agents, including but not limited to trucks, trailers, rail cars, barges, and vessels.

~~((13))~~ "Day box" means a box which is not approved as a magazine for unattended storage of explosives. Such box may be used for storage of explosives during working hours on a job site, provided that it shall always be guarded against theft, particularly in inhabited areas, and shall be attended or locked and secured against outright lifting, as the risk demands. Caps shall be safely separated from other explosives. Such day boxes shall be marked with the word "explosives" and be constructed in accordance with WAC 296-52-457(7).

~~((14))~~ "Dealer" means any person who purchases explosives or blasting agents for the sole purpose of resale, and not for use or consumption.

~~((15))~~ "Department" means the department of labor and industries.

~~((16))~~ "Detonating cord" means a round, flexible cord containing a center core of high explosive and used to initiate other explosives.

~~((17))~~ "Detonator" means any device containing any initiating or primary explosive that is used for initiating

detonation. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires.

~~((18))~~ "Director" means the director of the department of labor and industries, or the designated representative.

~~((19))~~ "Division" means the division of industrial safety and health of the department.

~~((20))~~ "Efficient artificial barricade" means an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet or such other artificial barricade as approved by the department of labor and industries.

~~((21))~~ "Electric blasting cap" means a blasting ~~((eap))~~ detonator designed for and capable of detonation by means of an electric current.

~~((22))~~ "Electric blasting circuitry" means:

~~((a))~~ • Bus wire. An expendable wire, used in parallel or series, in parallel circuits, to which are connected the leg wires of electric blasting caps.

~~((b))~~ • Connecting wire. An insulated expendable wire used between electric blasting caps and the leading wires or between the bus wire and the leading wires.

~~((c))~~ • Leading wire. An insulated wire used between the electric power source and the electric blasting cap circuit.

~~((d))~~ • Permanent blasting wire. A permanently mounted insulated wire used between the electric power source and the electric blasting cap circuit.

~~((23))~~ "Electric delay blasting caps" means caps designed to detonate at a predetermined period of time after energy is applied to the ignition system.

"Emulsion" means an explosive material containing substantial amounts of oxidizer dissolved in water droplets, surrounded by an immiscible fuel, or droplets of an immiscible fuel surrounded by water containing substantial amounts of oxidizer.

~~((24))~~ "Explosive" or "explosives" whenever used in this chapter means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. In addition, the term "explosives" shall include all material which is classified as Class A, Class B, and Class C explosives by the federal Department of Transportation ~~((: Provided, That))~~. For the purposes of this chapter small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder not exceeding five pounds shall not be defined as explosives ~~((: Provided, That such black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. Classification of explosives shall include but not be limited to the following:))~~ unless possessed or used for a purpose inconsistent with small arms use or other lawful purpose.

Note: ~~((Classification of explosives is described by the U.S. Department of Transportation as follows (see 49 CFR, Parts 100-199) (1984))~~ As excerpted from RCW 70.74.010(4), classification of explosives shall include but not be limited to the following:

- (a) Class A explosives: (Possessing detonating hazard) dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder exceeding five pounds, blasting caps in quantities of 1001 or more, and detonating primers.
- (b) Class B explosives: (Possessing flammable hazard) propellant explosives, including smokeless propellants exceeding fifty pounds.
- (c) Class C explosives: (Including certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities) blasting caps in quantities of 1000 or less.

Note: See also Appendix III for U.S. Department of Transportation regulations excerpted from 49 CFR Parts 173.50, 173.52 and 173.53, 10/01/92 edition, relating to federal classifications of explosives definitions, classification code tables and compatibility group tables.

~~((25))~~ "Explosive-actuated power devices" means any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices.

~~((26))~~ "Explosives manufacturing building" means any building or other structure (excepting magazines) containing explosives, in which the manufacture of explosives, or any processing involving explosives, is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device.

~~((27))~~ "Explosives manufacturing plant" means all lands, with the buildings situated thereon, used in connection with the manufacturing or processing of explosives or in which any process involving explosives is carried on, or the storage of explosives thereat, as well as any premises where explosives are used as a component part or ingredient in the manufacture of any article or device.

~~((28))~~ "Factory building" means the same as "manufacturing building."

~~((29))~~ "Forbidden or not acceptable explosives" means explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the federal Department of Transportation.

~~((30))~~ "Fuel" means a substance which may react with oxygen to produce combustion.

~~((31))~~ "Fuse (safety)" means a flexible cord containing an internal burning medium by which fire or flame is conveyed at a continuous and uniform rate from the point of ignition to the point of use, usually a fuse detonator.

~~((32))~~ "Fuse cap (fuse detonator)" means a detonator which is initiated by a safety fuse; also referred to as an ordinary blasting cap.

~~((33))~~ "Fuse lighters" means special devices for the purpose of igniting safety fuse.

~~((34))~~ "Handler" means any person/individual who handles explosives for purposes of transporting, moving, or assisting a licensed user (blaster) in loading, firing, blasting, or disposing of explosives and blasting agents. This does not include employees of a licensed manufacturer engaged in manufacturing process, drivers of common carriers or contract haulers.

~~((35))~~ "Handloader" means any person who engages in the noncommercial assembling of small arms ammunition for

personal use, specifically the operation of installing new primers, powder, and projectiles into cartridge cases.

((36)) "Handloader components" means small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder as used in muzzle loading firearms not exceeding five pounds.

((37)) "Highway" ~~((means))~~ shall mean and include any public street, public alley, or public road.

"Improvised device" means a device which is fabricated with explosives or destructive, lethal, noxious, pyrotechnic, or incendiary chemicals and which is designed to disfigure, destroy, distract, or harass.

((38)) "Inhabited building" means only a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble, other than any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives. ~~((A magazine for indoor storage is not required to be a cubic yard in size as long as it is constructed as stated in WAC 296-52-090(3)).~~

~~Note: The interpretation of an uninhabited building as defined by the "Bureau of Alcohol, Tobacco, and Firearms" Department of the Treasury, which is the federal regulatory agency of explosives, allows 50 pounds of high explosives or 5,000 caps in a warehouse, wholesale, or retail establishments. It also states: "No indoor facilities for storage of high explosive shall be located in a residence or dwelling." We only allow 1,000 caps, which is computed to 1 1/2 pounds of explosives and is much less than the Bureau of Alcohol, Tobacco, and Firearms allows. Therefore, the department will allow indoor storage to include shops and maintenance buildings.)~~

"Low explosives" means explosives materials which can be caused to deflagrate when confined, (for example, black powder, safety fuses, igniters, igniter cords, fuse lighters, and "special fireworks" defined as Class B explosives by U.S. Department of Transportation regulations in 49 CFR Part 173, except for bulk statutes).

((39)) "Magazine" means any building, structure or container, other than an explosive manufacturing building, approved for the storage of explosive materials.

((40)) "Manufacturer" means any person engaged in the business of manufacturing explosive materials for purposes of sale, distribution, or use, provided that the term manufacturing shall not include inserting a detonator into a cast booster or a stick of high explosive product to make a primer for loading into a blasthole.

((41)) "Misfire" means the complete or partial failure of an explosive charge to explode as planned.

((42)) "Motor vehicle" means any self-propelled automobile, truck, tractor, semitrailer or full trailer, or other conveyance used for the transportation of freight.

((43)) "Mudcap" means covering the required number of cartridges that have been laid on top of a boulder with a three or four inch layer of mud (free from rocks or other material which might constitute a missile hazard). Mudcapping is also commonly known as "bulldozing" and "dobyng."

((44)) "Natural barricade" means any natural hill, mound, wall, or barrier composed of earth or rock or other solid material of a minimum thickness of not less than three feet.

~~((45))~~ "Nonelectric delay blasting cap" means a blasting cap with an integral delay element in conjunction with and capable of being detonated by a detonation impulse or signal from miniaturized detonating cord or shock tube.

~~((46))~~ "Oxidizer" means a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

~~((47))~~ "Permanent magazines" means magazines that are permanently fastened to a foundation and that are left unattended. The capacity of said permanent magazines shall not exceed the limits stated in RCW 70.74.040. Permanent magazines shall be approved and licensed.

~~((48))~~ "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

~~((49))~~ "Person responsible," for an explosives magazine, means the legal person who actually operates the magazine and who is responsible for the proper storage, protection and removal of the explosives. The responsible person may be the owner or the lessee or the authorized operator of the magazine.

~~((50))~~ "Portable magazines" also called "field" magazines means magazines that are designed to be unattended and that are not permanently fastened to a foundation. Said magazines shall be so constructed or secured that they can not be readily lifted and carried away by unauthorized persons. The capacity of said portable magazines shall be limited to the amount of explosives required for efficient operation. Portable magazines shall be approved and licensed.

~~((51))~~ "Possess" means the physical possession of explosives in one's hand, vehicle, magazine or building.

~~((52))~~ "Primary blasting" means the blasting operation by which the original rock formation is dislodged from its natural location.

~~((53))~~ "Primer" means a unit, package, cartridge, or container of explosives into which a detonator or detonating cord is inserted or attached to initiate other explosives or blasting agents.

~~((54))~~ "Propellant-actuated power device" means any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge.

~~((55))~~ "Public conveyance" means any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.

~~((56))~~ "Public utility transmission system" means power transmission lines over 751 volts, telephone cables, or microwave transmission systems, or buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil, or refined products and chemicals, whose services are regulated by the utilities and transportation commission, municipal, or other publicly owned systems.

~~((57))~~ "Purchaser" means any person who buys, accepts, or receives any explosives or blasting agents.

~~((58))~~ "Pyrotechnics" means any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects which are commonly referred to as fireworks.

"Qualified person" means one who, by possession of a recognized degree, certificate, or professional standing, or

who by extensive knowledge, training, and experience, has successfully demonstrated his ability to solve or resolve problems relating to the subject matter, the work, or the project.

((59)) "Railroad" means any steam, electric, or other railroad which carries passengers for hire.

((60)) "Railroad freight car" means cars that are built for and loaded with explosives and operated in accordance with DOT rules.

((61)) "Safety fuse" means a flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate for the purpose of firing blasting caps.

((62)) "Secondary blasting" means the reduction of oversize material by the use of explosives to the dimension required for handling, including mudcapping and blockholing.

((63)) "Semiconductive hose" means a hose with an electrical resistance high enough to limit flow of stray electric currents to safe levels, yet not so high as to prevent drainage of static electric charges to ground; hose of not more than 2 megohms resistance over its entire length and of not less than 5,000 ohms per foot meets the requirement.

((64)) "Shall" means that the rule establishes a minimum standard which is mandatory.

"Shock tube" means a small diameter plastic tube for initiating detonators. It contains a limited amount of reactive material so that the energy that is transmitted through the tube by means of a detonation wave is guided through and confined within the walls of the tube.

"Should" means recommended.

((65)) "Small arms ammunition" means any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, incendiary, tracer, spotting, or pyrotechnic projectiles is excluded from this definition.

((66)) "Small arms ammunition primers" means small percussion-sensitive explosive charges encased in a cap or capsule and used to ignite propellant powder and shall include percussion caps as used in muzzle loaders.

((67)) "Smokeless propellants" means solid chemicals or solid chemical mixtures in excess of fifty pounds which function by rapid combustion.

((68)) "Special industrial explosive devices" means explosive-actuated power devices and propellant-actuated power devices.

((69)) "Special industrial explosives materials" means shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives, which include dynamite, trinitrotoluene (TNT), pentaerythritol tetranitrate (PETN), hexahydro-1, 3, 5-trinitro-s-triazine (RDX), and other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

((70)) "Springing" means the creation of a pocket in the bottom of a drill hole by the use of a moderate quantity of explosives in order that larger quantities or explosives may be inserted therein.

((71)) "Sprung holes" means to spring or chamber the bottom of the drilled hole to allow room for additional explosives as a bottom load.

((72)) "Stemming" means a suitable inert incombustible material or device used to confine or separate explosives in a drill hole, or to cover explosives in mudcapping.

((73)) "Trailer" means semitrailers or full trailers as defined by DOT, that are built for and loaded with explosives and operated in accordance with DOT rules.

~~((74)) "Unclassified explosives" means any two components which, when mixed become capable of detonation by a No. 6 test blasting cap.~~

((75)) "User" means any natural person, manufacturer, or blaster who acquires, purchases, or uses explosives as an ultimate consumer or who supervises such use.

((76)) "Water gels or slurry explosives" comprise a wide variety of materials used for blasting. They all contain substantial proportions of water and high proportions of ammonium nitrate, some of which is in solution in the water. Two broad classes of water gels are:

((a)) Those which are sensitized by a material classed as an explosive, such as TNT or smokeless powder,

((b)) Those which contain no ingredient classified as an explosive; these are sensitized with metals such as aluminum or with other fuels. Water gels may be premixed at an explosives plant or mixed at the site immediately before delivery into the bore hole.

((77)) "DOT specification" are regulations of the Department of Transportation published in 49 CFR Chapter I.

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

**WAC 296-52-419 Basic legal obligations.** (1) It is unlawful for any person to manufacture, purchase, sell, offer for sale, use, possess, transport, or store any explosive improvised device, or components that are intended to be assembled into an explosive or improvised device without having a validly issued license from the department of labor and industries which license has not been revoked or suspended. Violation of this section is a ~~(gross misdemeanor)~~ Class C felony.

(2) Upon notice from the department of labor and industries or any law enforcement agency having jurisdiction, a person manufacturing, purchasing, selling, offering for sale, using, possessing, transporting, or storing any explosives, improvised device, or components of explosives or improvised devices without a license shall immediately surrender ~~(any and all such)~~ those explosives, improvised devices, or components to the department or to the respective law enforcement agency.

(3) At any time that the director of labor and industries requests the surrender of explosives, improvised devices, or components of explosives or improvised devices from any person pursuant to subsection (2) of this section, the director may in addition request the attorney general to make application to the superior court of the county in which the unlawful practice exists for a temporary restraining order or such other relief as appears to be appropriate under the circumstances.

(4) Miscellaneous provisions - general hazard. No person shall store, handle, or transport explosives or blasting agents when such storage, handling, and transportation of

explosives or blasting agents constitutes an undue hazard to life.

(5) No person, except the director of labor and industries or the director's authorized agent, the owner, the owner's agent, or a person authorized to enter by the owner or owner's agent, or a law enforcement officer acting within his or her official capacity, may enter any explosives manufacturing building, magazine or car, vehicle or other common carrier containing explosives in this state. Violation of this section is a gross misdemeanor punishable under chapter 9A.20 RCW.

(6) Unless otherwise allowed to do so under this chapter, a person who exhibits a device designed, assembled, fabricated, or manufactured, to convey the appearance of an explosive or improvised device, and who intends to, and does, intimidate or harass a person, is guilty of a Class C felony.

(7) Discharge of firearms or igniting flame near explosives.

(a) No person shall discharge any firearms at or against any magazine or explosives manufacturing buildings or ignite any flame or flame-producing device nearer than two hundred feet from said magazine or explosives manufacturing building.

(b) No person shall discharge a firearm at a magazine or at explosive material.

(8) Every person who maliciously places any explosive or improvised device in, upon, under, against, or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, in such a manner or under such circumstances as to destroy or injure it if exploded, shall be punished as follows:

(a) If the circumstances or surroundings are such that the safety of any person might be endangered by the explosion, by imprisonment in a state correctional facility for not more than twenty years.

(b) In every other case by imprisonment in a state correctional facility for not more than five years.

(9) It shall be unlawful for any person to abandon explosives or improvised devices. Violation of this section is a gross misdemeanor punishable under chapter 9A.20 RCW.

(10) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provisions to other persons or circumstances is not affected.

(11) This chapter shall not preclude local jurisdictions such as city or county government, or other government authorities such as the Washington utilities and transportation commission or Washington state patrol from adopting and administering local ordinances or Washington Administrative Code regulations relating to explosives. Said rules and regulations however shall not diminish or replace any regulation of this chapter which will be administered by the director of labor and industries in all applications where explosives are stored, kept or had, without regard for employer-employee relationship.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-421 Licenses—Information verification.** (1) Any information request by the department, in order to verify statements in an application or in order to facilitate a department inquiry, shall be supplied prior to the issuance or renewal of a license.

(2) The director of labor and industries shall require, as a condition precedent to the original issuance or renewal of any explosive license, fingerprinting and criminal history record information checks of every applicant.

(a) In the case of a corporation, fingerprinting and criminal history record information checks shall be required for the management officials directly responsible for the operations where the explosives are used if such persons have not previously had their fingerprints recorded with the department of labor and industries.

(b) In the case of a partnership, fingerprinting and criminal history record information checks shall be required of all general partners.

(c) Such fingerprints as are required by the department of labor and industries shall be submitted on forms provided by the department to the identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior convictions of the individuals fingerprinted.

(d) The Washington state patrol shall provide to the director of labor and industries such criminal record information as the director may request.

(e) The applicant shall give full cooperation to the department of labor and industries and shall assist the department of labor and industries in all aspects of fingerprinting and criminal history record information check.

(f) The applicant may be required to pay a fee not to exceed twenty dollars to the agency that performs the fingerprinting and criminal history process.

(3) The director of labor and industries shall not issue a license to manufacture, purchase, store, use, or deal with explosives to:

(a) Any persons under twenty-one years of age;

(b) Any person whose license is suspended or whose license has been revoked, except as provided in WAC 296-52-423;

(c) Any person who has been convicted in this state or elsewhere of a violent offense as defined in RCW 9.94A.030, perjury, false swearing, or bomb threats or a crime involving a schedule I or II controlled substance, or any other drug or alcohol related offenses, unless such other drug or alcohol related offense does not reflect a drug or alcohol dependency.

Exception: The director of labor and industries may issue a license if the person suffering a drug or alcohol related dependency is participating in or has completed an alcohol or drug recovery program acceptable to the department of labor and industries and has established control of their alcohol or drug dependency. The director of labor and industries shall require the applicant to provide proof of such participation and control.

(d) Any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any

mental disability or disease and who has not at the time of application been restored to competency.

(e) The department shall not issue or reissue an explosives license to any individual who is physically handicapped or diseased to an extent that he or she cannot safely pursue or continue all normal aspects of an explosives occupation. Disqualifying physical imparities may include but are not limited to examples such as blindness, deafness, or subject to epileptic or diabetic seizures or coma.

(f) A license holder of any unexpired license(s) shall surrender such license(s) to the department upon request for identified cause. Such surrender is subject to appeal to refute the contention of cause with verification of physical ability by a qualified physician.

Note: See also WAC 296-52-425 and 296-52-433.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-423 Revoking or suspending licenses.**

(1) The department of labor and industries shall revoke and not renew the license of any person holding a manufacturer, dealer, purchaser, user, or storage license upon conviction of any of the following offenses, which conviction has become final:

(a) A violent offense as defined in RCW 9.94A.030;

(b) A crime involving perjury or false swearing, including the making of a false affidavit or statement under oath to the department of labor and industries in an application or report made pursuant to this title;

(c) A crime involving bomb threats;

(d) A crime involving a schedule I or II controlled substance, or any other drug or alcohol related offense, unless such other drug or alcohol related offense does not reflect a drug or alcohol dependency.

Conditional exception: The department of labor and industries may issue a conditional renewal of the license to any convicted person suffering a drug or alcohol dependency who is participating in an alcoholism or drug recovery program acceptable to the department of labor and industries and has established control of their alcohol or drug dependency. The department of labor and industries shall require the applicant to provide proof of such participation and control.

(e) A crime relating to possession, use, transfer, or sale of explosives under this chapter or any other chapter of the Revised Code of Washington.

(2) The department of labor and industries shall revoke the license of any person adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease. The director shall not renew the license until the person has been restored to competency.

(3) The department of labor and industries is authorized to suspend, for a period of time not to exceed six months, the license of any person who has violated this chapter or the rules promulgated pursuant to this chapter.

(4) The department of labor and industries may revoke the license of any person who has repeatedly violated this chapter or the rules promulgated pursuant to this chapter, or who has twice had his or her license suspended under this chapter.

(5) Upon receipt of notification by the department of labor and industries of revocation or suspension, a licensee must surrender immediately to the department any or all such licenses revoked or suspended. License fees will not be refunded for any licenses which are revoked for cause.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-425 Dealer's license.** (RCW 70.74.130 and 70.74.230, apply.)

(1) The application for a dealer's license to buy explosives for the sole purpose of resale shall be made to Department of Labor and Industries, (~~Division of Industrial Safety and Health,~~) Olympia.

(2) Original license applications and/or application for renewal shall be completed on forms available from the department and shall comply with all requirements of WAC 296-52-421. The license fee shall be ~~((twenty-five dollars))~~ thirty-seven dollars and shall increase to fifty dollars two years after the effective date of this section.

(3) The license shall be renewed annually, no later than the expiration date.

(4) When an order for explosives is placed in person, by telephone, or in writing by a purchaser, the seller shall request proper authorization and identification from the purchaser and shall record the purchaser's license number.

(5) A dealer shall not distribute explosive materials to a company or individual on the order of a person who does not appear on the up to date list of representatives or agents and if the person does appear on the list, the dealer shall verify the identity of such person.

Exception: The above regulation(s) shall not apply to licensed common carrier companies when said common carrier is not purchasing the explosives but is merely transferring the materials from the seller to the purchaser and the transfer practices comply with current state and federal DOT regulations.

**(6) Dealers records.**

(a) A dealer's record of all explosives purchased and sold as defined in RCW 70.74.010, shall be kept on file and a copy transmitted not later than the tenth of every month to the department.

(b) The purchaser's name and license number shall be stated on dealer's record, and the name of the person authorized by the purchaser to physically receive the explosives.

(c) The dealer shall ascertain the identity of the individual who receives the explosives from a picture-type identification card, such as a driver's license. The recipient shall sign a receipt, documenting the explosives received and said receipt shall be retained by the dealer for not less than one year from the date of purchase.

(7) Any package, cask, or can containing any explosive, nitroglycerin, dynamite, or powder that is put up for sale, or is delivered to any warehouseman, dock, depot, or common carrier shall be properly labeled thereon to indicate its explosive classification.

(8) If the explosives are delivered by the dealer or dealer's authorized agent to an explosives magazine, the license number of said magazine and the legal signature of

the recipient, properly authorized and identified, shall be obtained.

(9) No person shall sell, display, or expose for sale any explosive, improvised device or blasting agent on any highway, street, sidewalk, public way, or public place.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-429 License for manufacturing.** RCW 70.74.110(~~(-applies))~~ and 70.74.144, apply.

(1) No person, partnership, firm, company or corporation shall manufacture explosives or blasting agents or use any process involving explosives as a component part in the manufacture of any device, article or product without first obtaining a manufacturer's license from the department of labor and industries.

(2) The application for license for manufacturing explosives and/or blasting agents shall be made to Department of Labor and Industries, Division of (~~(Industrial Safety and Health))~~ Consultation and Compliance, Olympia. The license fee for either an original license or a renewal shall be (~~(twenty-five))~~ thirty-seven dollars and shall increase to fifty dollars two years after the effective date of this section.

(3) The application for original license or renewal shall be completed on forms available from the department and shall provide the following information:

- (a) Location of place of manufacture or processing;
- (b) Kind of explosives manufactured, processed, or used;
- (c) The distance that such explosives manufacturing building is located or intended to be located from the other factory buildings, magazines, inhabited buildings, railroads, highways, and public utility transmission systems;
- (d) The name and address of the applicant;
- (e) The reason for desiring to manufacture explosives;
- (f) The applicant's citizenship, if the applicant is an individual;
- (g) If the applicant is a partnership, the names and addresses of the partners and their citizenship;
- (h) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof, and their citizenship; and
- (i) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

(4) Each application for license shall be accompanied by a site plan of the proposed or existing manufacturing facilities. The plan shall show:

- (a) The distance each manufacturing building is located from other buildings on the premises where people are employed, from other occupied buildings on adjoining property, from buildings where customers are served, from public highways and utility transmission systems.
- (b) The site plan shall demonstrate compliance with all applicable requirements of chapter 70.74 RCW, the State Explosives Act as it exists at the time of this adoption or is hereafter amended; with applicable requirements of chapter 296-50 WAC, Safety standards—Manufacture of explosives; with the separation/location requirements of this chapter.

(c) The site plan shall identify and describe all natural or artificial barricades which are utilized to influence minimum permissible separation distances.

(d) The site plan shall identify the nature of and kind of work carried on in each building.

(e) The site plan shall specify the maximum amount and kind of explosives or blasting agents which will be permitted in each building or magazine at any one time.

(5) The application for license shall comply with all requirements of WAC 296-52-421.

(6) Upon receipt of a completed application meeting all requirements of this section, the department will schedule an inspection of the premises at the earliest time possible.

(7) The department will issue a license to the applicant(s) provided that:

(a) The required inspection confirms that the site plan is accurate and the facilities comply with applicable regulations of the department;

(b) The applicant(s) or operating superintendent and employees are sufficiently trained and experienced in the manufacture of explosives.

(8) A license to manufacture explosives and/or blasting agents shall be valid for not more than one year from the date of issue unless suspended or revoked by the department.

(9) A copy of the site plan and manufacturer's license shall be posted in the main office of each manufacturing plant.

(a) The site plan shall be maintained to reflect current status of manufacturing facilities, occupancy changes, etc.

(b) The department shall be notified when significant change occurs in the site plan. If the change is of such nature or magnitude as to make compliance with all requirements of this chapter questionable, the license holder shall consult with the department before changing the operations.

(10) Specific applicable requirements for the manufacture of explosives and blasting agents are codified and distributed in chapter 296-50 WAC, Safety standards—Manufacture of explosives.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-433 Purchaser's license.** RCW 70.74.135(~~(-applies))~~ and 70.74.137, apply.

(1) No person, firm, partnership, or corporation and including public agencies, shall be permitted to purchase explosives or blasting agents without a valid license as issued by the department of labor and industries.

(2) Applicants desiring to purchase explosives or blasting agents, except hand loader components as defined in this chapter, shall make application for license to the department of labor and industries. Application forms may be obtained at all department district offices, and from explosives dealers.

(3) Applicants shall comply with all requirements of WAC 296-52-421 and shall have a current user (blaster) license issued by the department. The purchaser's license fee shall be (~~(five))~~ ten dollars and shall increase to fifteen dollars two years after the effective date of this section.

(4) Applicants shall be required to furnish at least the following information:

- (a) The location where explosives are to be used;

- (b) The kind and amount of explosives to be used;
- (c) The name and address of the applicant;
- (d) The reason for desiring to use explosives;
- (e) The citizenship of the applicant, if the applicant is an individual;

(f) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(g) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship;

(h) Documented proof of ownership of a licensed storage magazine or a signed authorization to use another person's licensed magazine; or the purchaser shall sign a statement certifying that the explosives will not be stored.

(i) Such other pertinent information as the director of the department of labor and industries shall require to effectuate the purposes of this chapter.

(5) The department will grant a purchaser's license after all legal requirements have been fulfilled.

(6) The license is valid for one year from date of issuance.

(7) Purchaser shall, prior to ordering explosive materials, furnish the dealer a current list of the representatives or agents authorized to order explosive materials on their behalf showing the name, address, drivers license number or valid identification and date and place of birth. A copy of the list shall be submitted with the purchaser's application. The dealer and the department lists shall be updated as changes occur.

(8) The individual who physically receives the purchased explosives shall prove to the satisfaction of the dealer that he, personally, is the purchaser, or the person authorized by the purchaser to receive said purchased explosives. Such authorization procedure shall be approved by the department. Said receiver of explosives shall identify himself properly and shall sign the dealer's record with his legal signature.

#### AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-437 User's (blaster's) license.** RCW 70.74.020(~~applies~~) and 70.74.142, apply.

(1) No person, firm, partnership, or corporation shall use, blast, or dispose of explosives and/or blasting agents unless in possession of a valid user's (blaster's) license issued by the department of labor and industries.

(2) The application for a user's (blaster's) license to use, blast or dispose explosives and blasting agents shall be made to Department of Labor and Industries, Division of (~~Industrial Safety and Health~~) Consultation and Compliance, Olympia.

(a) Application forms may be obtained at all department district offices, and from explosives dealers.

(b) The license is valid for one year from date of issuance. The license fee shall be (~~five~~) ten dollars and shall increase to fifteen dollars two years after the effective date of this section.

(c) Applicants shall comply with all requirements of WAC 296-52-421.

(d) User (blaster) may be required to verify name of licensed purchaser, which will be confirmed and approved by the department.

(3) In addition to the submission of the application form, all new applicants, all applicants requesting change in classification of their license, and all applicants who have not renewed their user (blaster) license within sixty days of expiration will be required to submit a resume of successful blasting experience, properly witnessed, and to pass a written examination prepared and administered by the department.

(4) User (blaster) qualifications:

(a) A user (blaster) shall be able to understand and give written and oral orders.

(b) A user (blaster) shall be in good physical condition and not be addicted to narcotics, intoxicants, or similar types of drugs. This rule does not apply to persons taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the worker or others.

(c) A user (blaster) shall be qualified by reason of training, knowledge, and experience, in the field of transporting, storing, handling, and use of explosives, and have a working knowledge of state and local laws and regulations which pertain to explosives.

(d) User (blaster) shall be required to furnish satisfactory evidence of competency in handling explosives and performing in a safe manner the type of blasting that will be required.

(e) The user (blaster) shall be knowledgeable and competent in the use of each type of blasting method used.

(5) The department will issue a user's license card which shall state the limitations imposed on the licensee and shall be presented by the user to authorized persons, upon request, together with valid personal identification.

(6) A "hand loader" as defined in (~~RCW 70.74.010~~) this chapter, does not require a user's license.

#### AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-441 Storage magazine license requirements.** RCW 70.74.120, applies.

(1) All explosives or blasting agents as defined in this chapter shall be kept or stored in magazines licensed by the department and which comply with the construction, location, and security requirements established by this chapter.

(2) Any person engaged in keeping or storing explosives or blasting agents shall make application to the department for an operating license for each storage magazine before engaging in the activity of keeping or storing explosives or blasting agents. Applications shall be made to the Department of Labor and Industries, Division of (~~Industrial Safety and Health~~) Consultation and Compliance, Olympia, WA 98504.

(3) License applicants shall meet the requirements of WAC 296-52-421.

(4) License applicants or the officers, agents, or employees of the applicant shall demonstrate sufficient experience in the handling of explosives, including the storage requirements for the different types of explosives or blasting agents to be stored.

(5) Each application shall include the following information:

(a) The name and address of the applicant;

(b) The reason for desiring to store or possess explosives;

(c) The citizenship of the applicant if the applicant is an individual;

(d) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(e) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship;

(f) The location of the magazine, if then existing, or in case of a new magazine, the proposed location of such magazine;

(g) The kind of explosives that are kept or stored or possessed or intended to be kept or stored or possessed and the maximum quantity that is intended to be kept or stored or possessed thereat;

(h) The distance that such magazine is located or intended to be located from other magazines, inhabited buildings, explosives manufacturing buildings, railroads, highways, and public utility transmission systems;

(i) And such other pertinent information as the director of the department of labor and industries shall require to effectuate the purpose of this chapter.

(6) A license number shall be permanently affixed on the inside and outside of each storage magazine. This license number will stay with each magazine during its life.

~~(7) ((The unlawful entry into an explosives magazine or an actual or suspected theft of explosives shall be reported immediately to the department and to the local law enforcement agency.~~

~~(8))~~ (8) If the magazine is used or leased by a person other than the owner, such other person shall then be responsible for the safe operation of the magazine, and for obtaining of the license.

When the responsibility for a magazine is transferred from one person to another, the transferor shall immediately notify the department, stating the magazine license number. The transferee shall execute a new application and pay the fee for one year, based on WAC 296-52-449.

~~((9))~~ (8) When a magazine is moved, altered or destroyed, the responsible person shall notify the department stating the magazine license number. When a magazine is altered, the alterations made shall be stated.

The moving of a magazine on a job site within a reasonable distance from its original location stated on the application is permitted without notifying the department; provided, that the new location complies with the Explosives Act and Explosives Code, and that the magazine can be quickly located for an inspection.

~~((10))~~ (9) Licenses will be issued pursuant to the procedures identified in WAC 296-52-445. The license fees are published in WAC 296-52-449.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-449 Storage magazine license fees.** RCW 70.74.140, applies.

The annual license fee for operating each magazine has been established by the department and shall be as shown in the following table:

Maximum weight (pounds) of explosives permitted in each magazine	Maximum number of blasting caps permitted in each magazine	Annual fee (dollars) for each magazine
200	133,000	<del>((10.00))</del> 20.00
1,000	667,000	<del>((25.00))</del> 35.00
5,000	3,335,000	<del>((35.00))</del> 50.00
10,000	6,670,000	<del>((45.00))</del> 60.00
50,000	33,350,000	<del>((60.00))</del> 75.00
Max. 300,000	Max. 200,000,000	<del>((75.00))</del> 100.00

Any permanent magazine licensed for two years shall pay twice the license fee shown.

**AMENDATORY SECTION** (Amending Order 86-24, filed 5/6/86)

**WAC 296-52-453 Construction of magazines.** (1) Construction of all explosive storage magazines must comply with Washington state and Bureau of Alcohol, Tobacco, and Firearms regulations.

(2) Construction of permanent storage facilities.

(a) General. A Class 1 storage facility shall be a permanent structure; a building, an igloo or army-type structure, a tunnel, or a dugout. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated.

(b) Buildings. All building type storage facilities shall be constructed of masonry, wood, metal, or a combination of these materials and shall have no openings except for entrances and ventilation. Ground around such storage facilities shall slope away for drainage.

(c) Masonry wall construction. Masonry wall construction shall consist of brick, concrete, tile, cement block, or cinder block and shall be not less than 6 inches in thickness. Hollow masonry units used in construction shall have all hollow spaces filled with well tamped coarse dry sand or weak concrete (a mixture of one part cement and eight parts of sand with enough water to dampen the mixture while tamping in place). Interior wall shall be covered with a nonsparking material.

(d) Fabricated metal wall construction. Metal wall construction shall consist of sectional sheets of steel or aluminum not less than number 14 gauge, securely fastened to a metal framework. Such metal wall construction shall be either lined inside with brick, solid cement blocks, hardwood not less than 4 inches in thickness or material of equivalent strength, or shall have at least a 6 inch sand fill between interior and exterior walls. Interior walls shall be constructed of or covered with a nonsparking material.

(e) Wood frame wall construction. The exterior of outer wood walls shall be covered with iron or aluminum not less than number 26 gauge. An inner wall of nonsparking materials shall be constructed so as to provide a space of not less than 6 inches between the outer and inner walls, which space shall be filled with coarse dry sand or weak concrete.

(f) Floors. Floors shall be constructed of a nonsparking material and shall be strong enough to bear the weight of the maximum quantity to be stored.

(g) Foundations. Foundations shall be constructed of brick, concrete, cement block, stone, or wood posts. If piers

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or posts are used, in lieu of a continuous foundation, the space under the buildings shall be enclosed with metal.

(h) Roof.

(i) Except for buildings with fabricated metal roofs, the outer roof shall be covered with no less than number 26-gauge iron or aluminum fastened to a 7/8-inch sheathing.

(ii) Where it is possible for a bullet to be fired directly through the roof and into the storage facility at such an angle that the bullet would strike a point below the top of inner walls, storage facilities shall be protected by one of the following methods:

(A) A sand tray shall be located at the tops of inner walls covering the entire ceiling area, except that necessary for ventilation, lined with a layer of building paper, and filled with not less than 4 inches of coarse dry sand.

(B) A fabricated metal roof shall be constructed of 3/16-inch plate steel lined with 4 inches of hardwood or material of equivalent strength (for each additional 1/16-inch of plate steel, the hardwood or material of equivalent strength lining may be decreased one inch).

(i) Doors. All doors shall be constructed of 1/4-inch plate steel and lined with 2 inches of hardwood or material of equivalent strength. Hinges and hasps shall be attached to the doors by welding, riveting or bolting (nuts on inside of door). They shall be installed in such a manner that the hinges and hasps cannot be removed when the doors are closed and locked.

(j) Locks. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open; or a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Padlocks shall be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(k) Ventilation. Except at doorways, a 2-inch air space shall be left around ceilings and the perimeter of floors. Foundation ventilators shall be not less than 4 by 6 inches. Vents in the foundation, roof, or gables shall be screened and offset.

(l) Exposed metal. No sparking metal construction shall be exposed below the top of walls in the interior of storage facilities, and all nails therein shall be blind-nailed, counter-sunk or nonsparking.

(m) Igloos, army-type structures, tunnels and dugouts. Storage facilities shall be constructed of reinforced concrete, masonry, metal or a combination of these materials. They shall have an earthmound covering of not less than 24 inches on the top, sides and rear unless the magazine meets the requirements of (h)(ii) of this subsection. Interior walls and floors shall be covered with a nonsparking material. Storage facilities of this type shall also be constructed in conformity with the requirements of subsection (1)(a), (b), (f), (i), (j), (k) and (l) of this section.

(3) Construction of portable (field) storage facilities.

(a) General. A Class 2 storage facility shall be a box, a trailer, a semitrailer or other mobile facility. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resis-

tant, and well ventilated. Portable magazines shall be at least one cubic yard in size. ~~((They are to))~~ The floor shall be supported to prevent direct contact with the ground. The ground around magazines shall slope away for drainage or other adequate drainage provided. When unattended, vehicular magazines shall have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the department.

(b) Construction. The exterior and doors shall be constructed of not less than 1/4-inch steel and lined with at least two inches of hardwood. Magazines with top openings shall have lids with water-resistant seals or shall overlap the sides by at least one inch when in a closed position.

(c) Hinges and hasps. Hinges and hasps shall be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(d) Locks. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open; or a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Padlocks shall be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(e) Ventilation. Except at doorways, a 2-inch air space shall be left around ceilings and the perimeter of floors. Foundation ventilators shall be not less than 4 by 6 inches. Vents in the foundation, roof, or gables shall be screened and offset.

(f) Exposed metal. No sparking metal construction shall be exposed below the top of walls in the interior of storage facilities and all nails therein shall be blind-nailed, counter-sunk, or nonsparking.

Note: The following alternatives may be used. (All steel and wood dimensions indicated are actual thicknesses. To meet the concrete block and brick dimensions indicated, the manufacturer's represented thicknesses may be used.)

(i) Exterior of 5/8-inch steel, lined with an interior of any type of nonsparking material.

(ii) Exterior of 1/2-inch steel, lined with an interior of not less than 3/8-inch plywood.

(iii) Exterior of 3/8-inch steel, lined with an interior of two inches of hardwood.

(iv) Exterior of 3/8-inch steel, lined with an interior of three inches of softwood or 2-1/4-inches of plywood.

(v) Exterior of 1/4-inch steel, lined with an interior of five inches of softwood or 5-1/4-inches of plywood.

(vi) Exterior of 3/16-inch steel, lined with an interior of four inches of hardwood.

(vii) Exterior of 3/16-inch steel, lined with an interior of seven inches of softwood or 6-3/4-inches of plywood.

(viii) Exterior of 3/16-inch steel, lined with an intermediate layer of three inches of hardwood and an interior lining of 3/4-inch plywood.

(ix) Exterior of 1/8-inch steel, lined with an interior of five inches of hardwood.

(x) Exterior of 1/8-inch steel, lined with an interior of nine inches of softwood.

(xi) Exterior of 1/8-inch steel, lined with an intermediate layer of four inches of hardwood and an interior lining of 3/4-inch plywood.

(xii) Exterior of any type of fire-resistant material which is structurally sound, lined with an intermediate layer of four inches solid concrete block or four inches solid brick or four inches of solid concrete, and an interior lining of 1/2-inch plywood placed securely against the masonry lining.

(xiii) Standard eight-inch concrete block with voids filled with well-tamped sand/cement mixture.

(xiv) Standard eight-inch solid brick.

(xv) Exterior of any type of fire-resistant material which is structurally sound, lined with an intermediate six-inch space filled with well-tamped dry sand or well-tamped sand/cement mixture.

(xvi) Exterior of 1/8-inch steel, lined with a first intermediate layer of 3/4-inch plywood, a second intermediate layer of 3-5/8-inches well-tamped dry sand or sand/cement mixture and an interior lining of 3/4-inch plywood.

(xvii) Exterior of any type of fire-resistant material, lined with a first intermediate layer of 3/4-inch plywood, a second intermediate layer of 3-5/8-inch well-tamped dry sand or sand/cement mixture, a third intermediate layer of 3/4-inch plywood, and a fourth intermediate layer of two inches of hardwood or 14-gauge steel and an interior lining of 3/4-inch plywood.

(xviii) Eight-inch thick solid concrete.

(4) Construction of detonator (blasting cap) indoor storage facilities.

Note: BATF regulations §55.208(b) permits an indoor (federal) type 2 magazine to contain up to 50 pounds of high explosives or up to 5,000 caps (detonators) provided that no magazine for explosives storage may be located in a residence or dwelling (as defined). The department of labor and industries calculates 1,000 standard No.8 caps (detonators) as the equivalency of 1-1/2 pounds high explosives. This chapter permits a (state) type 3 indoor storage magazine for up to 1,000 No. 8 caps to be located within access controlled buildings such as warehouses, shops, and maintenance buildings, but specifically excluding any residence or dwelling, provided that the building shall comply with all applicable Washington Administrative Code and NFPA requirements and the magazine shall be constructed in compliance with this section.

(a) General. Class 3 storage facility for detonators (blasting caps) in quantities of 1,000 or less shall be fire-resistant and theft-resistant. They need not be bullet-resistant and weather-resistant if the locked uninhabited building in which they are stored provide protection from the weather and from bullet penetration.

(b) Construction. Sides, bottoms and covers shall be constructed of not less than number 12-gauge metal and lined with a nonsparking material.

(c) Hinges and hasps shall be attached so they cannot be removed from the outside.

(d) Locks. One steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter is sufficient for locking purposes.

(i) A magazine for indoor cap storage is not required to be at least 1 cubic yard in size provided that it is otherwise constructed in compliance with the requirements of this section.

(ii) Class 3 magazines, when located indoors, shall be painted red and appropriately labeled for ready identification in case of fire.

(5) Construction of blasting agent, low explosive or electric blasting cap storage facilities.

(a) General. A Class 4 storage facility may be a building, an igloo, or army-type structure, a tunnel, a dugout, a box, a trailer, or a semitrailer or other mobile facility. They shall be fire-resistant, weather-resistant and theft-resistant. The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the department.

Note: As a result of tests with electric blasting caps, it has been determined that these blasting caps are not subject to sympathetic detonation. Therefore, a Class 4 storage facility meets the necessary requirements for storage of electric blasting caps.

(b) Construction. These magazines shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. Foundations are to be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the building shall be enclosed with fire-resistant material. The walls and floors are to be constructed of, or covered with, a nonsparking material or lattice work. The doors shall be metal or solid wood covered with metal.

(c) Hinges and hasps. Hinges and hasps shall be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(d) Locks. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open; or a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Padlocks shall be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(6) Construction of blasting agent storage facilities.

(a) General. A Class 5 storage facility may be a building, igloo or army-type structure, tunnel, dugout, bin, box, trailer, or a semitrailer or other mobile facility. They shall be weather-resistant and theft-resistant. The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the department.

(b) Construction. The doors shall be constructed of solid wood or metal.

(c) Hinges and hasps. Hinges and hasps shall be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps shall be installed so that they cannot be removed when the doors are closed and locked.

(d) Locks. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock, or with a mortise lock that requires two keys to open; or a three-point lock. Padlocks shall have at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Padlocks shall be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples.

Note: Trailers, semitrailers, and similar vehicular magazines may, for each door, be locked with one steel padlock (which need not be protected by a steel hood) having at least 3/8-inch diameter, if the door hinges and lock hasp are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(7) Construction of day box storage facilities for explosives.

(a) General. A temporary storage facility shall be a day box. It must be fire-resistant, weather-resistant and theft-resistant. The ground around such storage facilities shall slope away for drainage.

(b) Construction. A day box shall be constructed of not less than number 12-gauge (.1046 inches) steel, lined with at least either 1/2-inch plywood or 1/2-inch Masonite-type hardboard. Doors shall overlap sides by at least one inch.

(c) Hinges and hasps. Hinges and hasps are to be attached by welding, riveting or bolting (nuts on inside).

(d) Locks. One steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter is sufficient for locking purposes.

(e) Unattended storage. No explosive materials shall be left in a day box if unattended. The explosive materials contained therein shall be removed to licensed storage facilities for unattended storage.

(8) Construction of day box storage facilities for detonators (blasting caps).

(a) General. Temporary storage facilities for blasting caps in quantities of ~~((100))~~ 1,000 or less.

(b) Construction. Sides, bottoms and covers shall be constructed of number 12-gauge metal and lined with a nonsparking material.

(c) Hinges and hasps shall be attached thereto by welding.

(d) Locks. A single five-tumbler proof lock shall be sufficient for locking purposes.

(e) No explosive materials shall be left in such facilities if unattended. The explosive materials contained therein shall be removed to licensed storage facilities for unattended storage.

(9) Magazine heating systems requirements, NFPA Code No. 495, "Manufacture, Transportation, Storage and Use of Explosive Materials, ~~((1973-))~~ 1992," and the following will apply:

(a) Magazines requiring heat shall be heated by either hot water radiant heating within the magazine building; or air directed into the magazine building over either hot water or low pressure steam (15 psig) coils located outside the magazine building.

(b) The magazine heating systems shall meet the following requirements:

(i) The radiant heating coils within the building shall be installed in such a manner that the explosive materials or their containers cannot contact the coils and air is free to circulate between the coils and the explosive materials or their containers.

(ii) The heating ducts shall be installed in such a manner that the hot air discharge from the duct is not directed against the explosive materials or their containers.

(iii) The heating device used in connection with a magazine shall have controls which prevent the ambient building temperature from exceeding 130°F.

(iv) The electric fan or pump used in the heating system for a magazine shall be mounted outside and separate from the wall of the magazine and shall be grounded.

(v) The electric fan motor and the controls for electrical heating devices used in heating water or steam shall have overloads and disconnects, which comply with the National Electrical Code, (National Fire Protection Association, NFPA No. ~~((70-1984))~~ 70-1992). All electrical switch gear shall be located a minimum distance of 25 feet from the magazine.

(vi) The heating source for water or steam shall be separated from the magazine by a distance of not less than 25 feet when electrical and 50 feet when fuel-fired. The area between the heating unit and the magazine shall be cleared of all combustible materials.

(vii) The storage of explosive materials and their containers in the magazine shall allow uniform air circulation so temperature uniformity can be maintained throughout the explosive materials.

(10) Lighting.

(a) Battery-activated safety lights or battery-activated safety lanterns may be used in explosives storage magazines.

(b) Electric lighting used in any explosives storage magazine shall meet the standards prescribed by the "National Electrical Code," (National Fire Protection Association, NFPA ~~((70-84))~~ 70-1992), for the conditions present in the magazine at any time. All electrical switches shall be located outside of the magazine and also meet the standards prescribed by the National Electrical Code.

AMENDATORY SECTION (Amending Order 92-06, filed 8/10/92, effective 9/10/92)

**WAC 296-52-461 Storage of explosives.** (1) General.

(a) All Class A, Class B, Class C explosives, and special industrial explosives, and any newly developed and unclassified explosives, shall be kept in magazines which meet the requirements as defined in chapter 70.74 RCW and chapter 296-52 WAC, unless they are in the process of manufacture, being physically handled in the operating process, being used or being transported to a place of storage or use. No explosives and no detonators (blasting caps) in quantities of 1,001 or more shall be stored in any building or structure except a Class 1, permanent, magazine that has been approved and licensed. ~~((Class 3 storage magazines,~~

~~when stored indoors, shall be painted red and appropriately labeled for ready identification in case of fire.)~~

Note 1: Separate storage of components capable of detonation when mixed. Any two components which, when mixed, become capable of detonation by a number 6 cap must be stored in separate locked containers or in a licensed, approved magazine.

Note 2: Electromagnetic radiation. Blasting operations or storage of electrical detonators shall be prohibited in vicinity of operating radio frequency (RF) transmitter stations except where the clearances, as referenced in WAC 296-52-493(g), can be observed.

Note 3: Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

(b) Subsection (1) of this section does not apply to:

(i) Stocks of small arms ammunition, propellant-actuated power cartridges, small arms ammunition primers in quantities of less than 75,000, smokeless propellants in quantities of less than 150 pounds or black powder, as used in muzzle loading firearms, in quantities of less than 25 pounds;

(ii) Explosive-actuated power devices when in quantities less than 50 pounds net weight of explosives;

(iii) Fuse lighters and fuse igniters;

(iv) Safety fuses other than cordeau detonant fuses.

(2) Quantity restrictions. Explosive materials in excess of 300,000 pounds or blasting caps in excess of 20,000,000 shall not be stored in one storage magazine.

(3) Inventory and responsibility.

(a) Magazines shall be in the charge of a ~~((competent))~~ qualified person at all times who shall be at least twenty-one years of age, and who shall be held responsible for the enforcement of all safety precautions.

(b) All explosives shall be accounted for at all times. Explosives not being used shall be kept in a locked magazine, unavailable to persons not authorized to handle them. The employer shall maintain an inventory and use record of all explosives.

~~((Appropriate authorities shall be notified of any loss, theft, or unauthorized entry into a magazine.))~~ Any person or company storing explosive material shall inspect their magazine at least every seven days. This inspection need not be an inventory, but must be sufficient to determine whether there has been unauthorized entry or attempted entry into the magazines or unauthorized removal of the contents of the magazines.

(i) The person conducting weekly inspection must be familiar with the magazine being inspected and the contents.

(ii) The inspecting person shall date and sign the inspection log, inventory sheet or other record upon completion of each inspection.

(iii) The proof of weekly inspection shall be maintained for not less than one year.

(d) A person who knows of a theft or loss of explosives for which that person is responsible under this chapter shall report the theft or loss to the local law enforcement agency within twenty-four hours of discovery of the theft or loss. The local law enforcement agency shall immediately report the theft or loss to the department of labor and industries.

It is recommended that any person who knows of an attempted unauthorized entry should report same to the local law enforcement agency.

(4) Surrounding area.

(a) Firearms (except firearms carried by qualified guards and qualified law enforcement officers) shall not be permitted inside of or within 50 feet of magazines.

~~((The land surrounding a magazine shall be kept clear of all combustible materials, brush, dried grass, leaves and other materials for a distance of at least 25 feet))~~ The area surrounding magazines is to be kept clear of rubbish, brush, dry grass, or trees (except of live trees more than 10 feet tall), for not less than 25 feet in all directions.

~~((Combustible materials shall not be stored within 50 feet of magazines.))~~ Volatile materials are to be kept a distance of not less than 50 feet from outdoor magazines. Living foliage which is used to stabilize earthen covering of a magazine need not be removed.

(d) Smoking, matches, open flames, and spark-producing devices are not permitted:

(i) In any magazine;

(ii) Within 50 feet of any outdoor magazine; or

(iii) Within any room containing an indoor magazine.

(5) Signs. The premises on which a magazine is located shall be conspicuously marked with signs ~~((containing the words "explosives - keep off" in letters at least three inches high))~~ as illustrated below. Such signs shall warn any person approaching the magazine of the presence of explosives, but shall be so located that a bullet passing directly through the face of the sign will not strike the magazine.

**DANGER: EXPLOSIVES  
STORAGE AREA. KEEP  
OUT. NO SHOOTING.  
DO NOT FIGHT  
EXPLOSIVES FIRES.**

**Letters: 3" high X 2" wide**

**Reflectorized finish  
White background with  
Red letters**

Approved U.S. Department of Transportation placards must remain on Class 5 trailers, containing blasting agents while unattended.

(6) Temporary storage at a site for blasting operations shall be located away from neighboring inhabited buildings, railways, highways, and other magazines. A distance of at least one hundred and fifty feet shall be maintained between magazines and the work in progress when the quantity of explosives kept therein is in excess of 25 pounds, and at least 50 feet when the quantity of explosives is 25 pounds or less.

(7) Explosives recovered from blasting misfires shall be placed ~~((in a separate))~~ separately in an approved magazine until competent personnel have determined from the manufacturer the method of disposal. Suspected defective caps

recovered from blasting misfires shall not be reused. Such explosives and caps shall then be disposed of in the manner recommended by the manufacturer.

(8) Storage within magazines.

(a) ~~((Packages of explosives shall be laid flat with top side up. Black powder when stored in magazines with other explosives shall be stored separately. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down. Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked. Explosive materials within a magazine shall not be placed directly against interior walls, and must not be stored so as to interfere with ventilation. Packages of explosives shall be piled in a stable manner. When any kind of explosive is removed from a magazine for use, the oldest explosive of that particular kind shall always be taken first.))~~ Explosives which are not conspicuously age date marked by the manufacturer shall be so marked before being stored in the magazine.

(b) Explosive materials within a magazine shall not be placed directly against interior walls, and must not be stored so as to interfere with ventilation. To prevent contact of stored explosive materials with the interior walls, a nonsparking lattice work or other nonsparking material may be used.

(c) Packages of explosives shall be laid flat with the top side up and shall be piled in a stable manner.

Exception: Nitroglycerin based dynamite in long-term storage may be inverted (turned top down) at intervals recommended by the product manufacturer.

(d) Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked.

(e) Black powder when stored in magazines with other explosives shall be stored separately. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down.

(f) When any kind of explosive is removed from a magazine for use, the oldest explosive of that particular kind shall always be taken first.

~~((b) Packages))~~ (g) Except with respect to fiberboard or other nonmetal containers, containers of explosives shall not be unpacked or repacked in a magazine nor within 50 feet of a magazine or in close proximity to other explosives.

~~((e))~~ (h) Tools used for opening packages of explosives shall be constructed of nonsparking materials, except that nonsparking metallic slitters may be used for opening fiberboard boxes. A wood wedge and a fiber, rubber, or wood mallet shall be used for opening or closing wood packages of explosives. Opened packages of explosives shall be securely closed before being returned to a magazine.

~~((d))~~ (i) Magazines shall not be used for the storage of any metal tools nor any commodity except explosives. ~~((but this restriction shall not apply to the storage of))~~ blasting agents and blasting supplies.

~~((e))~~ (j) Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages, and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings from floors of

magazines shall be properly disposed of. Magazine floors stained with nitroglycerin shall be cleaned according to instructions by the manufacturer.

~~((f))~~ (k) When any explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if nitroglycerin leaks from any explosives, then the person in possession of such explosive shall immediately proceed to destroy such explosive in accordance with the instructions of the manufacturer. Only experienced persons shall be allowed to do the work of destroying explosives.

~~((g))~~ When magazines need inside repairs, all explosives shall be removed therefrom and the floors cleaned. In making outside repairs, if there is a possibility of causing sparks or fire the explosives shall be removed from the magazine. Explosives removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine where they shall be properly guarded and protected until repairs have been completed, when they shall be returned to the magazine. (l) Magazine repairs.

(i) All explosives shall be removed from the magazine and the floor shall be cleaned before commencing repairs inside a magazine.

(ii) When making outside repairs on a magazine and the work could cause sparks or fire, all explosives shall be removed from the magazine before commencing repair activities.

(iii) Explosives removed from a magazine under repair shall be placed in another magazine or placed a safe distance from the magazine under repair and shall be properly attended until returned to the magazine.

(9) Underground storage.

(a) Explosives and related materials shall be stored in approved facilities required under the provisions of chapter 296-52 WAC.

(b) No explosives or blasting agents shall be permanently stored in any underground operation until the operation has been developed to the point where at least two modes of exit have been developed.

(c) Permanent underground storage magazines shall be at least 300 feet from any shaft, adit, or active underground working area.

(d) Permanent underground magazines containing detonators shall not be located closer than 50 feet to any magazine containing other explosives or blasting agents.

(e) Upon the approach of an electrical storm, unless a greater hazard would be created thereby, explosives at the adit or the top of any shaft leading to where persons are working shall be moved away from such location a distance equal to that required for inhabited buildings, as listed in ~~((the American table of distances for storage of explosive materials))~~ Table H-20.

(10) All explosive manufacturing buildings and magazines in which explosives or blasting agents, except small arms ammunition and smokeless powder are had, kept, or stored, must be located at distances from inhabited buildings, railroads, highways, and public utility transmission systems in conformity with the following quantity and distance tables, and these tables shall be the basis on which applications for license for storage shall be made and license for storage issued, as provided in RCW 70.74.110 and 70.74.120. Blasting and electric blasting caps in strength

through number 8 ((~~should~~)) shall be rated as one and one-half pounds of explosives per one thousand caps. Blasting and electric blasting caps of strength higher than number 8 ((~~should~~)) shall be computed on the combined weight of explosives.

shown for "separation of magazines", except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified "separation of magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways and highways.

TABLE H-20  
TABLE OF DISTANCES FOR STORAGE OF EXPLOSIVES

Column 1 Quantity that may be handled or stored		Column 2 Distances From Inhabited Buildings		Column 3 Distances From Railroad		Column 4 Distances From Airports, Highways & Pub. Util. Trans. Systems	
EXPLOSIVES		Distances From Inhabited Buildings		Distances From Railroad		Distances From Airports, Highways & Pub. Util. Trans. Systems	
Pounds per case	Pounds net weight	Overburdened Feet	Unburdened Feet	Overburdened Feet	Unburdened Feet	Overburdened Feet	Unburdened Feet
2	5	70	140	51	102	30	60
5	10	90	180	64	128	35	70
10	20	110	220	81	162	45	90
20	30	125	250	93	186	50	100
30	40	140	280	102	206	55	110
40	50	150	300	110	220	60	120
50	75	170	340	128	254	70	140
75	100	190	380	139	278	75	150
100	125	200	400	150	300	80	160
125	150	215	430	159	318	85	170
150	200	235	470	175	350	95	190
200	250	255	510	189	378	105	210
250	300	270	540	201	402	110	220
300	400	295	590	221	442	120	240
400	500	310	640	238	476	130	260
500	600	340	680	253	506	135	270
600	700	355	710	266	532	145	290
700	800	375	750	278	556	150	300
800	900	390	780	289	578	155	310
900	1,000	400	800	300	600	160	320
1,000	1,200	425	850	318	636	165	330
1,200	1,400	450	900	335	670	170	340
1,400	1,600	470	940	351	702	175	350
1,600	1,800	490	980	366	732	180	360
1,800	2,000	505	1,010	378	756	185	370
2,000	2,500	545	1,090	408	816	190	380
2,500	3,000	580	1,160	431	864	195	390
3,000	4,000	635	1,270	474	948	210	420
4,000	5,000	685	1,370	513	1,026	225	450
5,000	6,000	730	1,460	546	1,092	235	470
6,000	7,000	770	1,540	573	1,146	245	490
7,000	8,000	800	1,600	600	1,200	250	500
8,000	9,000	835	1,670	624	1,248	255	510
9,000	10,000	865	1,730	645	1,290	260	520
10,000	12,000	875	1,750	687	1,374	270	540
12,000	14,000	885	1,770	723	1,446	275	550
14,000	16,000	900	1,800	756	1,512	280	560
16,000	18,000	940	1,880	786	1,572	285	570
18,000	20,000	975	1,950	813	1,626	290	580
20,000	25,000	1,045	2,090	876	1,752	315	630
25,000	30,000	1,130	2,260	933	1,866	340	680
30,000	35,000	1,205	2,410	981	1,962	360	720
35,000	40,000	1,275	2,540	1,026	2,052	380	760
40,000	45,000	1,340	2,660	1,068	2,136	400	800

45,000	50,000	1,400	2,000	1,104	2,000	420	840
50,000	55,000	1,460	2,000	1,140	2,000	440	880
55,000	60,000	1,515	2,000	1,173	2,000	455	910
60,000	65,000	1,565	2,000	1,206	2,000	470	940
65,000	70,000	1,610	2,000	1,236	2,000	485	970
70,000	75,000	1,655	2,000	1,263	2,000	500	1,000
75,000	80,000	1,695	2,000	1,293	2,000	510	1,020
80,000	85,000	1,730	2,000	1,317	2,000	520	1,040
85,000	90,000	1,760	2,000	1,344	2,000	530	1,060
90,000	95,000	1,790	2,000	1,368	2,000	540	1,080
95,000	100,000	1,815	2,000	1,392	2,000	545	1,090
100,000	110,000	1,835	2,000	1,437	2,000	550	1,100
110,000	120,000	1,855	2,000	1,479	2,000	555	1,110
120,000	130,000	1,875	2,000	1,521	2,000	560	1,120
130,000	140,000	1,890	2,000	1,557	2,000	565	1,130
140,000	150,000	1,900	2,000	1,593	2,000	570	1,140
150,000	160,000	1,935	2,000	1,629	2,000	580	1,160
160,000	170,000	1,965	2,000	1,662	2,000	590	1,180
170,000	180,000	1,990	2,000	1,695	2,000	600	1,200
180,000	190,000	2,010	2,010	1,725	2,000	605	1,210
190,000	200,000	2,030	2,030	1,755	2,000	610	1,220
200,000	210,000	2,050	2,055	1,782	2,000	620	1,240
210,000	220,000	2,100	2,100	1,836	2,000	635	1,270
220,000	230,000	2,155	2,155	1,890	2,000	650	1,300
230,000	240,000	2,215	2,215	1,950	2,000	670	1,340
240,000	250,000	2,275	2,275	2,000	2,000	690	1,380

(11) When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and in addition, they should be separated from each other by not less than the distances

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Illustration, Table H-20

American Table of Distances for Storage of Explosives

Quantity of Explosives		Distances (in Feet)					
(In Pounds)		Inhabited Buildings		Public Highways Class A to D and Public Utility Transmission System		Passenger Railways and Public Highways: With Traffic Volume of More Than 3,000 Vehicles Per Day	
Over	Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
2	5	70	140	30	60	51	102
5	10	90	180	35	70	64	128
10	20	110	220	45	90	181	162
20	30	125	250	50	100	93	186
30	40	140	280	55	110	103	206
40	50	150	300	60	120	110	220
50	75	170	340	70	140	127	254
75	100	190	380	75	150	139	278
100	125	200	400	80	160	150	300
125	150	215	430	85	170	159	318
150	200	235	470	95	190	175	350
200	250	255	510	105	210	189	378
250	300	270	540	110	220	201	402
300	400	295	599	120	240	221	442
400	500	320	640	130	260	238	476
500	600	340	680	135	270	253	506
600	700	355	710	145	290	266	532
700	800	375	750	150	300	278	556
800	900	390	780	155	310	289	578
900	1,000	400	800	160	320	300	600
1,000	1,200	425	850	165	330	318	636
1,200	1,400	450	900	170	340	336	672
1,400	1,600	470	940	175	350	351	702
1,600	1,800	490	980	180	360	366	732

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Quantity of Explosives		Distances (in Feet)					
(In Pounds)		Inhabited Buildings		Public Highways Class A to D and Public Utility Transmission System		Passenger Railways and Public Highways: With Traffic Volume of More Than 3,000 Vehicles Per Day	
Over	Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
1,800	2,000	505	1,010	185	370	378	756
2,000	2,500	545	1,090	190	380	408	816
2,500	3,000	580	1,160	195	390	432	864
3,000	4,000	635	1,270	210	420	474	948
4,000	5,000	685	1,370	225	450	513	1,026
5,000	6,000	730	1,460	235	470	546	1,092
6,000	7,000	770	1,540	245	490	573	1,146
7,000	8,000	800	1,600	250	500	600	1,200
8,000	9,000	835	1,670	255	510	624	1,248
9,000	10,000	865	1,730	260	520	645	1,290
10,000	12,000	875	1,750	270	540	687	1,374
12,000	14,000	885	1,770	275	550	723	1,446
14,000	16,000	900	1,800	280	560	756	1,512
16,000	18,000	940	1,880	285	570	786	1,572
18,000	20,000	975	1,950	290	580	813	1,626
20,000	25,000	1,055	2,000	315	630	876	1,752
25,000	30,000	1,130	2,000	340	680	933	1,866
30,000	35,000	1,205	2,000	360	720	931	1,962
35,000	40,000	1,275	2,000	380	760	1,026	2,000
40,000	45,000	1,340	2,000	400	800	1,068	2,000
45,000	50,000	1,400	2,000	420	840	1,104	2,000
50,000	55,000	1,460	2,000	440	880	1,140	2,000
55,000	60,000	1,515	2,000	455	910	1,173	2,000
60,000	65,000	1,565	2,000	470	940	1,206	2,000
65,000	70,000	1,610	2,000	485	970	1,236	2,000
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000

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Quantity of Explosives		Distances (in Feet)					
(In Pounds)		Inhabited Buildings		Public Highways Class A to D and Public Utility Transmission System		Passenger Railways and Public Highways: With Traffic Volume of More Than 3,000 Vehicles Per Day	
Over	Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000

\*\*\* Note 1: Terms used in Table H-20 are found in WAC 296-52-417.

Note 2: Source of Table data is BAFB (6/90) §55-218.

**AMENDATORY SECTION** (Amending Order 90-18, filed 1/10/91, effective 2/12/91)

**WAC 296-52-465 Storage of ammonium nitrate. (1) Scope and definitions.**

(a) Except as provided in (d) of this subsection applies to the storage of ammonium nitrate in the form of crystals, flakes, grains, or prills including fertilizer grade, dynamite grade, nitrous oxide grade, technical grade, and other

mixtures containing 60 percent or more ammonium nitrate by weight but does not apply to blasting agents.

(b) This section does not apply to the transportation of ammonium nitrate while such transportation is being conducted under U.S. DOT jurisdiction and in compliance with DOT regulations (see 49 CFR Part 173).

(c) This section does not apply to storage under the jurisdiction of and in compliance with the regulations of the United States Coast Guard (see 46 CFR Parts 146-149).

(d) ~~((The storage of ammonium nitrate and ammonium nitrate mixtures that are more sensitive than allowed by the "definition of test procedures for ammonium nitrate fertilizer" is prohibited))~~ this section shall not apply to storage of ammonium nitrate and ammonium nitrate mixtures which are more sensitive than allowed by the "Definition and Test Procedures for Ammonium Nitrate Fertilizers" from the FERTILIZER INSTITUTE. Storage of ammonium nitrate which is above the sensitivity criteria shall comply with WAC 296-52-469, Storage of Blasting Agents and Supplies.

(e) Nothing in this section shall apply to the production of ammonium nitrate or to the storage of ammonium nitrate on the premises of the producing plant, provided that no distinct undue hazard to employees or the public is created.

(f) The definition and test procedures for ammonium nitrate fertilizer are those found in the bulletin, "Definition and test procedures for ammonium nitrate fertilizer," available from the ~~((National Plant Food Institute, 1700 K Street N.W.))~~ Fertilizer Institute, 501 2nd St. N.E., Washington, D.C. 20006. This definition limits the contents of organic materials, metals, sulfur, etc., in a product that may be classified ammonium nitrate fertilizer.

(g) The standards for ammonium nitrate (nitrous oxide grade) are those found in the "specifications, properties, and recommendations for packaging, transportation, storage, and use of ammonium nitrate," available from the Compressed Gas Association, Inc., ~~((500 Fifth Avenue, New York, NY 10036))~~ 1235 Jefferson Davis Highway, Suite 1004, Arlington, VA 22202-4100.

(2) General provisions.

(a) This subsection applies to all persons storing, having, or keeping ammonium nitrate, and to the owner or lessee of any building, premises, or structure in which ammonium nitrate is stored in quantities of 1,000 pounds (454 kg) or more.

(b) Approval of large quantity storage shall be subject to due consideration of the fire and explosion hazards, including exposure to toxic vapors from burning or decomposing ammonium nitrate.

(c) Storage buildings shall not have basements unless the basements are open on at least one side. Storage buildings shall not be over one story in height.

(d) Storage buildings shall have adequate ventilation or be of a construction that will be self-ventilating in the event of fire.

(e) The wall on the exposed side of a storage building within 50 feet (15.2 m) of a combustible building, forest, piles of combustible materials and similar exposure hazards shall be of fire-resistive construction. (See NFPA Std. 220, Type 1 Construction.) In lieu of the fire-resistive wall, other suitable means of exposure protection such as a free standing wall may be used. The roof coverings shall be Class C or better, as defined in Roof Coverings, NFPA 203M-1970.

(f) All flooring in storage and handling areas, shall be of noncombustible material or protected against impregnation by ammonium nitrate and shall be without open drains, traps, tunnels, pits, or pockets into which any molten ammonium nitrate could flow and be confined in the event of fire.

(g) The continued use of an existing storage building or structure not in strict conformity with this section may be approved in cases where such continued use will not constitute a hazard to life or adjoining property.

(h) Buildings and structures shall be dry and free from water seepage through the roof, walls, and floors.

(3) Storage of ammonium nitrate in bags, drums, or other containers.

(a) Bags and containers used for ammonium nitrate must comply with specifications and standards required for use in interstate commerce (see 49 CFR Chapter I).

(b) Containers used on the premises in the actual manufacturing or processing need not comply with provisions of (a) of this subsection.

(c) Containers of ammonium nitrate shall not be accepted for storage when the temperature of the ammonium nitrate exceeds 130°F (54.4°C).

(d) Bags of ammonium nitrate shall not be stored within 30 inches (76 cm) of the storage building walls and partitions.

(e) The height of piles shall not exceed 20 feet (6.1 m). The width of piles shall not exceed 20 feet (6.1 m) and the length 50 feet (15.2 m) except that where the building is of noncombustible construction or is protected by automatic sprinklers the length of piles shall not be limited. In no case shall the ammonium nitrate be stacked closer than 36 inches (0.9 m) below the roof or supporting and spreader beams overhead.

(f) Aisles shall be provided to separate piles by a clear space of not less than 3 feet (0.9 m) in width. At least one service or main aisle in the storage area shall be not less than 4 feet (1.2 m) in width.

(4) Storage of bulk ammonium nitrate.

(a) Warehouses shall have adequate ventilation or be capable of adequate ventilation in case of fire.

(b) Unless constructed of noncombustible material or unless adequate facilities for fighting a roof fire are available, bulk storage structures shall not exceed a height of 40 feet (12.2 m).

(c) Bins shall be clean and free of materials which may contaminate ammonium nitrate.

(d) Due to the corrosive and reactive properties of ammonium nitrate, and to avoid contamination, galvanized iron, copper, lead, and zinc shall not be used in a bin construction unless suitably protected. Aluminum bins and wooden bins protected against impregnation by ammonium nitrate are permissible. The partitions dividing the ammonium nitrate storage from other products which would contaminate the ammonium nitrate shall be of tight construction.

(e) The ammonium nitrate storage bins or piles shall be clearly identified by signs reading "ammonium nitrate" with letters at least 2 inches (5 cm) high.

(f) Piles or bins shall be so sized and arranged that all material in the pile is moved out periodically in order to minimize possible caking of the stored ammonium nitrate.

(g) Height or depth of piles shall be limited by the pressure-setting tendency of the product. However, in no case shall the ammonium nitrate be piled higher at any point than 36 inches (0.9 m) below the roof or supporting and spreader beams overhead.

(h) Ammonium nitrate shall not be accepted for storage when the temperature of the product exceeds 130°F (54.4°C).

(i) Dynamite, other explosives, and blasting agents shall not be used to break up or loosen caked ammonium nitrate.

(5) Contaminants.

(a) Ammonium nitrate shall be in a separate building or shall be separated by approved type firewalls of not less than 1 hour fire-resistance rating from storage or organic chemicals, acids, or other corrosive materials, materials that may require blasting during processing or handling, compressed flammable gases, flammable and combustible materials or other contaminating substances, including but not limited to animal fats, baled cotton, baled rags, baled scrap paper, bleaching powder, burlap or cotton bags, caustic soda, coal, coke, charcoal, cork, camphor, excelsior, fibers of any kind, fish oils, fish meal, foam rubber, hay, lubricating oil, linseed oil, or other oxidizable or drying oils, naphthalene, oakum, oiled clothing, oiled paper, oiled textiles, paint, straw, sawdust, wood shavings, or vegetable oils. Walls referred to in this subsection need extend only to the underside of the roof.

(b) In lieu of separation walls, ammonium nitrate may be separated from the materials referred to in (a) of this subsection by a space of at least 30 feet (9.1 m).

(c) Flammable liquids such as gasoline, kerosene, solvents, and light fuel oils shall not be stored on the premises except when such storage conforms to WAC 296-24-330, and when walls and sills or curbs are provided in accordance with (a) or (b) of this subsection.

(d) LP-Gas shall not be stored on the premises except when such storage conforms to WAC 296-24-475.

(e) Sulfur and finely divided metals shall not be stored in the same building with ammonium nitrate except when such storage conforms to chapter 296-52 WAC and NFPA Std. 495, Explosive Materials Code.

(f) Explosives and blasting agents shall not be stored in the same building with ammonium nitrate except on the premises of makers, distributors, and user-compounders of explosives or blasting agents.

(g) Where explosives or blasting agents are stored in separate buildings, other than on the premises of makers, distributors, and user-compounders of explosives or blasting agents, they shall be separated from the ammonium nitrate by the distances and/or barricades specified in Table H-22 of WAC 296-52-481, but by not less than 50 feet (15.2 m).

(h) Storage and/or operations on the premises of makers, distributors, and user-compounders of explosives or blasting agents shall be in conformity with chapter 296-52 WAC.

(6) General precautions.

(a) Electrical installations shall conform to the requirements of chapter ((296-46)) 296-24 WAC, Part L, for ordinary locations. They shall be designed to minimize damage from corrosion.

(b) In areas where lightning storms are prevalent, lightning protection shall be provided. (See the Lightning Protection Code, NFPA ((78-1968)) 78-1992.)

(c) Provisions shall be made to prevent unauthorized personnel from entering the ammonium nitrate storage area.

(7) Fire protection.

(a) Not more than 2,500 (2270 metric) tons of bagged ammonium nitrate shall be stored in a building or structure not equipped with an automatic sprinkler system. Sprinkler systems shall be of the approved type and installed in accordance with WAC 296-24-607.

(b) Suitable fire control devices such as small hose or portable fire extinguishers shall be provided throughout the warehouse and in the loading and unloading areas. Suitable

fire control devices shall comply with the requirements of WAC 296-24-592 and 296-24-602.

(c) Water supplies and fire hydrants shall be available in accordance with recognized good practices.

#### AMENDATORY SECTION (Amending Order 86-24, filed 5/6/86)

**WAC 296-52-469 Storage of blasting agents and supplies.** (1) Blasting agents or ammonium nitrate, when stored in conjunction with explosives, shall be stored in the manner set forth in WAC 296-52-453 (2)(a) for explosives. The mass of blasting agents and one-half the mass of ammonium nitrate shall be included when computing the total quality of explosives for determining distance requirements.

(2) Blasting agents, when stored entirely separate from explosives, may be stored in the manner set forth in WAC 296-52-453 (5) and (6) or in one-story warehouses (without basements) which shall be:

(a) Noncombustible or fire resistive;

(b) Constructed so as to eliminate open floor drains and piping into which molten materials could flow and be confined in case of fire;

(c) Weather resistant;

(d) Well ventilated; and

(e) Equipped with a strong door kept securely locked except when open for business.

(3) Semitrailer or full-trailer vans used for highway or on-site transportation of the blasting agents are satisfactory for temporarily storing these materials, provided they are located in accordance with Table H-21 with respect to inhabited buildings, passenger railways, and public highways and according to Table H-22 with respect to one another. Trailers shall be provided with substantial means for locking, and the trailer doors shall be kept locked, except during the time of placement and removal of stocks of blasting agents.

(4) Warehouses used for the storage of blasting agents shall be located in accordance with the provisions of Table H-21 with respect to inhabited buildings, passenger railways, and public highways, and according to Table H-22 with respect to one another.

(5) If both blasting agents and ammonium nitrate are handled or stored within the distance limitations prescribed in Table H-21, one-half the mass of the ammonium nitrate shall be added to the mass of the blasting agent when computing the total quality of explosives for determining the proper distance.

(6) Smoking, matches, open flames, spark producing devices, and firearms are prohibited inside of or within 50 feet (15.2 m) of any warehouse used for the storage of blasting agents. Combustible materials shall not be stored within 50 feet (15.2 m) of warehouses used for the storage of blasting agents.

(7) The interior of warehouses used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, or nitrates shall not be stored in any warehouse used for blasting agents unless separated therefrom by a fire resistive separation of not less than one hour resistance. The provisions of this

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subsection shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

(8) Piles of ammonium nitrate and warehouses containing ammonium nitrate shall be adequately separated from readily combustible fuels.

(9) Caked oxidizers, either in bags or in bulk, shall not be loosened by blasting.

(10) Every warehouse used for the storage of blasting agents shall be under the supervision of a competent person who shall be not less than twenty-one years of age.

**AMENDATORY SECTION** (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

**WAC 296-52-477 Quantity and distance table for separation between magazines.** Magazines containing blasting caps and electric blasting caps shall be separated from other magazines containing like contents, or from magazines containing explosives by distances in the following table.

TABLE H-21  
QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CONTAINING EXPLOSIVES

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines	
		Not Barricaded	Barricaded
2	5	12	6
5	10	16	8
10	20	20	10
20	30	22	11
30	40	24	12
40	50	28	14
50	75	30	15
75	100	32	16
100	125	36	18
125	150	38	19
150	200	42	21
200	250	46	23
250	300	48	24
300	400	54	27
400	500	58	29
500	600	62	31
600	700	64	32
700	800	66	33
800	900	70	35
900	1,000	72	36
1,000	1,200	78	39
1,200	1,400	82	41
1,400	1,600	86	43
1,600	1,800	88	44
1,800	2,000	90	45
2,000	2,500	98	49
2,500	3,000	104	52
3,000	4,000	116	58
4,000	5,000	122	61
5,000	6,000	130	65
6,000	7,000	136	68
7,000	8,000	144	72
8,000	9,000	150	75
9,000	10,000	156	78
10,000	12,000	164	82
12,000	14,000	174	87
14,000	16,000	180	90
16,000	18,000	188	94
18,000	20,000	196	98
20,000	25,000	210	105

25,000	30,000	224	112
30,000	35,000	238	119
35,000	40,000	248	124
40,000	45,000	258	129
45,000	50,000	270	135
50,000	55,000	280	140
55,000	60,000	290	145
60,000	65,000	300	150
65,000	70,000	310	155
70,000	75,000	320	160
75,000	80,000	330	165
80,000	85,000	340	170
85,000	90,000	350	175
90,000	95,000	360	180
95,000	100,000	370	185
100,000	110,000	380	195
110,000	120,000	410	205
120,000	130,000	430	215
130,000	140,000	450	225
140,000	150,000	470	235
150,000	160,000	490	245
160,000	170,000	510	255
170,000	180,000	530	265
180,000	190,000	550	275
190,000	200,000	570	285
200,000	210,000	590	295
210,000	230,000	630	315
230,000	250,000	670	335
250,000	275,000	720	360
275,000	300,000	770	385

Note 1. (~~"Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.~~) The term "natural barricade" shall be held to mean and include any natural hill, mound, wall, or barrier composed of earth or rock or other solid material of a minimum thickness of not less than three feet.

Note 2. "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of 3 feet.

Note 3. "Barricaded" means that a building containing explosives is effectually screened from a magazine, building, railway, or highway, either by a natural barricade, or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine, or building, or to a point 12 feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.

Note 4. This table applies only to the manufacture and permanent storage of commercial explosives. It is not applicable to transportation of explosives, or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

~~(((WAC 296 52 461(1) does not apply to:~~

~~(a) Stocks of small arms ammunition, propellant-actuated power cartridges, small arms ammunition primers in quantities of less than 750,000, smokeless propellants in quantities of less than 150 pounds or black powder, as used in muzzle loading firearms, in quantities of less than 25 pounds;~~

~~(b) Explosive-actuated power devices when in quantities less than 50 pounds net weight of explosives;~~

~~(c) Fuse lighters and fuse igniters;~~

~~(d) Safety fuses other than cordeau detonant fuses.))~~

**AMENDATORY SECTION** (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

**WAC 296-52-481 Recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.**

TABLE H-22

TABLE OF RECOMMENDED SEPARATION DISTANCES OF AMMONIUM NITRATE AND BLASTING AGENTS FROM EXPLOSIVES OR BLASTING AGENTS<sup>1 6</sup>

TABLE H-22

Donor weight		Minimum separation distance of receptor when barricaded <sup>2</sup> (ft.)		Minimum thickness of artificial barricades <sup>5</sup> (in.)
Pounds over	Pounds not over	Ammonium nitrate <sup>3</sup>	Blasting agent <sup>4</sup>	
	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

Notes to table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents:

- Note 1. These distances apply to the separation of stores only. Table H-21 shall be used in determining separation distances from inhabited buildings, passenger railways, and public highways.
- Note 2. When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the table shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like which may enclose the "donor." Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, distances, and barricade thicknesses in excess of those prescribed in Table H-21 are not required.

Note 3. The distances in the table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer promulgated by the ((National Plant Food Institute)) Fertilizer Institute\*; and ammonium nitrate failing to pass said test shall be stored at separation distances determined by competent persons. (\*Definition and Test Procedures for Ammonium Nitrate Fertilizer, The Fertilizer Institute, formerly the National Plant Food Institute, November 1964.)

Note 4. These distances apply to nitro-carbo-nitrates and blasting agents which pass the insensitivity test prescribed in the United States Department of Transportation (DOT) regulations.

Note 5. ((Earth, or sand dikes, or enclosures filled with the prescribed minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the "donor" when the trees are bare of leaves, are also acceptable.)) Acceptable barricades include either natural or artificial barricades as defined in WAC 296-52-417.

Note 6. When the ammonium nitrate must be counted in determining the distances to be maintained from inhabited buildings, passenger railways and public highways, it may be counted at one-half its actual weight because its blast effect is lower.

Note 7. Guide to use of table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

(a) Sketch location of all potential donor and acceptor materials together with the maximum mass of material to be allowed in that vicinity. (Potential donors are high explosives, blasting agents, and combination of masses of detonating materials. Potential acceptors are high explosives, blasting agents, and ammonium nitrate.)

(b) Consider separately each donor mass in combination with each acceptor mass. If the masses are closer than table allowance (distances measured between nearest edges), the combination of masses becomes a new potential donor of weight equal to the total mass. When individual masses are considered as donors, distances to potential acceptors shall be measured between edges. When combined masses within propagating distance of each other are considered as a donor, the appropriate distance to the edge of potential acceptors shall be computed as a weighted distance from the combined masses:

(i) Calculation of weighted distance from combined masses:

Let  $M_2, M_3 \dots M_n$  be donor masses to be combined.

$M_1$  is a potential acceptor mass.

$D_{12}$  is distance from  $M_1$  to  $M_2$  (edge to edge).

$D_{13}$  is distance from  $M_1$  to  $M_3$  (edge to edge), etc.

To find weighted distance [ $D_{1(2,3 \dots n)}$ ] from combined masses to  $M_1$ , add the products of the individual masses and distances and divide the total by the sum of the masses thus:

$$D_{1(2,3 \dots n)} = \frac{M_2 \times D_{12} + M_3 \times D_{13} + \dots + M_n \times D_{1n}}{M_2 + M_3 + \dots + M_n}$$

Propagation is possible if either an individual donor mass is less than the tabulated distance from an acceptor or a combined mass is less than the weighted distance from an acceptor.

- (c) In determining the distances separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H-21), the sum of all masses which may propagate (i.e., lie at distances less than prescribed in the Table) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only 50 percent of its weight shall be used because of its reduced blast effects. In applying Table H-21 to distances from highways, railroads, and inhabited buildings, distances are measured from the nearest edge of potentially explodable material as prescribed in Table H-21, Note 5.
- (d) When all or part of a potential acceptor comprises Explosives Class A as defined in DOT regulations, storage in bullet-

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resistant magazines is required. Safe distances to stores in bullet-resistant magazines may be obtained from the intermagazine distances prescribed in Table H-21.

- (e) Barricades must not have line-of-sight openings between potential donors and acceptors which permit blast or missiles to move directly between masses.
- (f) Good housekeeping practices shall be maintained around any bin containing ammonium nitrate or blasting agent. This includes keeping weeds and other combustible materials cleared within 25 feet of such bin. Accumulation of spilled product on the ground shall be prevented.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-52-487 Low explosives.** (1) Magazines which are restricted to the storage of only Class C (low explosives) as defined in this chapter, or classified as low explosives by the ~~((United States Department of the Treasury))~~ Bureau of Alcohol, Tobacco and Firearms, may be located in accordance with Table H-24.

(2) Detonators shall not be stored with any other low explosives.

TABLE H-24  
TABLE OF DISTANCES FOR STORAGE OF LOW EXPLOSIVES

Pounds		From inhabited building distance (feet)	From public railroad and highway distance (feet)	From above ground magazine (feet)
Over	Not Over			
0	1,000	75	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	375	375	250
200,000	300,000	450	450	300

**AMENDATORY SECTION** (Amending Order 92-06, filed 8/10/92, effective 9/10/92)

**WAC 296-52-489 Transportation.** (1) ~~((The transportation of explosives by vehicle on public highways shall be administered by the United States Department of Transportation, CFR 49-1978, Parts 100 through 199, and the Washington state patrol under RCW 46.48.170. The following sections cover the transportation of explosives on the job site.))~~ Regulations governing the transportation of explosives on public highways are adopted by the United States Department of Transportation (see 49 CFR Parts 100 through 199) and the Washington Utilities and transportation commission and administered by the Washington state patrol.

(2) The regulations of this section shall be applicable in-and-on job sites and off-highway roads. The department of

labor and industries shall administer these regulations in locations such as but not limited to: Construction or mining access roads and blast sites; off-highway forest roads including both publicly and privately owned logging roads, haul roads or general access roads.

Note: Examples of publicly owned off-highway roads where these regulations are applicable shall include, but are not limited to: U.S. Forest Service roads, Bureau of Land Management roads, state department of natural resources roads, but specifically not including the state or interstate highway system.

(a) No employee shall be allowed to smoke, carry matches or any other flame-producing device, except guards or commissioned law enforcement officers, or carry any firearms or loaded cartridges while in or near a motor vehicle transporting explosives; or drive, load, or unload such vehicle in a careless or reckless manner.

(b) Explosives shall not be carried on any vehicle while vehicle is being used to transport workers other than driver and two persons.

(c) Explosives shall be transferred from a disabled vehicle to another, only when proper and qualified supervision is provided. Local fire and police departments shall be promptly notified in congested areas. In remote areas they shall be notified if appropriate.

(d) Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives, ~~((detonation))~~ detonating cord or detonators, except carrying safety fuse, and properly secured, nonsparking equipment used expressly in the handling of such explosives will be permissible.

~~((2))~~ Transportation vehicles. Vehicles used for transporting explosives shall be strong enough to carry the load without difficulty and be in good mechanical condition. If vehicles do not have a closed body, the body shall be covered with a flameproof and moisture proof tarpaulin or other effective protection against moisture and sparks. Whenever tarpaulins are used for covering explosives, both the tarpaulin and the explosives container shall be secured to the body of the truck bed by means of rope, wire, or other equally efficient tie downs. All vehicles used for the transportation of explosives shall have tight floors and any exposed spark producing metal on the inside of the body shall be covered with wood or other nonsparking materials to prevent contact with packages of explosives. Packages of explosives shall not be loaded above the sides of an open-body vehicle.))

(3) Transportation vehicles.

(a) All vehicles used for transporting explosives shall be strong enough to carry the load without difficulty and be in good mechanical condition. The cargo compartment(s) shall have a tight floor and must not have any exposed spark producing metal on the inside which could come into contact with explosives cargo.

(b) Explosives vehicles used on any roadway which is open to public travel shall comply with WAC 296-52-550, Appendix II.

(c) Open top explosives transportation vehicles may only be used on the jobsite or on roads which are not open to public travel (while laden with explosives).

(i) If vehicles do not have a closed body, the body shall be covered with a flameproof and moisture-proof tarpaulin or other effective protection against moisture and sparks.

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Whenever tarpaulins are used for covering explosives, both the tarpaulin and the explosives container shall be secured to the body of the truck bed by means of rope, wire, or other equally efficient tie downs.

(ii) Packages of explosives shall not be loaded above the sides on open-sided vehicles.

(4) Vehicles shall be placarded and displayed as specified by the United States Department of Transportation, CFR 49-1981, Parts 100 through 199. Placards shall remain on the vehicle until all explosives have been removed from the vehicle.

~~((4))~~ (5)(a) Each motor vehicle used for transporting explosives shall be equipped with a minimum of two extinguishers, each having a rating of at least ~~((10-BC))~~ 10 ABC. The driver shall be trained in the use of the extinguishers on the vehicle.

(i) Only extinguishers listed or approved by a nationally recognized testing laboratory shall be deemed suitable for use on explosives-carrying vehicles. Refer to WAC 296-24-58501(19) for definition of listed, and federal regulation 29 CFR 1910.7 for nationally recognized testing laboratory.

(ii) Extinguishers shall be filled and ready for immediate use and readily available. Extinguishers shall be examined periodically by a competent person.

(b) A motor vehicle used for transporting explosives shall be given the following inspection to determine that it is in proper condition for safe transportation of explosives:

(i) Fire extinguishers shall be filled and in working order.

(ii) All electrical wiring shall be completely protected and securely fastened to prevent short-circuiting.

(iii) Chassis, motor, pan, and underside of body shall be reasonably clean and free of excess oil and grease.

(iv) Fuel tank and feedline shall be secure and have no leaks.

(v) Brakes, lights, horn, windshield wipers, and steering apparatus shall function properly.

(vi) Tires shall be checked for proper inflation and defects.

(vii) The vehicle shall be in proper condition in every other respect and acceptable for handling explosives.

(c) Motor vehicles or conveyances carrying explosives, blasting agents, or blasting supplies, shall not be taken inside a garage or shop for repairs or servicing.

~~((5))~~ (6) Operation of transportation vehicles.

(a) Vehicles transporting explosives shall only be driven by and be in the charge of a licensed driver who is not less than twenty-one years of age, physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use, or under the influence of intoxicants, narcotics, or other dangerous drugs. This rule does not apply to persons taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the worker or others. They shall be familiar with the traffic regulations, state laws, and the provisions of this section.

(i) Explosives may only be transported by a licensed blaster, purchaser or seller, or the designated agent or representative thereof, or a contract carrier for hire who complies with all requirements for transportation of hazardous materials.

(ii) The person in control of the explosive laden vehicle shall be made aware of the nature of the cargo and pertinent safety precautions relating to the particular explosive(s) being transported.

(b) Except under emergency conditions, no vehicle transporting explosives shall be parked before reaching its destination, even though attended.

(c) Every motor vehicle transporting any quantity of Class A or Class B explosives shall, at all times, be attended by a driver or other attendant of the motor carrier. This attendant shall have been made aware of the class of the explosive material in the vehicle and of its inherent dangers, and shall have been instructed in the measures and procedures to be followed in order to protect the public from those dangers. The attendant shall have been made familiar with the vehicle to which assigned, and shall be trained, supplied with the necessary means, and authorized to move the vehicle when required.

(i) For the purpose of this subdivision, a motor vehicle shall be deemed "attended" only when the driver or other attendant is physically on or in the vehicle, or has the vehicle within ~~((his))~~ the driver or attendants field of vision and can reach it quickly and without any kind of interference; "attended" also means that the driver or attendant is awake, alert, and not engaged in other duties or activities which may divert ~~((his))~~ their attention from the vehicle.

~~((ii))~~ (ii) ~~((However, an explosive laden vehicle may be left unattended if parked within a securely fenced or walled area properly barricaded with all gates or entrances locked where parking of such vehicle is otherwise permissible, or at a magazine site established solely for the purpose of storing explosives.)) An explosive laden vehicle may be left unattended for a period not to exceed 48 hours provided that:~~

(A) The vehicle is parked in a designated parking lot which complies with NFPA Std. 498 and with the appropriate clearance table of this chapter for the type and quantity of explosives carried;

(B) The designated parking lot is correctly bermed and walled or fenced and gated to prevent unauthorized entry;

(C) The designated lot is inspected and approved by the department of labor and industries and is provided with a full-time security patrol at all times when explosives are present;

(D) Trucks used for explosives delivery which contain only blasting agents (International Class 1.5 D) and no high explosives need not be attended provided the vehicle is locked to prevent movement of the vehicle, the cargo compartments are locked to prevent theft, the vehicle is parked according to all applicable storage distance requirements, and the vehicle is located in a secured area which restricts entry to the area by unauthorized personnel.

(d) No spark-producing metal, spark-producing tools, oils, matches, firearms, electric storage batteries, flammable substances, acids, oxidizing materials, or corrosive compounds shall be carried in the body of any motor truck and/or vehicle transporting explosives, unless the loading of such dangerous articles and the explosives comply with U.S. Department of Transportation regulations.

(e) Vehicles transporting explosives shall avoid congested areas and heavy traffic.

(f) Delivery and ISSUE of explosives shall only be made by and to authorized persons and into authorized

magazines ((ef)) or authorized temporary storage or handling area.

~~((6) Transporting of explosives and blasting caps or electric blasting caps in the same vehicle. Blasting caps, blasting caps with safety fuse, blasting caps with metal clad mild detonating fuse and/or electric blasting caps may be transported in the same vehicle with other explosives, provided the following condition is complied with:~~

~~The top, lid or door, sides and bottom of each container must be of laminate construction consisting of A/C grade or better exterior plywood, solid hardwood, asbestos board or sheetrock and sheet metal. In order of arrangement, from inside to outside, the laminate must consist of the following with the minimum thickness of each lamination as indicated: 1/4 inch plywood, 1 inch solid hardwood, 1/2 inch plywood, 1/2 inch sheetrock or 1/4 inch asbestos board, and 22-gauge sheet metal constructed inside to outside in that order.))~~

(7) Transporting blasting caps and explosives in the same vehicle.

(a) Fuse type blasting caps, blasting caps with safety fuse and/or blasting caps with metal clad mild detonating fuse shall not be transported in the same vehicle or trailer with other explosives.

(b) Blasting caps rated by U.S. DOT as nonmass detonating may be transported in the same vehicle or trailer with other explosives when:

(i) The caps are carried in DOT approved shipping containers:

(ii) The truck or trailer complies with Appendix 1, WAC 296-52-550.

(8) When primers are made up at a central primer house for use in high speed tunneling, the following shall apply:

(a) Only enough primers shall be made up for each round of blasting.

(b) The primers shall be placed in separate containers or bins, categorized by degree of delay in such a manner so as to prevent them from physical impact.

(c) Explosives carried in the same magazine shall be separated by 1/4-inch steel, covered on each side by four inches of hardwood planking, or equivalent.

(d) Hoist operators shall be notified before explosives or blasting agents are transported in a shaft conveyance.

(e) Only a state approved powder car or ~~((vehicle))~~ conveyance shall be used underground.

(f) The number of primers for one round will be removed from the state approved car or vehicle at the face or heading after the drilling has been completed and the holes readied for loading. After loading the charge, the powder car or vehicle will be withdrawn from the tunnel.

(g) Wires on electric caps shall be kept shunted until wired to the bus wires.

(h) The powder car or ~~((vehicle))~~ conveyance shall be inspected daily for lights, brakes and external damage to electrical circuitry. The electrical system shall be checked weekly to detect any failures that may constitute an electrical hazard and a written record of such inspection shall be kept on file for the duration of the job.

(i) The installation of auxiliary lights on truck beds, which are powered by the truck's electrical system, shall be prohibited.

(j) No one, except the operator, the helper, and/or the ~~((powderman))~~ powderperson, shall be permitted to ride on a conveyor transporting explosives and blasting agents.

(k) No person shall ride in any shaft conveyance transporting explosives and blasting agents.

(l) No explosives or blasting agents shall be transported on a ~~((man-haul))~~ crew-haul trip.

(m) The car or conveyance containing explosives or blasting agents shall be pulled, not pushed, whenever possible.

(n) The powder car or conveyance especially built for the purpose of transporting explosives or blasting agents shall bear a reflectorized sign on each side with the word "explosives" in letters not less than 4 inches in height; upon a background of sharply contrasting color.

(o) Compartments for transporting detonators and explosives in the same car or conveyance shall be physically separated by a distance of 24 inches or by a solid partition at least 6 inches thick.

(p) Detonators and other explosives shall not be transported at the same time in any shaft conveyance.

(q) Explosives and/or blasting agents, not in original containers, shall be placed in a suitable container when transported manually.

(r) No explosives or blasting agents shall be transported on any locomotive. At least two car lengths shall separate the locomotive from the powder car.

~~((8))~~ (9) When explosives are carried to the blasting site from the main storage magazines by the blaster or helper:

(a) Special insulated containers or original DOT shipping containers shall be used for this purpose, either boxes or bags, one container for explosives and one for detonators.

(b) Detonators or explosives shall never be carried in pockets of clothing.

AMENDATORY SECTION (Amending Order 92-06, filed 8/10/92, effective 9/10/92)

**WAC 296-52-493 Use of explosives and blasting agents.** (1) General provisions.

(a) While explosives are being handled or used, smoking, matches, or any other source of fire or flame shall not be allowed within ~~((100))~~ 200 feet of the blast site. No person shall be allowed to handle explosives while under the influence of intoxicating liquors, narcotics, or other dangerous drugs. This rule does not apply to persons taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the worker or others.

(b) Original containers or day box magazines shall be used for taking detonators and other explosives from storage magazines to the blast site.

(c) When blasting is done in congested areas or in close proximity to a structure, railway, or highway or any other installation that may be damaged, the blast shall be covered before firing with a mat or other suitable protective material that is capable of preventing fragments from being thrown.

(d) Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution, including but not limited to warning signals,

flags and barricades or ~~((woven wire))~~ blasting mats to insure the safety of the general public and workers.

(e) Blasting operations shall be conducted during daylight hours whenever possible.

(f) Whenever blasting is being conducted ~~((in the vicinity of gas, electric, water, fire alarm, telephone, telegraph, and steam utilities))~~ within distances specified in Table H-20 of public utilities (as defined), the user (blaster) shall notify the appropriate representatives of such utilities at least twenty-four hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice.

(g) ~~((Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radar, radio transmitters, lightning, adjacent powerlines, dust storms, or other sources of extraneous electricity. These precautions shall include:~~

~~(i) The suspension of all blasting operations and removal of persons from the blast site during the approach and progress of an electric storm.~~

~~(ii) The posting of signs, warning against the use of mobile radio transmitters, on all roads shall be in accordance with the applicable provisions of the American National Standards Institute D6.1-1971, Manual on Uniform Traffic Control Devices for Streets and Highways, as amended by Washington State Department of Highways Manual M24-01 (HT), (February 22, 1972).~~

~~(iii) Ensuring that mobile radio transmitters which are less than 100 feet away from electric blasting caps, when the caps are in other than original containers, shall be deenergized and effectively locked.~~

~~(iv) Compliance with the recommendations of The Institute of the Makers of Explosives (IME) with regard to blasting in the vicinity of radio transmitters as stipulated in Radio Frequency Energy - A Potential Hazard in the Use of Electric Blasting Caps, IME Publication No. 20, September 1971.~~

~~(v) When electric blasting caps are being used in blasting operations in the proximity of fixed radio transmitters, the following table of distances must be observed, unless it is determined by designated test procedures that there is not sufficient radio frequency energy present to create a hazard. The test procedure shall be to attach a No. 47 radio pilot lamp in place of the cap in the blasting circuit progressively as the circuit is connected, starting with the initial hole. In the event the lamp glows, the length of the wires connecting the circuit shall be altered by adding or cutting off wire until the lamp does not glow. A radio frequency field strength meter may be used in lieu of the test lamp.~~

~~Electromagnetic radiation. Blasting operations or storage of electrical detonators shall be prohibited in vicinity of operating radio frequency (RF) transmitter stations except where the clearances given below can be observed.~~

Transmitter Power Except FM Mobile (Watts)	Minimum Distance (Feet)
5	25
25	50
50	100

100	250	350
250	500	450
500	1,000	650
1,000	2,500	1,000
2,500	5,000	1,500
5,000	10,000	2,200
10,000	25,000	3,500
25,000	50,000	5,000
50,000	100,000	7,000

Transmitter Power FM Mobile (Watts)	Minimum Distance (Feet)
1	10
10	30
30	60
60	250

~~(vi) When necessary to perform blasting operations at distances less than those shown in table, detonating type fuse or other approved type systems shall be used.)~~ Due precaution shall be taken to prevent unintended discharge of blasting caps from extraneous electric current or from transmitted radio frequency (RF) energy. Examples:

Common sources of extraneous electricity include but are not limited to adjacent powerlines, dust storms and lightning storms.

Common sources of hazardous RF transmissions include but are not limited to: (MOBILE) citizen band (CB) or side band radio transmitters, VHF (FM) radio transmitters, UHF cellular telephones and radar transmitters. (FIXED LOCATION TRANSMITTERS) base stations for CB, side band or FM radio communications, UHF cellular telephone transmitters and service extension repeater systems, AM and FM (commercial) radio broadcast transmitters, TV broadcast transmitters and repeater system transmitters, surface scan and radio navigation beacons.

(h) Low flying aircraft and in particular military aircraft create the most common serious RF exposures. These highly unpredictable mobile transmitters are very powerful and transmit on a broad spectrum of frequencies including radar, laser and all common communications bands. Probably the two most dangerous examples are low flying automatic terrain following guidance systems and airplanes which are equipped to jam all common radar and communications frequencies for a distance of several miles around the airborne transmitters.

Precautions to prevent unintended discharge of electric blasting caps from extraneous electric currents or RF transmission shall include:

(i) Positive identification of voltages in electrical transmissions and distribution lines and specific required clearance for each specific system; and

(ii) Complete suspension of all blasting operations and removal of all personnel from the blast site during the approach and progress of heavy dust storms which may create static lightning or conventional thunder and lightning storms; and

(iii) The posting of signs, warning against the use of mobile 2-way radios and telephones frequency transmitters

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on all highways, roadways and right-of-ways, both public and private, wherever it is foreseeable that motor vehicles may travel into the required 1,000 feet clearance zone while carrying 2-way radios and telephone transmission equipment. The posting of signs shall comply with the *Manual on Uniform Traffic Control Devices for Streets and Highways*, ANSI D.61-1988, as amended by *Washington State Department of Highways Manual M24-01*, codified as chapter 468-95 WAC; and

Note: See Appendix II, WAC 296-52-552 for illustrations and specific posting requirements.

(iv) Ensuring that mobile RF transmitters which are less than 100 feet away from electrical blasting caps are deenergized or disconnected when the caps are not fully contained in the original DOT shipping containers; and

(v) Fixed location RF transmitters represent a higher level of hazard to both storage and/or blasting operations involving electric caps because the transmitters are more powerful and transmit dangerous levels of RF exposure over much greater distances. Storage or blasting operations with electric caps shall only be carried out in full compliance with the appropriate recommended distance tables published in *INSTITUTE OF MAKERS OF EXPLOSIVES (I.M.E.) Publication No. 20, 1988, "SAFETY GUIDE FOR THE PREVENTION OF RADIO FREQUENCY HAZARDS IN THE USE OF COMMERCIAL ELECTRIC DETONATORS (Blasting Caps)";* and

(vi) When a proposed blast site is located within 10 miles of a fixed location RF transmitter and electric caps are the intended means of initiation, the blasting employer and/or blaster in charge shall:

(A) Accurately determine the distance between the transmitter and the proposed blast site;

(B) Contact the transmitter owner/operator and identify the broadcast frequency and highest potential power output;

(C) Provide the RF transmission information to the manufacturer's technical representative or the department of labor and industries to ascertain correct application of *I.M.E. Pamphlet 20-1988 Clearance Tables*; and

(vii) When necessary to conduct blasting operations within the required separation distances specified in *I.M.E. Pamphlet 20-1988*, the storage and use of electric blasting caps shall be prohibited on the site and only detonating cord, safety fuse, shock tube or other approved nonelectric systems may be used.

~~((h))~~ (i) No fire shall be fought where the fire is in imminent danger of contact with explosives. All employees shall be removed to a safe area and the fire area guarded against intruders.

~~((i))~~ (j) Electric detonators shall be shunted until wired into the blasting circuit.

~~((j))~~ (k) Explosives shall not be handled near open flames, uncontrolled sparks or ~~((open))~~ energized electric circuits.

~~((k))~~ (l) Delivery and issue of explosives shall only be made by and to authorized persons and into authorized magazines or approved temporary storage or handling area.

~~((l)) All loading and firing shall be directed and supervised by competent, licensed persons thoroughly experienced in this field.)~~ (m) Blaster in charge.

(i) The blast site shall be under the control of a fully qualified "blaster in charge" throughout the course of every blasting operation. That obligation shall commence with a site survey to determine potential safety conflicts with: Public utility transmission systems, dwellings or other occupied buildings, roads or railroads, radio frequency transmitters, preexisting explosives storage magazines.

(ii) The blaster in charge shall prepare a site blasting plan before commencing blasting. The site plan shall specify safety accommodations for any site conflicts identified in the site survey. The site conditions shall dictate the blasting method and safety procedures to comply with the requirements of this chapter.

(iii) All on-site transportation, storage, loading and firing of explosives shall be supervised by the blaster in charge. Trainees and inexperienced personnel shall work only in the immediate presence of licensed personnel fully qualified in the blasting method in use, including safety procedures and blasting signals in use at that site.

(iv) The site blasting plan shall include designated safe location(s) for personnel during actual blasting and a method for determining when all personnel are accounted for in the designated safe location(s).

Note: It is desirable that all potential means of egress into the blast site should be under observation immediately prior to each blast. The observer(s) should be provided with a means of communication with the blaster in charge.

~~((m))~~ (n) The employer shall permit only ~~((persons having proof of valid safety explosive training))~~ competent and authorized personnel to handle explosives ~~((at the blasting site))~~.

~~((n))~~ (o) No explosive shall be loaded or used underground in the presence of combustible gases or combustible dusts unless approved as permissible by MSHA.

(p) In either electric or nonelectric blasting, the firing line(s) shall not be connected to the blast initiating device until all personnel have been accounted for and removed from the blast danger area or are in a blast shelter or other location which affords adequate protection.

(2) Storage at use sites.

(a) Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at the blast site or at an approved isolated location out of doors, and no person shall be nearer than 100 feet after the burning has started.

(b) When opening kegs or wooden cases, no sparking metal tools shall be used; wooden wedges and either wood, fiber or rubber mallets shall be used. Nonsparking metallic slitters may be used for opening fiberboard cases.

(c) Should cartridges or packages of explosives show signs of ~~((discoloration))~~ or deterioration, the manufacturer or the department shall be notified. Such explosives must be carefully set aside and properly disposed of.

(3) Loading of explosives or blasting agents in blast holes.

(a) Procedures that permit safe and efficient loading shall be established before loading is started.

(b) All drill holes shall be sufficiently large to admit freely the insertion of the cartridges of explosives. Holes

shall be checked prior to loading to determine depth and conditions.

(c) Tamping shall be done only with wood rods or with approved plastic tamping poles without exposed metal parts, but nonsparking metal connectors may be used for jointed poles. Violent tamping shall be avoided. The primer shall never be tamped.

(d) No holes shall be loaded except those to be fired in the next round of blasting. After loading, all remaining explosives and detonators shall be immediately returned to an authorized magazine or day box.

(e) Drilling shall not be started until all remaining butts of old holes are examined for unexploded charges, and if any are found, they shall be refired before work proceeds.

(f) When a charge of explosives has been exploded in a bore hole to enlarge or "spring" it, an interval of at least two hours must be allowed to pass before an additional charge of explosives can be loaded into the hole.

Note: There may be an exception made to this rule provided the sprung hole is thoroughly wet down with water before it is loaded.

(g) No person shall be allowed to deepen drill holes which have contained explosives or blasting agents.

(h) No explosives or blasting agents shall be left unattended at blast sites unless stored in a licensed magazine.

(i) Users (blasters) shall not load, store or use explosives closer than the length of the steel being used for drilling and in no event nearer than fifty feet of drilling operations.

(j) Machines and all tools not used for loading explosives into bore holes shall be removed from the immediate location of holes being loaded with explosives. Equipment shall not be operated within 50 feet of loaded holes except when equipment is needed to add burden, mats or tracking of drills out of the loading area.

(k) Powerlines and portable electric cables for equipment being used shall be kept a safe distance from explosives or blasting agents being loaded into drill holes. Cables in the proximity of the blast area shall be deenergized and locked out by the blaster.

(l) Holes shall not be drilled where there is danger of intersecting a charged or misfired hole.

(m) All blast holes in open work shall be stemmed to the collar or to a point which will confine the charge.

(n) No explosives for underground operations other than those in Fume Class 1, as set forth by the Institute of Makers of Explosives, shall be used; however, explosives complying with the requirements of Fume Class 2 and Fume Class 3 may be used if adequate ventilation has been provided.

(o) Warning signs, indicating a blast area, shall be maintained at all approaches to the blast area. The warning sign lettering shall not be less than 4 inches in height on a contrasting background. All loaded stumps must be marked for identification on logging sites.

(p) A bore hole shall never be sprung when it is adjacent to or near a hole which has been loaded. Flashlight batteries shall not be used as a power source (blasting machine) for springing holes.

(q) No loaded holes shall be left unattended or unprotected.

(r) The user (blaster) shall keep an accurate, up-to-date record of explosives, blasting agents, and blasting supplies used in a blast and shall keep an accurate running inventory of all explosives and blasting agents stored on the operation.

(s) When loading blasting agents pneumatically over ~~((electric blasting caps))~~ primed boosters, semiconductive delivery hose shall be used and the equipment shall be bonded and grounded.

(4) Initiation of explosive charges - electric blasting.

(a) ~~((Only electric blasting caps shall be used for blasting operations in congested districts, or on highways, or adjacent to highways open to traffic, except where sources of extraneous electricity make such use dangerous.))~~ Blasting cap leg wires shall be kept short-circuited (shunted) until they are connected into the circuit for firing.

(b) Before adopting any system of electrical firing, the user (blaster) shall conduct a thorough survey for extraneous currents, and all dangerous currents shall be eliminated before any holes are loaded.

(c) In any single blast using electric blasting caps, all caps shall be of the same style or function and be of the same manufacture and compatible with another.

(d) Electric blasting shall be carried out by using blasting circuits or power circuits in accordance with the electric blasting cap manufacturer's recommendations.

(e) The firing line shall be checked with an approved testing device at the terminals before being connected to the blasting machine or other power source.

(f) The circuit including all caps shall be tested with an approved testing device before being connected to the firing line.

(g) When firing a circuit of electric blasting caps, care shall be exercised to ensure that an adequate quantity of delivered current is available, in accordance with the manufacturer's recommendations.

(h) Connecting wires and lead wires shall be insulated single solid wires of sufficient current-carrying capacity, and shall not be less than twenty gauge (American wire gauge) solid core insulated wire.

(i) Firing line or ~~((leading))~~ lead wires shall be solid single wires of sufficient current-carrying capacity, and shall be not less than fourteen gauge (American wire gauge) solid core insulated wire. Bus wires - depends on the size of the blast, fourteen gauge (American wire gauge) copper is recommended.

(j) The ends of lead wires which are to be connected to a firing device shall be shorted by twisting them together or otherwise connecting them before they are connected to the leg wires or connecting wires, and they shall be kept in the ~~((possession))~~ control of the person who is doing the loading until loading is completed and the leg wires attached. Lead wires shall not be attached to the firing device until the blaster is ready to fire the shot and must be attached by the user (blaster) themselves.

(k) The ends of the leg wires on electric detonators shall be shorted in a similar manner and not separated other than for testing until all holes are loaded and the loader is ready to connect the leg wires to the connecting wires or lead wires.

(l) When firing electrically, the insulation on all firing lines shall be adequate and in good condition.

(m) A power circuit used for firing electric blasting caps shall not be grounded.

(n) In underground operations when firing from a power circuit, a safety switch shall be placed at intervals in the permanent firing line. This switch shall be made so it can be locked only in the "off" position and shall be provided with a short-circuiting arrangement of the firing lines to the cap circuit.

(o) In underground operations there shall be a "lightning" gap of at least 5 feet in the firing system ahead of the main firing switch; that is, between this switch and the source of power. This gap shall be bridged by a flexible jumper cord just before firing the blast.

(p) When firing from a power circuit, the firing switch shall be locked in the open or "off" position at all times, except when firing. It shall be so designed that the firing lines to the cap circuit are automatically short-circuited when the switch is in the "off" position. Keys to this switch shall be entrusted only to the user (blaster).

(q) Blasting machines shall be in good condition and the efficiency of the machine shall be tested periodically to make certain that it can deliver power at its rated capacity.

(r) When firing with blasting machines, the connections shall be made as recommended by the manufacturer of the electric blasting caps used.

(s) The number of electric blasting caps connected to a blasting machine shall not be in excess of its rated capacity. Furthermore, in primary blasting, a series circuit shall contain no more caps than the limits recommended by the manufacturer of the electric blasting caps in use.

(t) The ~~((user (blaster)))~~ blaster in charge shall be in charge of the blasting machines, and no other person shall connect the ~~((leading))~~ lead wires to the machine.

(u) Users (blasters), when testing circuits to charged holes, shall use only blasting testers especially designed for this purpose.

(v) Whenever the possibility exists that a ~~((leading))~~ lead line or blasting wire might be thrown over live overhead powerlines, communication lines, utility services, or other services or structures by the force of an explosion, care shall be taken to see that the total length of wires are kept too short to hit the lines, that the wires are securely anchored to the ground and owners or operators are notified. If those requirements can not be satisfied, a nonelectric system shall be used.

(w) In electrical firing, only the person making ~~((leading))~~ lead wire connections shall fire the shot. All connections shall be made from the bore hole back to the source of firing current, and the ~~((leading))~~ lead wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(x) After firing an electric blast from a blasting machine, the leading wires shall be immediately disconnected from the machine and short-circuited.

(y) When electric blasting caps have been used, workers shall not return to misfired holes for at least thirty minutes.

(5) Use of safety fuse.

(a) A fuse that is deteriorated or damaged in any way shall not be used.

(b) The hanging of fuse on nails or other projections which will cause a sharp bend to be formed in the fuse is prohibited.

(c) Before capping safety fuse, a short length shall be cut from the end of the supply reel so as to assure a fresh cut end in each blasting cap.

(d) Only a cap crimper of approved design shall be used for attaching blasting caps to safety fuse. Crimpers shall be kept in good repair and accessible for use.

(e) No unused cap or short capped fuse shall be placed in any hole to be blasted; such unused detonators shall be removed from the working place and disposed of or stored in licensed magazine.

(f) No fuse shall be capped, or primers made up, in any magazine or near any possible source of ignition.

(g) Capping of fuse and making of primers shall only be done in a place selected for this purpose and at least one hundred feet distant from any storage magazine.

(h) Fuse must be cut long enough to reach beyond the collar of the bore hole and in no case less than three feet. When shooting choker holes, not less than three feet of fuse shall be used.

(i) At least two persons shall be present when multiple cap and fuse blasting is done by hand lighting methods.

(j) Not more than 12 fuses shall be lighted by each blaster when hand lighting devices are used. However, when two or more safety fuses in a group are lighted as one by means of igniter cord, or other similar fuse-lighting devices, they may be considered as one fuse.

(k) The so-called "drop fuse" method of dropping or pushing a primer or any explosive with a lighted fuse attached is prohibited.

(l) Cap and fuse shall not be used for firing mudcap charges unless charges are separated sufficiently to prevent one charge from dislodging other shots in the blast.

(m) When blasting with safety fuses, consideration shall be given to the length and burning rate of the fuse. Sufficient time, with a margin of safety, shall always be provided for the blaster to reach a place of safety.

(n) The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all workers concerned with blasting. No fuse shall be used that burns faster than one foot in forty seconds or slower than one foot in fifty-five seconds.

(o) For use in wet places the joint between the cap and fuse shall be waterproofed with a compound prepared for this purpose.

(p) In making up primers only nonsparking skewers shall be used for punching the hole in the cartridge to insert the capped fuse. No blasting cap shall be inserted in the explosives without first making a hole in the cartridge of proper size or using a standard cap crimper.

(q) Only sufficient primers for one day's use shall be made up at one time. They shall be stored in a box type magazine in which no other explosives are stored.

(r) Any loose cartridges of explosives, detonators, primers and capped fuse unused at the end of the shift shall be returned to their respective magazines and locked up.

(s) Safety fuse and caps shall only be used for conventional blasting where:

(i) Extraneous electricity or radio frequency transmissions make the use of electric cap and wire systems dangerous;

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(ii) Overhead electric transmission lines cannot be deenergized and there is danger that blasting wires may be thrown into the overhead lines during a blast;

(iii) For avalanche control hand charges;

(iv) For specialized applications where cap and fuse is more suitable than electric or other nonelectric initiation systems.

(6) Use of detonating cord.

(a) Care shall be taken to select a detonating cord consistent with the type and physical condition of the bore hole and stemming and the type of explosives used.

(b) Detonating cord shall be handled and used with the same respect and care given other explosives.

(c) For quantity and distance purposes detonating fuse up to 60 grains per foot should be calculated as equivalent to 9 lbs. of high explosives per 1,000 feet. Heavier cord loads should be rated proportionately.

~~(d) ((If using a detonating type cord for blasting the double trunk line or loop systems shall be used.~~

~~(e))~~ Trunk lines in multiple-row blasts shall make one or more complete loops, with crossies between loops at intervals of not over two hundred feet.

~~((f))~~ (e) All detonating cord knots shall be tight and all connections shall be kept at right angles to the trunk lines.

~~((g))~~ (f) The line of detonating cord extending out of a bore hole or from a charge shall be cut from the supply spool before loading the remainder of the bore hole or placing additional charges.

~~((h))~~ (g) Detonating cord shall be handled and used with care to avoid damaging or severing the cord during and after loading and hooking-up.

~~((i))~~ (h) Detonating cord connections shall be competent and positive in accordance with approved and recommended methods. Knot-type or other cord-to-cord connections shall be made only with detonating cord in which the explosive core is dry.

~~((j))~~ (i) All detonating cord trunklines and branchlines shall be free of loops, sharp kinks, or angles that direct the cord back toward the oncoming line of detonation.

~~((k))~~ (j) All detonating cord connections shall be inspected before firing the blast.

~~((l))~~ (k) When detonating cord millisecond-delay connectors or short-interval-delay electric blasting caps are used with detonating cord, the practice shall conform strictly to the manufacturer's recommendations.

~~((m))~~ (l) When connecting a blasting cap or an electric blasting cap to detonating cord, the cap shall be taped or otherwise attached securely along the side or the end of the detonating cord, with the end of the cap containing the explosive charge pointed in the direction in which the detonation is to proceed.

~~((n))~~ (m) Detonators for firing the trunkline shall not be brought to the loading area nor attached to the detonating cord until everything else is in readiness for the blast.

(7) Initiation of explosive charges - nonelectric blasting.

(a) All nonelectric initiation systems and components of these systems shall be used in accordance with their manufacturers recommendations and instructions.

(b) All members of the blasting crew shall be instructed in the safe use of the initiation system and its components. It shall be the duty of the blaster in charge to provide

adequate on-the-job training and supervision in the safe use of such systems.

(c) When a nonelectric shock tube initiation system is used, the tubing shall be free of all knots and tight kinks. The shock tube shall be free of cuts or abrasions that could expose the core to moisture.

(d) All blasting operations shall cease during the approach and progress of a thunderstorm, regardless of the type of initiation system used, and all personnel shall withdraw to a place of safety.

(e) When an explosive bulk truck or other vehicle is operated on a blast site, care shall be taken to ensure that the vehicle does not tread on the tubing, connectors, or any surface delay component. If a vehicle operated on a blast site must pass over loaded blastholes, precautions shall be made to consolidate these elements at the collar of the hole to prevent vehicle contact.

(f) Before firing the shot, the blaster in charge shall make a visual inspection to ensure that the initiation system is hooked up in accordance with the manufacturers recommendations.

(8) Firing the blast.

(a) A code of blasting signals equivalent to Table T-1 shall be posted on one or more conspicuous places at the operation, and all employees shall be required to familiarize themselves with the code and conform to it. ~~((Danger))~~ Warning signs shall be placed at suitable locations.

(b) All charges shall be covered with blasting mats or other protective material before firing, where blasting may cause injury or damage by flying rock or debris.

(c) Before a blast is fired, a loud warning signal shall be given by the blaster in charge, who has made certain that all surplus explosives are in a safe place and all employees, vehicles, and equipment are at a safe distance, or under sufficient cover.

(d) ~~((Flagmen))~~ Flaggers shall be safely stationed on highways which pass through the danger zone so as to stop traffic during blasting operations.

(e) It shall be the duty of the blaster to fix the time of blasting. The blaster shall conduct all blasting operations and no shot shall be fired without the blasters' approval.

(f) Before firing an underground blast, warning shall be given, and all possible entries into the blasting area, and any entrances to any working place where a drift, raise, or other opening is about to hole through, shall be carefully guarded. The blaster shall make sure that all employees are out of the blast area before firing a blast.

TABLE T-1

WARNING SIGNAL	—	A 1-minute series of long blasts 5 minutes prior to blast signal.
BLAST SIGNAL	—	A series of short blasts 1 minute prior to the shot.
ALL CLEAR SIGNAL	—	A prolonged blast following the inspection of blast area.

~~((9))~~ (9) Inspection after blasting.

(a) Immediately after the blast has been fired, the firing line shall be disconnected from the blasting machine, or

where power switches are used, they shall be locked open or in the off position.

(b) Sufficient time shall be allowed, not less than fifteen minutes in tunnels, for the smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the user (blaster) to determine if all charges have been exploded before employees are allowed to return to the operation, and in tunnels, after the muck pile has been wetted down.

~~((9))~~ (10) Misfires.

(a) If a misfire is found, the user (blaster) shall provide proper safeguards for excluding all employees or other personnel from the danger zone.

(b) No other work shall be done except that necessary to remove the hazard of the misfire and only those employees necessary to do the work shall remain in the danger zone.

(c) No attempt shall be made to extract explosives from any charged or misfired hole; a new primer shall be put in and the hole reblasted. If refiring of the misfired hole presents a hazard, the explosives may be removed by washing out with water or, where the misfire is under water, blown out with air.

(d) If there are any misfires while using cap and fuse, all employees shall remain away from the charge for at least one hour. Misfires shall be handled under the direction of the person in charge of the blasting. ~~((All wires shall be carefully traced and a search made for unexploded charges.))~~

(e) When electric blasting caps have been used, workers shall not return to misfired holes for at least thirty minutes. All wires shall be carefully traced and a search made for unexploded charges.

(f) If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location and no one shall return to the hole until the danger has passed, but in no case within one hour.

(g) No drilling, digging, or picking shall be permitted until all missed holes have been detonated or the authorized representative has approved that work can proceed.

~~((10))~~ (11) Underwater blasting.

(a) A user (blaster) shall conduct all blasting operations, and no shot shall be fired without the blasters' approval.

(b) Loading tubes and casings of dissimilar metals shall not be used because of possible electric transient currents from galvanic action of the metals and water.

(c) Only water-resistant ~~((blasting caps and detonating cords))~~ initiation systems shall be used for ~~((all))~~ underwater blasting. Loading shall be done through a nonsparking ~~((metal))~~ loading tube when tube is necessary.

(d) No blast shall be fired while any vessel under way is closer than 1,500 feet to the blasting area. Those on board vessels or craft moored or anchored within 1,500 feet shall be notified before a blast is fired.

(e) No blast shall be fired while any swimming or diving operations are in progress in the vicinity of the blasting area. If such operations are in progress, signals and arrangements shall be agreed upon to assure that no blast shall be fired while any persons are in the water.

(f) Blasting flags shall be displayed.

(g) The storage and handling of explosives aboard vessels used in underwater blasting operations shall be

according to provisions outlined herein on handling and storing explosives.

(h) When more than one charge is placed under water, a float device shall be attached to an element of each charge in such manner that it will be released by the firing. Misfires shall be handled in accordance with the requirements of WAC 296-52-493(9).

~~((11))~~ (12) Blasting in excavation work in pressurized air locks.

(a) Detonators and explosives shall not be stored or kept in tunnels, shafts, or caissons. Detonators and explosives for each round shall be taken directly from the magazines to the blasting zone and immediately loaded. Detonators and explosives left over after loading a round shall be removed from the working chamber before the connecting wires are connected up. Explosives in transit shall not be left unattended.

(b) When detonators or explosives are brought into an air lock, no employee except the ~~((powderman))~~ powderperson, user (blaster), lock tender and the employees necessary for carrying, shall be permitted to enter the air lock. No material, supplies, or equipment shall be brought through with the explosives.

(c) Primers, detonators and explosives shall be taken separately into pressure working chambers.

(d) The user (blaster) or ~~((powderman))~~ powderperson shall be responsible for the receipt, unloading, storage, and on-site transportation of explosives and detonators.

(e) All metal pipes, rails, air locks, and steel tunnel lining shall be electrically bonded together and grounded at or near the portal or shaft, and such pipes and rails shall be cross-bonded together at not less than 1,000-foot intervals throughout the length of the tunnel. In addition, each air supply pipe shall be grounded at its delivery end.

(f) The explosives suitable for use in wet holes shall be water-resistant and shall be Fume Class 1, or other approved explosives.

(g) When tunnel excavation in rock face is approaching mixed face, and when tunnel excavation is in mixed face, blasting shall be performed with light charges and with light burden on each hole. Advance drilling shall be performed as tunnel excavation in rock face approaches mixed face, to determine the general nature and extent of rock cover and the remaining distance ahead to soft ground as excavation advances.

~~((12))~~ (13) Vibration and damage control. Blasting operations in or adjacent to cofferdams, piers, underwater structures, buildings, structures, or other facilities shall be carefully planned with full consideration for all forces and conditions involved.

~~((13))~~ (14) Black blasting powder shall not be used for blasting ~~((except when a desired result cannot be obtained with another type of explosive such as in quarrying certain types of dimension stone)).~~

~~((14))~~ In the use of black blasting powder:

~~((a))~~ Containers shall not be opened in, or within fifty feet of any magazine; within any building in which a fuel-fired or exposed element electric heater is in operation; where electrical or incandescent particle sparks could result in powder ignition; or within fifty feet of any open flame.

~~((b))~~ Granular powder shall be transferred from containers only by pouring.

~~(e) Spills of granular powder shall be cleaned up promptly with nonsparking equipment, contaminated powder shall be put into a container of water and its content disposed of promptly after the granules have disintegrated, or the spill area shall be flushed with a copious amount of water to completely disintegrate the granules.~~

~~(d) Containers of powder shall be kept securely closed at all times other than when the powder is being transferred from or into a container.~~

~~(e) Containers of powder transported by vehicles shall be in a wholly enclosed cargo space.~~

~~(f) Misfires shall be disposed of by:~~

~~(i) Washing the stemming and powder charge from the bore hole, and~~

~~(ii) Removal and disposal of the initiator as a damaged explosive.~~

~~(iii) Bore holes of shots that fire but fail to break, or fail to break promptly, shall not be recharged for at least twelve hours.)~~

(15) No person shall store, handle, or transport explosives or blasting agents when such storage, handling, and transportation of explosives or blasting agents constitutes an undue hazard to life.

(16) It shall be unlawful for any person to abandon explosives or explosive substances.

**AMENDATORY SECTION** (Amending Order 90-18, filed 1/10/91, effective 2/12/91)

**WAC 296-52-497 Blasting agents.** (1) General. Unless otherwise set forth in this section, blasting agents, excluding water gels, shall be transported, stored, and used in the same manner as explosives. Water gels are covered in WAC 296-52-501.

(2) Fixed location mixing.

(a) Buildings or other facilities used for mixing blasting agents shall be located, with respect to inhabited buildings, passenger railroads, and public highways, in accordance with Table ~~((H-21))~~ H-20. In determining the distance separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table ~~((H-21))~~ H-20), the sum of all masses which may propagate (i.e., lie at distances less than prescribed in Table H-22) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only fifty percent of its weight shall be used because of its reduced blast effects.

(b) Buildings used for the mixing of blasting agents shall conform to the requirements of this section.

(i) Buildings shall be of noncombustible construction or sheet metal on wood studs.

(ii) Floors in a mixing plant shall be of concrete or of other nonabsorbent materials.

(iii) All fuel oil storage facilities shall be separated from the mixing plant and located in such a manner that in case of tank rupture, the oil will drain away from the mixing plant building.

(iv) The building shall be well ventilated.

(v) Heating units which do not depend on combustion processes, when properly designed and located, may be used in the building. All direct sources of heat shall be located outside the mixing building.

(vi) All internal-combustion engines used for electric power generation shall be located outside the mixing plant building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so any spark emission cannot be a hazard to any materials in or adjacent to the plant.

(c) Equipment used for mixing blasting agents shall conform to the requirements of this subsection.

(i) The design of the mixer shall minimize the possibility of frictional heating, compaction, and especially confinement. All bearings and drive assemblies shall be mounted outside the mixer and protected against the accumulation of dust. All surfaces shall be accessible for cleaning.

(ii) Mixing and packaging equipment shall be constructed of materials compatible with the fuel-ammonium nitrate composition.

(iii) Suitable means shall be provided to prevent the flow of fuel oil to the mixer in case of fire. In gravity flow systems an automatic spring-loaded shutoff valve with fusible link shall be installed.

(d) The provisions of this subsection shall be considered when determining blasting agent compositions.

(i) The sensitivity of the blasting agent shall be determined by means of a No. 8 test blasting cap at regular intervals and after every change in formulation.

(ii) Oxidizers of small particle size, such as crushed ammonium nitrate prills or fines, may be more sensitive than coarser products and shall, therefore, be handled with greater care.

(iii) No hydrocarbon liquid fuel with flashpoint lower than that of No. 2 diesel fuel oil 125°F. minimum shall be used.

(iv) Crude oil and crankcase oil shall not be used.

(v) Metal powders such as aluminum shall be kept dry and shall be stored in containers or bins which are moisture-resistant or weathertight. Solid fuels shall be used in such manner as to minimize dust explosion hazards.

(vi) Peroxides and chlorates shall not be used.

(e) All electrical switches; controls, motors, and lights located in the mixing room shall conform to the requirements in ~~((WAC 296-24-956 (25)(b)))~~ chapter 296-24 WAC, Part L; otherwise they shall be located outside the mixing room. The frame of the mixer and all other equipment that may be used shall be electrically bonded and be provided with a continuous path to the ground.

(f) Safety precautions at mixing plants shall include the requirements of this subsection.

(i) Floors shall be constructed so as to eliminate floor drains and piping into which molten materials could flow and be confined in case of fire.

(ii) The floors and equipment of the mixing and packaging room shall be cleaned regularly and thoroughly to prevent accumulation of oxidizers or fuels and other sensitizers.

(iii) The entire mixing and packaging plant shall be cleaned regularly and thoroughly to prevent excessive accumulation of dust.

(iv) Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by law enforcement bomb squad members or qualified guards) shall not be permitted inside of or within 50 feet of any building or facility used for the mixing of blasting agents.

(v) The land surrounding the mixing plant shall be kept clear of brush, dried grass, leaves, and other materials for a distance of at least 25 feet.

(vi) Empty ammonium nitrate bags shall be disposed of daily in a safe manner.

(vii) No welding shall be permitted or open flames used in or around the mixing or storage area of the plant unless the equipment or area has been completely washed down and all oxidizer material removed.

(viii) Before welding or repairs to hollow shafts, all oxidizer material shall be removed from the outside and inside of the shaft and the shaft vented with a minimum one-half inch diameter opening.

(ix) Explosives shall not be permitted inside of or within 50 feet of any building or facility used for the mixing of blasting agents.

(3) Bulk delivery and mixing vehicles.

(a) The provisions of this subsection shall apply to off-highway private operations as well as to all public highway movements.

(b) A bulk vehicle body for delivering and mixing blasting agents shall conform with the requirements of this subsection.

(i) The body shall be constructed of noncombustible materials.

(ii) Vehicles used to transport bulk premixed blasting agents on public highways shall have closed bodies.

(iii) All moving parts of the mixing system shall be designed as to prevent a heat buildup. Shafts or axles which contact the product shall have outboard bearings with 1-inch minimum clearance between the bearings and the outside of the product container. Particular attention shall be given to the clearances on all moving parts.

(iv) A bulk delivery vehicle shall be strong enough to carry the load without difficulty and be in good mechanical condition.

(c) Operation of bulk delivery vehicles shall conform to the requirements of WAC 296-52-489(2). These include the placarding requirements as specified by department of transportation.

(i) The operator shall be trained in the safe operation of the vehicle together with its mixing, conveying, and related equipment. The employer shall assure that the operator is familiar with the commodities being delivered and the general procedure for handling emergency situations.

(ii) The hauling of either blasting caps or other explosives but not both, shall be permitted on bulk trucks provided that a special wood or nonferrous-lined container is installed for the explosives. Such blasting caps or other explosives shall be in DOT-specified shipping containers: See 49 CFR Chapter I.

(iii) No person shall smoke, carry matches or any flame-producing device, or carry any firearms while in or about bulk vehicles effecting the mixing transfer or down-the-hole loading of blasting agents at or near the blasting site.

(iv) Caution shall be exercised in the movement of the vehicle in the blasting area to avoid driving the vehicle ~~((over))~~ on to or dragging hoses over firing lines, cap wires, or explosive materials. The employer shall assure that the driver, in moving the vehicle, has assistance of a second person to guide the driver's movements.

(v) No intransit mixing of materials shall be performed.

(d) Pneumatic loading from bulk delivery vehicles into blastholes primed with electric blasting caps or other static-sensitive systems shall conform to the requirements of this subsection.

(i) A positive grounding device shall be used to prevent the accumulation of static electricity.

(ii) A discharge hose shall be used that has a resistance range that will prevent conducting stray currents, but that is conductive enough to bleed off static buildup.

(iii) A qualified person shall evaluate all systems to determine if they will adequately dissipate static under potential field conditions.

(e) Repairs to bulk delivery vehicles shall conform to the requirements of this section.

(i) No welding or open flames shall be used on or around any part of the delivery equipment unless it has been completely washed down and all oxidizer material removed.

(ii) Before welding or making repairs to hollow shafts, the shaft shall be thoroughly cleaned inside and out and vented with a minimum one-half-inch diameter opening.

(4) Bulk storage bins.

(a) The bin, including supports, shall be constructed of compatible materials, waterproof, and adequately supported and braced to withstand the combination of all loads including impact forces arising from product movement within the bin and accidental vehicle contact with the support legs.

(b) The bin discharge gate shall be designed to provide a closure tight enough to prevent leakage of the stored product. Provision shall also be made so that the gate can be locked.

(c) Bin loading manways or access hatches shall be hinged or otherwise attached to the bin and be designed to permit locking.

(d) Any electrically driven conveyors for loading or unloading bins shall conform to the requirements of ~~((WAC 296-24-956 through 296-24-960))~~ chapter 296-24 WAC, Part L. They shall be designed to minimize damage from corrosion.

(e) Bins containing blasting agent shall be located, with respect to inhabited buildings, passenger railroads, and public highways, in accordance with Table ~~((H-21))~~ H-20 and separation from other blasting agent storage and explosives storage shall be in conformity with Table H-22.

(f) Bins containing ammonium nitrate shall be separated from blasting agent storage and explosives storage in conformity with Table H-22.

(5) Transportation of packaged blasting agents.

(a) When blasting agents are transported in the same vehicle with explosives, all of the requirements of WAC 296-52-489 shall be complied with.

(b) Vehicles transporting blasting agents shall only be driven by and in charge of a driver at least twenty-one years of age who is capable, careful, reliable, and in possession of a valid motor vehicle operator's license. Such a person shall also be familiar with the states vehicle and traffic laws.

(c) No matches, firearms, acids, or other corrosive liquids shall be carried in the bed or body of any vehicle containing blasting agents.

(d) No person shall be permitted to ride upon, drive, load, or unload a vehicle containing blasting agents while smoking or under the influence of intoxicants, narcotics, or other dangerous drugs.

(e) It is prohibited for any person to transport or carry any blasting agents upon any public vehicle carrying passengers for hire.

(f) Vehicles transporting blasting agents shall be in safe operating condition at all times.

(g) When offering blasting agents for transportation on public highways the packaging, marking, and labeling of containers of blasting agents shall comply with the requirements of DOT.

(h) Vehicles used for transporting blasting agents on public highways shall be placarded in accordance with DOT regulations.

(6) Use of blasting agents. Persons using blasting agents shall comply with all of the applicable provisions of WAC 296-52-493.

**AMENDATORY SECTION** (Amending Order 86-24, filed 5/6/86)

**WAC 296-52-501 Water gel (slurry) explosives and blasting agents.** (1) General provisions. Unless otherwise set forth in this section, water gels and emulsions shall be transported, stored and used in the same manner as explosives or blasting agents in accordance with the classification of the product.

(2) Types and classifications.

(a) Water gels and emulsion explosives containing a substance in itself classified as an explosive shall be classified as an explosive and manufactured, transported, stored, and used as specified for "explosives" in this section, except as noted in subsection (d) of this section.

(b) Water gels and emulsion explosives containing no substance in itself classified as an explosive and which are cap-sensitive as defined in WAC 296-52-417 under blasting agent shall be classified as an explosive and manufactured, transported, stored and used as specified for "explosives" in this section.

(c) Water gels and emulsion blasting agents containing no substance in itself classified as an explosive and which are not cap-sensitive as defined in WAC 296-52-417 under blasting agent shall be classified as blasting agents and manufactured, transported, stored, and used as specified for "blasting agents" in this section.

(d) When tests on specific formulations of water gels result in department of transportation classification as a Class B explosive, bullet-resistant magazines are not required, see WAC 296-52-453.

(3) Fixed location mixing.

(a)(i) Buildings or other facilities used for ~~((mixing))~~ manufacturing emulsions and water gels shall be located with respect to inhabited buildings, passenger railroads and public highways, in accordance with Table H-21.

(ii) In determining the distances separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table ~~((H-24))~~ H-20), the sum of all masses that may propagate (i.e., lie at distances less than prescribed in Table H-22) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only fifty percent of its weight shall be used because of its reduced blast effects.

(b) Buildings used for the ~~((mixing))~~ manufacture of emulsions of water gels shall conform to the requirements of this subsection.

(i) Buildings shall be of noncombustible construction or sheet metal on wood studs.

(ii) Floors in a mixing plant shall be of concrete or of other nonabsorbent materials.

(iii) Where fuel oil is used all fuel oil storage facilities shall be separated from the ~~((mixing))~~ manufacturing plant and located in such a manner that in case of tank rupture, the oil will drain away from the ~~((mixing))~~ manufacturing plant building.

(iv) The building shall be well ventilated. Heating units that do not depend on combustion processes, when properly designed and located, may be used in the building. All direct sources of heat shall be provided exclusively from units located outside of the mixing building.

(v) All internal-combustion engines used for electric power generation shall be located outside the mixing plant building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so any spark emission cannot be a hazard to any materials in or adjacent to the plant.

(c) Ingredients of emulsion and water gels shall conform to the requirements of this subsection.

(i) Ingredients in themselves classified as Class A or Class B explosives shall be stored in conformity with WAC 296-52-461.

(ii) Nitrate-water solutions may be stored in tank cars, tank trucks, or fixed tanks without quantity or distance limitations. Spills or leaks which may contaminate combustible materials shall be cleaned up immediately.

(iii) Metal powders such as aluminum shall be kept dry and shall be stored in containers or bins which are moisture-resistant or weathertight. Solid fuels shall be used in such manner as to minimize dust explosion hazards.

(iv) Ingredients shall not be stored with incompatible materials.

(v) Peroxides and chlorates shall not be used.

(d) Mixing equipment shall comply with the requirements of this subsection.

(i) The design of the processing equipment, including mixing and conveying equipment, shall be compatible with the relative sensitivity of the materials being handled. Equipment shall be designed to minimize the possibility of frictional heating, compaction, overloading, and confinement.

(ii) Both equipment and handling procedures shall be designed to prevent the introduction of foreign objects or materials.

(iii) Mixers, pumps, valves, and related equipment shall be designed to permit regular and periodic flushing, cleaning, dismantling, and inspection.

(iv) All electrical equipment including wiring, switches, controls, motors, and lights, shall conform to the requirements of ~~((WAC 296-24-956 through 296-24-960))~~ chapter 296-24 WAC, Part L.

(v) All electric motors and generators shall be provided with suitable overload protection devices. Electrical generators, motors, proportioning devices, and all other electrical enclosures shall be electrically bonded. The grounding conductor to all such electrical equipment shall be effectively bonded to the service-entrance ground connection and to all

equipment ground connections in a manner so as to provide a continuous path to ground.

(e) Mixing facilities shall comply with the fire prevention requirements of this subsection.

(i) The mixing, loading, and ingredient transfer areas where residues or spilled materials may accumulate shall be cleaned periodically. A cleaning and collection system for dangerous residues shall be provided.

(ii) A daily visual inspection shall be made of the mixing, conveying, and electrical equipment to establish that such equipment is in good operating condition. A program of systematic maintenance shall be conducted on regular schedule.

(iii) Heaters which are not dependent on the combustion process within the heating unit may be used within the confines of processing buildings, or compartments, if provided with temperature and safety controls and located away from combustible materials and the finished product.

(4) Bulk delivery and mixing vehicles.

(a) The design of vehicles shall comply with the requirements of this subsection.

(i) Vehicles used over public highways for the bulk transportation of emulsion and water gels or of ingredients classified as dangerous commodities, shall meet the requirements of the department of transportation and shall meet the requirements of WAC 296-52-489 and 296-52-497 of this section.

(ii) When electric power is supplied by a self-contained motor generator located on the vehicle the generator shall be at a point separate from where the water gel is discharged.

(iii) The design of processing equipment and general requirements shall conform to subsection (3)(c) and (d) of this section.

(iv) A positive action parking brake which will set the wheel brakes on at least one axle shall be provided on vehicles when equipped with air brakes and shall be used during bulk delivery operations. Wheel chocks shall supplement parking brakes whenever conditions may require.

(b) Operation of bulk delivery and mixing vehicles shall comply with the requirements of this subsection.

(i) The placarding requirements contained in DOT regulations apply to vehicles carrying water gel explosives or blasting agents.

(ii) The operator shall be trained in the safe operation of the vehicle together with its mixing, conveying, and related equipment. The operator shall be familiar with the commodities being delivered and the general procedure for handling emergency situations.

(iii) The hauling of either blasting caps or other explosives, but not both, shall be permitted on bulk trucks provided that a special wood or nonferrous-lined container is installed for the explosives. Such blasting caps or other explosives shall be in DOT-specified shipping containers; see 49 CFR Chapter I.

(iv) No person shall be allowed to smoke, carry matches or any flame-producing device, or carry any firearms while in or about bulk vehicles effecting the mixing, transfer, or down-the-hole loading of water gels at or near the blasting site.

(v) Caution shall be exercised in the movement of the vehicle in the blasting area to avoid driving the vehicle ~~(over)~~ on to or dragging hoses over firing lines, cap wires,

or explosive materials. The employer shall furnish the driver the assistance of a second person to guide the driver's movements.

(vi) No intransit mixing of materials shall be performed.

(vii) The location chosen for water gel or ingredient transfer from a support vehicle into the bore hole loading vehicle shall be away from the blasthole site when the bore holes are loaded or in the process of being loaded.

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

**WAC 296-52-509 Small arms ammunition, primers, propellants and black powder.** Storage, transportation, and display requirements.

(1) Scope. This section does not apply to in-process storage and intra-plant transportation during manufacture of small arms ammunition, small arms primers, and smokeless propellants.

(2) No quantity limitations are imposed on the storage of small arms ammunition in warehouses, retail stores, and other general occupancy facilities, except those imposed by limitations of storage facilities.

(3) Small arms ammunition shall be separated from flammable liquids, flammable solids as classified in 49 CFR, Part 172, and from oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of 25 feet.

(4) Small arms ammunition shall not be stored together with class A or class B explosives unless the storage facility is adequate for this latter storage.

(5) Small arms smokeless propellants.

(a) Small arms smokeless propellant (class B) shall be packed, stored and transported in DOT approved shipping containers. The following shall apply.

	<u>Maximum Pounds Permitted</u>	<u>Special Restrictions</u>
Private residence or car	25 pounds or less 25 to 50 pounds	None Store in strong box or cabinet constructed of 3/4-inch plywood (minimum) or equivalent, on all sides, top and bottom.
Dealer's warehouse	<del>((400))</del> 150 pounds	20 to 100 pounds shall be stored in portable or fixed wooden boxes having walls at least one inch nominal thickness.
Dealer's display	75 pounds	In one pound containers.

(b) Quantities in excess of 50 pounds shall be transported in accordance with federal department of transportation regulations. Quantities in excess of ~~((400))~~ 150 pounds shall be stored in approved, licensed magazines as required in WAC 296-52-441 and 296-52-453.

PROPOSED

Part H—Appendices

NEW SECTION

**WAC 296-52-550 Appendix I—IME two-compartment transportation units (mandatory).** Storage of blasting caps (detonators) in the same magazine with other explosives is prohibited by WAC 296-52-457. The department of labor and industries (DLI) recognizes that it is often operationally desirable to transport both caps and other explosives in the same vehicle or trailer unit. Then, after the explosives laden vehicle arrives at the blast site, to utilize that vehicle and/or trailer unit as a mobile "day box" from which to dispense explosives into loading operations or into storage magazines.

*The Institute of Makers of Explosives (IME) pamphlet No. 22, as revised in 1993, publishes construction criteria for two-compartment transportation units which are accepted by both the Bureau of Alcohol, Tobacco and Firearms (ATF) and U.S. Department of Transportation (DOT) for this purpose.*

(1) Department of labor and industries will accept these "IME transportation units" as being approved for transporting both caps and explosives in the same vehicle or trailer, subject to the following:

(a) The dual-compartment units are constructed to the applicable IME specifications which are published in this Appendix I for the convenience of state users; and

(b) The units are correctly maintained and used in accordance with applicable federal regulations and this chapter (see in particular WAC 296-52-489); and

(c) Only blasting caps which are classified by DOT as being nonmass-detonating are permitted to be transported in dual compartment units; and

(d) Detonators shall not be transported in the same compartment with other explosives for blasting agents; and

(e) Both the detonators and explosives, in separate appropriate compartments, shall be contained in the original DOT approved packages/containers; and

(f) The packages/containers shall be stacked or otherwise restrained from being easily displaced about the compartment during transit; and

(g) Even though constructed on the same motor vehicle or trailer frame, each compartment will be considered a separate container with individual construction and security requirements; and

(h) These IME transportation units are constructed to specifications which are greatly less bullet resistant and theft resistant than standard portable magazines. For that reason, these units cannot be utilized for unattended storage in this state; and

(i) On two compartment units, both compartments must be securely attached to the vehicle or trailer.

(2) Construction specifications.

(a) Each compartment must provide for total enclosure of the blasting caps or explosives.

(b) The partition between the explosives storage compartment and the blasting cap compartment must be of laminate construction consisting of A/C grade or better exterior plywood, gypsum board (sheetrock) and low carbon steel plates. In order of arrangement, the laminate must

(c) All smokeless propellants shall be stored in shipping containers specified in 49 CFR 173.93 for smokeless propellants.

(d) Commercial stocks of smokeless propellants over 20 pounds and not more than 100 pounds shall be stored in portable wooden boxes having walls of at least 1 inch nominal thickness.

(e) Commercial stocks in quantities not to exceed ~~((750))~~ 150 pounds shall be stored in nonportable storage cabinets having wooden walls of at least 1 inch nominal thickness. ~~((Not more than 400 pounds shall be permitted in any one cabinet.))~~

(f) Quantities in excess of ~~((750))~~ 150 pounds shall be stored in magazines in accordance with WAC 296-52-461.

(6) Small arms ammunition primers.

(a) Small arms ammunition primers shall be packed, stored, and transported in DOT approved shipping containers. They shall be separate from flammable liquids, flammable solids, and oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of 25 feet. The following shall also apply.

	<u>Maximum Number Permitted</u>	<u>Special Restrictions</u>
Private residence	10,000 primers	None
Private car	25,000 primers	None
Dealer's display	10,000 primers	None
Dealer's warehouse	750,000 primers	No more than 100,000 shall be stored in a pile and piles shall be separated by at least 15 feet.

(b) Quantities in excess of 750,000 primers shall be stored in approved, licensed magazines as required by WAC 296-52-441 and 296-52-453.

(7) Black powder, as used in muzzle loading firearms, shall be packed, stored and transported in DOT approved shipping containers and the following shall apply.

	<u>Maximum Pounds Permitted</u>	<u>Special Restrictions</u>
Private residence	5 pounds	None
Private car	5 pounds	None
Dealer's warehouse	25 pounds	None
Dealer's display	4 pounds	In one pound containers.

(8) Quantities in excess of 25 pounds of black powder, as used in muzzle loading firearms, shall be stored in approved, licensed magazines as required by WAC 296-52-441 and 296-52-453.

(9) Black powder manufactured for muzzle loading firearms shall not be used for blasting operations.

PROPOSED

conform to the following, with minimum thickness of each lamination as indicated:

- 1/2 Inch plywood;
- 1/2 Inch gypsum board (sheetrock);
- 1/8 Inch low carbon steel; and
- 1/4 Inch plywood.

With the 1/4 inch plywood facing the explosives storage compartment.

See Appendix I-C for details of laminate construction. The door to the blasting cap compartment must be of metal construction or solid wood covered with metal. The outside walls and top must be of the same construction as the rest of the vehicle or trailer.

(c) As an alternative to the construction requirements shown in (b) of this subsection, a container for use only as illustrated in Appendix I-A may be used when constructed as follows:

(i) The top, lid or door, and the sides and bottom of each container must be of laminate construction consisting of A/C grade or better exterior plywood, solid hardwood, gypsum board (sheetrock), and sheet metal. In order of arrangement, the laminate must conform to the following, with minimum thickness of each lamination as indicated:

- 1/4 Inch plywood;
- 1 Inch solid hardwood;
- 1/2 Inch plywood;
- 1/2 Inch gypsum board (sheetrock)
- (or 1/4 inch particle board); and
- 22 Gauge sheet metal.

Constructed inside to outside in that order. See Appendix I-D for detail of laminate construction.

(ii) The hardwood must be fastened together with wood screws, the 1/2 inch plywood must be fastened to the hardwood with wood screws, the inner 1/4 inch plywood must be fastened to the hardwood with adhesive, and the 22 gauge sheet metal must be attached to the exterior of the container with screws.

(d) The laminate composite material must be securely bound together by waterproof adhesive or other equally effective means.

(e) The steel plates at the joints of laminations must be secured by continuous fillet welds.

(f) All interior surfaces of the container or compartment must be constructed so as to prevent contact of contents with any sparking metal.

(g) There must be direct access into each compartment from outside the vehicle.

(h) Each container or compartment must have a snug fitting continuous piano-type hinged lid or door equipped with a locking device (or devices).

(i) Without permitting direct access to contents under normal conditions, the locking or hinging mechanisms must permit at least one edge of the lid or door to rise or move outward at least 1/2 inch when subjected to internal pressure.

(j) The exterior of the container or compartment must be weather-resistant.

## APPENDIX I-A

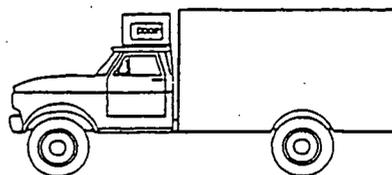
PERMANENTLY MOUNTED CONTAINERS

Figure 1

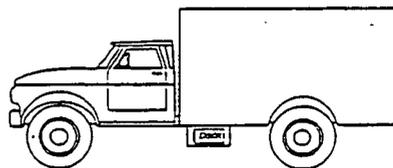


Figure 2

NOTE: The configurations shown in Figures 1 and 2 are equally applicable to multi-axle and "cab-over" vehicles.

[Diagrams: Courtesy of IME]

PROPOSED

APPENDIX I-B  
COMPARTMENTS

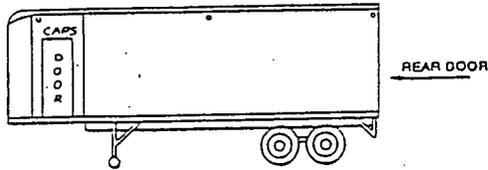


Figure 1

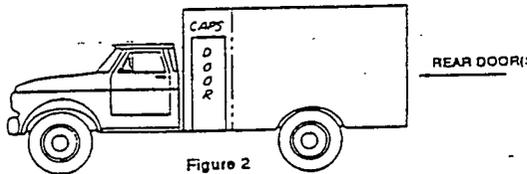


Figure 2

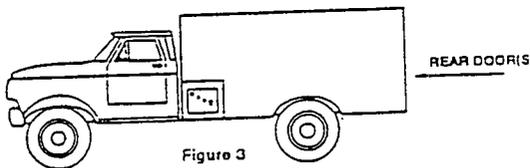
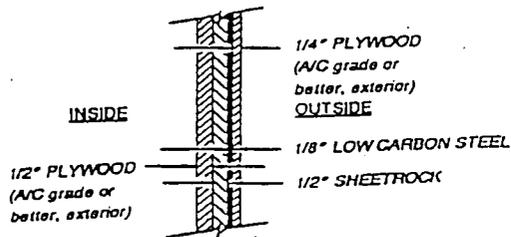


Figure 3

NOTE: The configurations shown in Figures 1 and 2 are equally applicable to multi-axle and "cab-over" vehicles.

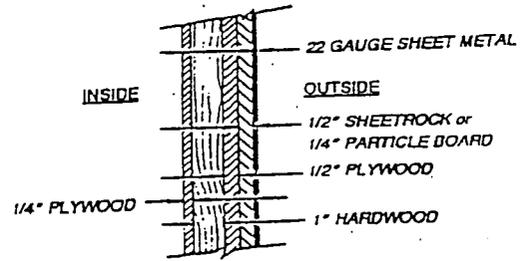
[Diagrams: Courtesy of IME]

APPENDIX I-C



Sketch of laminate construction for container or compartment for electric blasting caps use, as illustrated in Appendix I-A, B, and E.

APPENDIX D



Sketch of laminate construction for container or compartment for electric blasting caps: restricted to use as illustrated in Appendix I-A.

APPENDIX I-E  
PORTABLE WHEELED TRAILERS

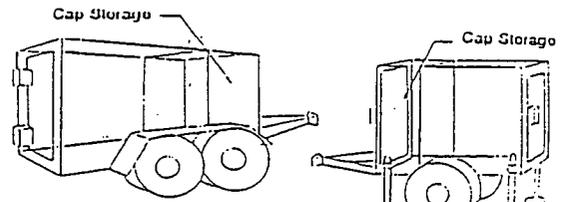


Figure 1

Figure 3

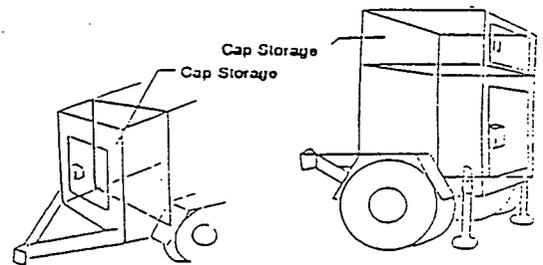


Figure 2

Figure 4

NEW SECTION

**WAC 296-52-552 Appendix II—Radio frequency warning signs (mandatory).** (1) This chapter requires that blasters using electric blasting caps within 1000 feet of roadways and/or highways shall post signs to prohibit the use of 2-way radios in the blasting area. This appendix provides specific sign illustrations and posting instructions for compliance with ANSI D6.1-1988, the *Uniform Traffic Control Devices Manual*.

Note: The Washington State Department of Transportation manual, M 24-01 (1991), does not amend these requirements with respect to required blasting signs.

(2) Signs shall be reflectorized or illuminated to show the same shape, color and wording in both daylight or night when blasting is being done during hours of darkness.

(3) The signs shall be "CONSTRUCTION ORANGE" with black letters and borders, all upper case letters, not less than the sizes shown.

Note: Larger signs may be required where the highway speed limit is more than 55 M.P.H.

(4) On multilane highways with 2-or-more lanes in each direction, duplicate signs shall be installed on each shoulder of the road, both left and right, in each direction.

(5) Signs should be located no closer than 6 feet nor farther than 12 feet from the edge of the lane being served. On multilane roads with 2-or-more lanes in each direction, the six foot minimum may be waived when insufficient median exists but the sign must not protrude into the travel lane. Overhead bridges may be used for sign mountings but not less than 17 feet clearance shall be provided between the bottom of the sign and the road surface.

(6) Signs shall be mounted at right angle to and facing the lane(s) being served. Sign posts and their foundation shall be so constructed as to hold the sign in permanent position and to resist swaying in the wind or displacement by vandalism.

(7) Signs erected at the side of the road in rural districts shall be mounted at a height of five feet above the road surface being traveled, measured from the bottom of the sign to the lane edge level of the lane being served. Where parking is likely to occur or where other obstruction(s) to visibility exist, sign height shall be increased to not less than seven feet from the bottom of the sign to the height at the near lane edge.

(8) These radio frequency warning sign requirements shall apply to both public and private roads as well as off-road construction site right-of-ways, wherever it is foreseeable that motor vehicles may travel into the required 1000 foot clearance zone while carrying a 2-way radio.

(9) Site survey.

(a) To comply with this section, the blaster in charge shall conduct, or cause to be conducted, an accurate survey of the entire intended blast site. The survey shall determine the 1000 foot clearance points where any road(s) or right-of-way(s) enter and exit the blast zone.

(b) If the blast zone moves along as the job progresses, the 1000 foot clearance zone shall be adjusted to correctly maintain the permissible clearance borders at all times.

(10) The "TURN OFF 2-WAY RADIO" sign shall be posted at least 1000 feet from the beginning of the blast zone minimum clearance point.

(11) The "BLASTING ZONE 1000 FEET" sign shall be posted in sequence 1000 feet ahead of the "TURN OFF 2-WAY RADIO" sign.

In very slow vehicle travel zones such as off-road construction right-of-ways, rock pits or quarrys, the separation distance between the signs may be reduced to as little as 300 feet.

(12) The "END BLASTING ZONE" sign shall be posted approximately 1000 feet past the point where the blasting zone clearance limit ends.

(13) The warning signs required by the appendix shall be prominently displayed at all times when blasting opera-

tions are being conducted with an electric blasting cap initiation system. Blasting operations being conducted shall include any and all times when electric caps are present and have been removed from the original DOT approved shipping container.

(14) The blasting signs shall be covered or removed when blasting operations are not being conducted.

STANDARD WARNING SIGNS



W22-1  
48" x 48"



W22-2  
42" x 36"

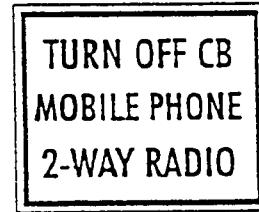


W22-3  
42" x 36"

(15) New "TURN OFF 2-WAY RADIO" signs purchased after the effective date of this standard shall be modified to read "TURN OFF CB, MOBILE PHONE, 2-WAY RADIO."

(a) Modified signs may be used in place of the currently required sign immediately.

(b) Modified signs shall replace all currently required 2-way radio signs before January 1, 2000.



42" x 36"

NEW SECTION

WAC 296-52-555 Appendix III—ATF regulations. U.S. Department of Transportation Regulations as Excerpted from 49 CFR Part 173, 10/01/92 Edition.

Subpart C-Definitions, Classification, and Packaging for Class 1

Source: Amdt. 173-224, 55 FR 52617, Dec. 21, 1990, unless otherwise noted.

§ 173.50 Class 1-definitions. (a) Explosive. For the purpose of this subchapter, an *explosive* means any substance or article, including a device, which is designed to function by explosion (i.e., an extremely rapid release of gas and heat) or which, by chemical reaction within itself, is able to function in a similar manner even if not designed to function by explosion, unless the substance or article is otherwise classed under the provision of this subchapter.

(b) Explosives in Class 1 are divided into six divisions as follows:

(1) *Division 1.1* consists of explosives that have a mass explosion hazard. A mass explosion is one which affects almost the entire load instantaneously.

(2) *Division 1.2* consists of explosives that have a projection hazard but not a mass explosion hazard.

(3) *Division 1.3* consists of explosives that have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard.

(4) *Division 1.4* consists of explosives that present a minor explosion hazard. The explosive effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire must not cause virtually instantaneous explosion of almost the entire contents of this package.

(5) *Division 1.5*<sup>1</sup> consists of very insensitive explosives. This division is comprised of substances which have a mass explosion hazard but are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of transport.

(6) *Division 1.6*<sup>2</sup> consists of extremely insensitive articles which do not have a mass explosive hazard. This division is comprised of articles which contain extremely insensitive detonating substances and which demonstrate a negligible probability of accidental initiation or propagation.

<sup>1</sup>The probability of transition from burning to detonation is greater when large quantities are transported in a vessel.

<sup>2</sup>The risk from articles of *Division 1.6* is limited to the explosion of a single article.

§ Classification codes and compatibility groups of explosives.

(a) This classification code for an explosive, which is assigned by the Associate Administrator for Hazardous Materials Safety in accordance with this subpart, consists of the division number followed by the compatibility group letter. Compatibility group letters are used to specify the controls for the transportation, and storage related thereto, of explosives and to prevent an increase in hazard that might result if certain explosives were stored together. Transportation compatibility requirements for carriers are prescribed in § § 174.81, 175.78, 176.83 and 177.848 of this subchapter for transportation by rail, air, vessel, and public highway, respectively, and storage incidental thereto.

(b) Compatibility groups and classification codes for the various types of explosives are set forth in the following table. The table sets forth compatibility groups and classification codes for substances and articles described in the first column.

TABLE 1 - CLASSIFICATION CODES

Description of substances or article to be classified	Compatibility Group	Classification Code
Primary explosive substance.	A	1.1A
Article containing a primary explosive substance and not containing two or more effective protective features.	B	1.1B
		1.2B
		1.4B
Propellant explosive substance or other deflagrating explosive substance or article containing such explosive substance.	C	1.1C
		1.2C
		1.3C
		1.4C
Secondary detonating explosive substance or black powder or article containing a secondary detonating explosive substance, in each case without means of initiation and without a propelling charge, or article containing a primary explosive substance and containing two or more effective protective features.	D	1.1D
		1.2D
		1.4D
		1.5D
Article containing a secondary detonating explosive substance, without means of initiation, with a propelling charge (other than one containing flammable liquid or hypergolic liquid).	E	1.1E
		1.2E
		1.4E
		F
1.2F		
1.3F		
1.4F		
Article containing a secondary detonating explosive substance with its means of initiation, with a propelling charge (other than one containing flammable liquid or hypergolic liquid) or without a propelling charge.	G	1.1G
		1.2G
		1.3G
		1.4G
H	1.2H	
	1.3H	
J	1.1J	
	1.2J	
	1.3J	
K	1.2K	
	1.3K	
L	1.1L	
	1.2L	
	1.3L	

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Article containing both an explosive substance and white phosphorus.

N	1.6N
S	1.4S

Article containing both an explosive substance and flammable liquid or gel.

Article containing both an explosive substance and a toxic chemical agent.

Risk (e.g., due to water-activation or presence of hypergolic liquids, phosphide or pyrophoric substances) needing isolation of each type.

Articles containing extremely insensitive detonating substances.

**§ 173.53 Provisions for using old classifications of explosives.**

Where the classification system in effect prior to January 1, 1991, is referenced in State or local laws, ordinances or regulations not pertaining to the transportation of hazardous materials, the following table may be used to compare old and new hazard class names:

Current Classification	Class Name Prior to January 1, 1991
Division 1.1	Class A explosives
Division 1.2	Class A or Class B explosives
Division 1.3	Class B explosives
Division 1.4	Class C explosives
Division 1.5	Blasting agents
Division 1.6	No applicable hazard class

PROPOSED

Part H, Appendices  
Chapter 296-52 WAC  
Safety Standards for the Possession  
and Handling of Explosives

PROPOSED

<p>Bureau of Alcohol, Tobacco and Firearms</p> <p>[Notice No. 695]</p> <p>COMMERCE IN EXPLOSIVES; LIST OF EXPLOSIVE MATERIALS</p> <p>Pursuant to the provisions of section 6-11(d) of Title 18, United States Code, and 27 CFR 53.23, the Director, Bureau of Alcohol, Tobacco and Firearms, must publish and revise at least annually in the Federal Register a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution, and Storage of Explosive Materials. This Chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of Title 18, United States Code. Accordingly, the following is the 1989 List of Explosive Material subject to regulation under 18 U.S.C. Chapter 40, which includes both the list of explosives (including detonators) required to be published in the Federal Register and blasting agents. This list is intended to include any and all mixtures containing any of the materials in the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in Section 841 of Title 18, United States Code. Explosive materials are listed alphabetically by their common names followed by chemical names and synonyms in brackets. This revised list supersedes the List of Explosive Materials dated December 28, 1988 (53 FR 52561) and will be effective as of January 12, 1990.</p> <p>List of Explosive Materials</p> <p>A</p> <p>Acetylides of heavy metals. Aluminum containing polymeric propellant. Aluminum ophomite explosive. Amatex. Amatol. Ammonal. Ammonium nitrate explosive mixtures (cap sensitive). Ammonium nitrate explosive mixtures (non</p>	<p>Ammonium perchlorate having particle size less than 15 microns. Ammonium perchlorate composite propellant. Ammonium picrate (picrate of ammonia, Explosive D). ammonium salt lattice with isomorphously substituted inorganic salts. ANFO (ammonium nitrate-fuel oil).</p> <p>B</p> <p>Baratol. Baronol. BEAF (1,2-bis (2-3-difluoro-2-nitroacetoxyethane)). Black powder. Black powder based explosive mixtures, Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives Blasting caps. Blasting gelatin. Blasting powder. BTNEC (bis (trinitroethyl) carbonate). BTNEN (bis (trinitroethyl( nitramine)). BTTN (1.2.4 butanetriol trinitrate). Butyl tetryl.</p> <p>C</p> <p>Calcium nitrate explosive mixture. Cellulose hexanitrate explosive mixture. Chlorate explosive mixtures. Composition A and variations. Composition B and variations. Composition C and variations. Copper acetylide. Cyanuric trioxide. Cyclotrimethylenetrinitramine (RDX). Cyclotetramethylenetetranitramine (HMX). Cyclonite (RDX). Cyclotol.</p> <p>D</p> <p>DATB (diaminotrinitrobenzene). DDNP (diazodinitrophenol). DEGND (diethyleneglycol dinitrate). Detonating cord. Detonators. Dimethylol dimethyl methane dinitrate composition. Dinitroethylenesures. Dinitroglycerine (glycerol dinitrate). Dinitrophenol. Dinitrophenolates.</p>	<p>Dinitrotolnene-sodium nitrate explosive mixtures. DIPAM. Dipicryl sulfone. Dipicrylamina DNDP (dinitropentano nitrite).</p> <p>E</p> <p>EDDN (ethylene diamine dinitrate) EDNA Ednatol EDNP (ethyl 4.4-ddipitropentanoate) Erythritol tetranitrate explosives Eslers of nitro-substituted alcohols EGDN (ethylene glycol dinitrate) Ethyl-tetryl Explosive conitrates Explosive gelatins Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels Explosive mixtures containing sensitized nitromethane Explosive mixtures containing tetraintromethane (nitroform) Explosive nitro compounds of aromatic hydrocarbons Explosive organic nitrate mixtures Explosive liquids Explosive powders</p> <p>F</p> <p>Flash powder Fulminate of mercury Fulminate of silver Fulminating gold Fulminating mercury Fulminating platinum Fluminating silver</p>
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**Part H, Appendicies**  
**Chapter 296-52 WAC**  
**Safety Standards for the Possession**  
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<p><b>G</b></p> <p>Gelatinized nitrocellulose  Gem-dinitro aliphatic explosive mixtures  Guanyl nitrosamino tetrazene  Guanyl nitrosamino guanylidene hydrazine</p> <p><b>H</b></p> <p>Heavy metal azides  Hexanit  Hexanitrodiphenylamine  Hexanitrostilbene  Hexogen [RDX]  Hexogene or octogene and a nitrated N-methylaniline  Hexolites  HMX [cyclo-1,3,5,7-tetramethylene-2,4,6,8-tetranitramine; Octogen]  Hydrazinium nitrate/hydrazine/aluminum explosive system  Hydrazoic acid</p> <p><b>I</b></p> <p>Igniter cord  Igniters  Initiating tube systems</p> <p><b>K</b></p> <p>KDNBF [potassium dinitrobenzo-furoxane]</p> <p><b>L</b></p> <p>Lead azide  Lead mannite  Lead mononitroresorcinate  Lead picrate  Lead salts, explosive  Lead styphnate [styphnate of lead, lead trinitroresorcinate]  Liquid nitrated polyol and trimethylolethane  Liquid oxygen explosives</p> <p><b>M</b></p> <p>Magnesium ophorite explosives  Mannitol hexanitrate  MDNP [methyl 4,4-dinitropentanoate]  MEAN [monoethanolamine nitrate]  Mercuric fulminate</p>	<p>Mercury oxalate  Nitric acid and carboxylic fuel explosive  Nitric acid explosive mixtures  Nitro aromatic explosive mixtures  Mercury tartrate  Metriol trinitrate  Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum]  MMAN [monomethylamine nitrate]; methylamine nitrate  Mononitrotoluene-nitroglycerin mixture  Monopropellants</p> <p><b>N</b></p> <p>NIBTN [nitroisobutametrial trinitrate]  Nitrate sensitized with gelled nitropraffin  Nitrated carbohydrate explosives  Nitrated glucoside explosive  Nitrated polyhydric alcohol explosives  Nitrates of soda explosive mixtures  Nitric acid and a nitro aromatic compound explosive  Nitro compounds of furane explosive mixtures  Nitrocellulose explosive  Nitroderivative of urea explosive mixture  Nitrogelatin explosive  Nitrogen trichloride  Nitrogen tri-iodide  Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine]  Nitroglycide  Nitroglycol (ethylene glycol dinitrate, EGDN)  Nitroguanidine explosives  Nitroparaffins Explosive Grade and ammonium nitrate mixtures  Nitronium perchlorate propellant mixtures  Nitrostrach  Nitro-substituted carboxylic acids  Nitrourea</p> <p><b>O</b></p> <p>Octogen [HMX]  Octol [75% HMX, 25% TNT]  Organic amine nitrates  Organic nitramines</p>	<p><b>P</b></p> <p>PBX [RDX and plasticizer]  Pellet Powder  Penthrinite composition  Pentolite  PYX [2,6-bis(picrylamino)-3,5-dinitropyridine  Perchlorate explosive mixtures  Peroxide based explosive mixtures  PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate]  Picramic acid and its salts  Picramide  Picrate of potassium explosive mixtures  Picratol  Picric acid (manufactured as an explosive)  Picryl chloride  Picryl fluoride  PLX [95% nitromethane, 5% ethylenediamine]  Polynitro aliphatic compounds  Polyolpolynitrate-nitrocellulose explosive gels  Potassium chlorate and lead sulfo cyanate explosive  Potassium nitrate explosive mixtures  Potassium Nitroaminotetrazole</p> <p><b>R</b></p> <p>RDX (cyclonite, hexogen, T4, cyclo-1,3,5-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine]</p> <p><b>S</b></p> <p>Safety fuse  Salutes, (bulk)  Salts of organic ammino sulfonic acid explosive mixtures  Silver acetyline  Silver azide  Silver fulminate  Silver oxalate explosive mixtures  Silver styphnate  Silver tartrate explosive mixtures  Silver tetrazene  Slurried explosive mixtures of water, inorganic oxidizing salts, gelling agent, fuel and sensitizer (cap sensitive)  Smokeless powder  Sodatol  Sodium amatol</p>
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AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

**WAC 296-56-60001 Scope and applicability.** (1) The rules included in this chapter apply throughout the state of Washington, to any and all waterfront operations under the jurisdiction of the department of labor and industries, division of ~~((industrial safety and health))~~ consultation and compliance.

(2) These minimum requirements are promulgated in order to augment the general safety and health standards, and any other safety and health standards promulgated by the department of labor and industries which are applicable to all places of employment under the jurisdiction of the department of labor and industries. The rules of this chapter, and the rules of chapters 296-24 and 296-62 WAC are applicable to all longshore, stevedore and related waterfront operations: *Provided*, That such rules shall not be applicable to those operations under the exclusive safety jurisdiction of the federal government.

(3) The provisions of this chapter shall prevail in the event of a conflict with, or duplication of, provisions contained in chapters 296-24 and 296-62 WAC. Specific standards which are applicable include, but are not limited to:

- (a) Electrical—Chapter 296-24 WAC Part L.
- (b) Toxic and hazardous substances are regulated by chapter 296-62 WAC. Where references to this chapter are given they are for informational purposes only. Where specific requirements of this chapter conflict with the provisions of chapter 296-62 WAC this chapter prevails. Chapter 296-62 WAC does not apply when a substance or cargo is contained within a manufacturer's original, sealed, intact means of packaging or containment complying with the department of transportation or International Maritime Organization requirements.
- (c) Hearing conservation—Chapter 296-62 WAC Part K.
- (d) Standards for commercial diving operations—Chapter 296-37 WAC.
- (e) Safety requirements for scaffolding—Chapter 296-24 WAC Part J-1.
- (f) Safe practices of abrasive blasting operations—Chapter 296-24 WAC Part H-2.
- (g) Access to employee exposure and medical records—Chapter 296-62 WAC Part B.
- (h) Respiratory protection—Chapter 296-62 WAC Part E.
- (i) Safety standards for grain handling facilities—Chapter 296-99 WAC.
- (j) Hazard communication purpose—Chapter 296-62 WAC Part C.
- (k) Asbestos—Chapters 296-62 Part I-1 and 296-65 WAC.
- (l) Confined space—Chapter 296-62 WAC Part M.
- (m) Servicing multi-piece and single-piece rim wheels—Chapter 296-24 WAC Part D.

(4) The provisions of this chapter do not apply to the following:

- (a) Fully automated bulk coal handling facilities contiguous to electrical power generating plants.
- (b) Facilities subject to the regulations of the office of pipeline safety regulation of the materials transportation

bureau, department of transportation, to the extent such regulations apply.

(5) WAC 296-62-074 shall apply to the exposure of every employee to cadmium in every employment and place of employment covered by chapter 296-56 WAC in lieu of any different standard on exposures to cadmium that would otherwise be applicable by virtue of those sections.

AMENDATORY SECTION (Amending Order 86-02, filed 1/17/86)

**WAC 296-56-60003 Variance and procedure.** ~~((Realizing that))~~ Conditions may exist under which certain state standards will not have practical application. In these cases, the director of the department of labor and industries has made provisions for the issuance of variances. The director or his/her authorized representative may, pursuant to this section, RCW 49.17.080 and 49.17.090, and WAC 296-350-200 through 296-350-270, upon receipt of application and after investigation by the department, permit a variation from the requirements of this chapter. Any variance is limited to the particular case and application. It shall remain posted during the time which it is in effect. Variance application forms may be obtained from the department.

AMENDATORY SECTION (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

**WAC 296-56-60005 Definitions.** (1) "Apron" means that open portion of a marine terminal immediately adjacent to a vessel berth and used in the direct transfer of cargo between the terminal and vessel.

(2) "Assistant director for the division of ~~((industrial safety and health))~~ consultation and compliance" means the assistant director of ~~((industrial safety and health))~~ consultation and compliance, department of labor and industries or his/her authorized representative.

(3) "Authorized," in reference to an employee's assignment, means selected by the employer for that purpose.

(4) "Cargo door" (transit shed door) means a door designed to permit transfer of cargo to and from a marine terminal structure.

(5) "Cargo packaging" means any method of containment for shipment, including cases, cartons, crates and sacks, but excluding large units such as intermodal containers, vans or similar devices.

(6) "Confined space" means ~~((any space having a limited means of egress which is subject to the accumulation of toxic or flammable contaminants or an oxygen deficient atmosphere. Confined spaces include, but are not limited to, intermodal tank containers, brailwater tanks, bins, storage tanks, boilers, ventilation or exhaust ducts, tunnels, and portable tanks))~~ a space that:

(a) Is large enough and so configured that an employee can bodily enter and perform assigned work; and

(b) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and

(c) Is not designed for continuous employee occupancy.

(7) "Conveyor" means a device designed exclusively for transporting bulk materials, packages or objects in a prede-

terminated path and having fixed or selective points of loading or discharge.

(8) "Danger zone" means any place in or about a machine or piece of equipment where an employee may be struck by or caught between moving parts, caught between moving and stationary objects or parts of the machine, caught between the material and a moving part of the machine, burned by hot surfaces or exposed to electric shock. Examples of danger zones are nip and shear points, shear lines, drive mechanisms, and areas beneath counterweights.

(9) "Designated person" means a person who possesses specialized abilities in a specific area and is assigned by the employer to perform a specific task in that area.

(10) "Dock" means a wharf or pier forming all or part of a waterfront facility, including marginal or quayside berthing facilities; not to be confused with "loading dock" as at a transit shed or container freight station, or with the body of water between piers or wharves.

(11) "Dock facilities" includes all piers, wharves, sheds, aprons, dolphins, cranes, or other gear or equipment owned or controlled by the dock or facility owner, where cargo or materials are loaded, moved or handled to or from a vessel.

(12) "Dockboard" (bridge plate or car plate) means a device utilized to span the gap between railroad cars, or between railroad cars or highway vehicles and the loading dock or platform. A car plate may be fixed, adjustable, portable, powered, or unpowered.

(13) "Enclosed space" means an indoor space, other than a confined space, that may contain or accumulate a hazardous atmosphere due to inadequate natural ventilation. Examples of enclosed spaces are trailers, railcars, and storage rooms.

(14) "Examination," as applied to material handling devices required to be certified by this chapter, means a comprehensive survey consisting of the criteria outlined in WAC 296-56-60093 through 296-56-60097. The examination is supplemented by a unit proof test in the case of annual survey.

(15) "Flammable atmosphere" means an atmosphere containing more than ten percent of the lower flammable limit (LEL) of a flammable or combustible vapor or dust mixed with air. Such atmospheres are usually toxic as well as flammable.

(16) "Front-end attachments."

(a) As applied to power-operated industrial trucks, means the various devices, such as roll clamps, rotating and sideshifting carriages, magnets, rams, crane arms or booms, load stabilizers, scoops, buckets, and dumping bins, attached to the load end for handling lifts as single or multiple units.

(b) As applied to cranes, means various attachments applied to the basic machine for the performance of functions such as lifting, clamshell or magnet services.

(17) "Fumigant" is a substance or mixture of substances, used to kill pests or prevent infestation, which is a gas or is rapidly or progressively transformed to the gaseous state even though some nongaseous or particulate matter may remain and be dispersed in the treatment space.

(18) "Hazardous cargo, material, substance or atmosphere" means:

(a) Any substance listed in chapter 296-62 WAC;

(b) Any material in the hazardous materials table and hazardous materials communications regulations of the Department of Transportation, 49 CFR Part 172;

(c) Any article not properly described by a name in the hazardous materials table and hazardous materials communications regulations of the Department of Transportation, 49 CFR Part 172, but which is properly classified under the definition of those categories of dangerous articles given in 49 CFR Part 173;

(d) Atmospheres having concentrations of airborne chemicals in excess of permissible exposure limits as defined in chapter 296-62 WAC; or

(e) Any atmosphere with an oxygen content of less than nineteen and one-half percent by volume.

(19) "House falls" means spans and supporting members, winches, blocks, and standing and running rigging forming part of a marine terminal and used with a vessel's cargo gear to load or unload by means of married falls.

(20) "Inspection," as applied to material handling devices required to be certified by this chapter, includes a complete visual examination of all visible parts of the device.

(21) "Intermodal container" means a reusable cargo container of rigid construction and rectangular configuration intended to contain one or more articles of cargo or bulk commodities for transportation by water and one or more other transport modes without intermediate cargo handling. The term includes completely enclosed units, open top units, fractional height units, units incorporating liquid or gas tanks and other variations fitting into the container system, demountable or with attached wheels. It does not include cylinders, drums, crates, cases, cartons, packages, sacks, unitized loads or any other form of packaging.

(22) "Loose gear" means removable or replaceable components of equipment or devices which may be used with or as a part of assembled material handling units for purposes such as making connections, changing line direction and multiplying mechanical advantage. Examples include shackles and snatch blocks.

(23) "Marina" means a small harbor or boat basin providing dockage, supplies, and services for small craft.

(24) "Marine terminal" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or contiguous areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel. It includes structures which are devoted to receiving, handling, holding, consolidation, loading or delivery of waterborne shipments and passengers, and areas devoted to the maintenance of the terminal or equipment. The term does not include production or manufacturing areas having their own docking facilities and located at a marine terminal nor storage facilities directly associated with those production or manufacturing areas.

(25) "Permit-required confined space (permit space)" means a confined space that has one or more of the following characteristics:

(a) Contains or has a potential to contain a hazardous atmosphere;

(b) Contains a material that has the potential for engulfing an entrant;

(c) Has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging

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walls or by a floor which slopes downward and tapers to a smaller cross-section; or

(d) Contains any other recognized serious safety or health hazard.

**AMENDATORY SECTION** (Amending Order 86-02, filed 1/17/86)

**WAC 296-56-60009 Accident prevention program.**

(1) An accident prevention program, which provides equitable management-employee participation, shall be established in all establishments, industrial plants, or operations.

(2) It shall be the responsibility of the employer to initiate and maintain the accident prevention program necessary to comply with this section. The division of ~~((industrial safety and health))~~ consultation and compliance may be contacted for assistance in initiating and maintaining an effective accident prevention program.

(3) All accident prevention programs shall be tailored to the needs of the particular operation.

(4) Employer and employee representatives, as elected, delegated or appointed, shall attend and actively take part in frequent and regular safety committee meetings.

(5) Accident prevention programs shall provide for employer-employee safety meetings and frequent and regular safety inspections of job sites, materials, equipment, and operating procedures.

(6) A record of safety activities, such as inspections and meetings, shall be maintained by the employer for a period covering the previous twelve months and shall be made available, upon request, to noncompliance personnel of the department of labor and industries.

(7) Employees shall individually comply with all safety rules and cooperate with management in carrying out the accident prevention program.

(8) To make effective the preceding statement and promote on-the-job accident prevention, committees shall be established in each port. These committees shall consist of an equal number of port or stevedore company and long-shoremen representatives at the job level with the industry or company safety supervisor serving as secretary and coordinator. Some functions of the committee are to maintain the interest of the workers in accident prevention by providing for their actual participation in the program, to direct their attention to the real causes of accidents, and to provide a means for making practical use of their intimate knowledge of working conditions and practices.

(9) It is intended that this program will produce mutually practical and effective recommendations regarding correction of accident-producing circumstances and conditions.

**AMENDATORY SECTION** (Amending Order 86-02, filed 1/17/86)

**WAC 296-56-60062 First-aid kit.** (1) All employers who employ men and women covered by the Washington Industrial Safety and Health Act, chapter 49.17 RCW, shall furnish first-aid kits as required by the ~~((division of industrial safety and health,))~~ department of labor and industries, (RCW 51.36.030).

(2) First-aid supplies shall be readily accessible when required.

(3) In the absence of readily accessible first-aid supplies such as first-aid kits, first-aid stations, first-aid rooms or their equivalent, all crew trucks, power shovels, cranes, locomotives, loaders, dozers, logging trucks, speeders, freight trucks, and similar equipment shall be equipped with not less than a ten package first-aid kit.

(4) All crew vehicles used for transporting workmen shall be equipped with not less than a ten package first-aid kit. When more than five employees are being transported on any one trip, the kit shall be increased in size to a 16, 24, or 36-package kit depending upon the number of personnel normally being transported.

(5) At least one first-aid kit shall be available on construction jobs, line crews, and other transient or short duration jobs. The size and quantity of first-aid kits required to be located at any site shall be determined by the number of personnel normally dependent upon each kit as outlined in the following table:

NUMBER OF PERSONNEL NORMALLY ASSIGNED TO WORKSITE	MINIMUM FIRST-AID SUPPLIES REQUIRED AT WORKSITE
1 - 50 PERSONS	FIRST-AID KIT
1 - 5	10 package kit
6 - 15	16 package kit
16 - 30	24 package kit
31 - 50	36 package kit
51 - 200 PERSONS	FIRST-AID STATION
51 - 75	One 36 and one 10 package kit
76 - 100	One 36 and one 16 package kit
101 - 150	One 36 and one 24 package kit
151 - 200	Two 36 package kits
OVER 200 PERSONS	FIRST-AID ROOM Refer to WAC 296-56-60067

(6) Employers shall establish a procedure to assure that first-aid kits and required contents are maintained in a serviceable condition.

(7) First-aid kits shall contain at least the following items:

**10 Package Kit**

- 1 Pkg. Adhesive bandages, 1" (16 per pkg.)
- 1 Pkg. Bandage compress, 4" (1 per pkg.)
- 1 Pkg. Scissors\* and tweezers (1 each per pkg.)
- 1 Pkg. Triangular bandage, 40" (1 per pkg.)
- 1 Pkg. Antiseptic soap or pads (3 per pkg.)
- 5 Pkgs. of consulting physician's choice\*\*

**16 Package Kit**

- 1 Pkg. Absorbent gauze, 24" x 72" (1 per pkg.)
- 1 Pkg. Adhesive bandages, 1" (16 per pkg.)
- 2 Pkgs. Bandage compresses, 4" (1 per pkg.)
- 1 Pkg. Eye dressing (1 per pkg.)
- 1 Pkg. Scissors\* and tweezers (1 each per pkg.)
- 2 Pkgs. Triangular bandages, 40" (1 per pkg.)
- 1 Pkg. Antiseptic soap or pads (3 per pkg.)
- 7 Pkgs. of consulting physician's choice\*\*

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**24 Package Kit**

- 2 Pkgs. Absorbent gauze, 24" x 72" (1 per pkg.)
- 2 Pkgs. Adhesive bandages, 1" (16 per pkg.)
- 2 Pkgs. Bandage compresses, 4" (1 per pkg.)
- 1 Pkg. Eye dressing (1 per pkg.)
- 1 Pkg. Scissors\* and tweezers (1 each per pkg.)
- 6 Pkgs. Triangular bandages (1 per pkg.)
- 1 Pkg. Antiseptic soap or pads (3 per pkg.)
- 9 Pkgs. of consulting physician's choice\*\*

**36 Package Kit**

- 4 Pkgs. Absorbent gauze, 24" x 72" (1 per pkg.)
- 2 Pkgs. Adhesive bandages, 1" (16 per pkg.)
- 5 Pkgs. Bandage compresses, 4" (1 per pkg.)
- 2 Pkgs. Eye dressing (1 per pkg.)
- 1 Pkg. Scissors\* and tweezers (1 each per pkg.)
- 8 Pkgs. Triangular bandages, 40" (1 per pkg.)
- 1 Pkg. Antiseptic soap or pads (3 per pkg.)
- 13 Pkgs. of consulting physician's choice\*\*

\* Scissors shall be capable of cutting two layers of fifteen ounce cotton cloth or its equivalent.

\*\* First-aid kits shall be maintained at the ten, sixteen, twenty-four or thirty-six package level. In the event the consulting physician chooses not to recommend items, the department of labor and industries shall be contacted for recommended items to complete the kit.

(8) Where the eyes or body of any person may be exposed to injurious chemicals or materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

(9) When practical, a poster shall be fastened and maintained either on or in the cover of each first-aid kit and at or near all phones plainly stating the phone numbers of available doctors, hospitals, and ambulance services within the district of the worksite.

**AMENDATORY SECTION** (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

**WAC 296-56-60073 Miscellaneous auxiliary gear.**

**(1) Routine inspection.**

(a) At the completion of each use, loose gear such as slings, chains, bridles, blocks, and hooks shall be so placed as to avoid damage to the gear. Loose gear shall be inspected and any defects corrected before re-use.

(b) All loose gear shall be inspected by the employer or his/her authorized representative before each use and, when necessary, at intervals during its use, to ensure that it is safe. Any gear which is found upon inspection to be unsafe shall not be used until it is made safe.

(c) Defective gear shall not be used. Distorted hooks, shackles, or similar gear shall be discarded.

(d) Chains or other gear which have been lengthened, altered, or repaired by welding shall be properly heat treated, and before again being put into use, shall be tested and reexamined in the manner set forth in WAC 296-56-60097 and 296-56-60098.

(2) The employer shall maintain a record of the dates and results of the tests with each unit of gear concerned clearly identified. The records shall be available for examination by division of ~~((industrial safety and health))~~ consultation and compliance personnel and the employee safety committee.

**(3) Wire rope and wire rope slings.**

(a) The employer shall ascertain and adhere to the manufacturer's recommended ratings for wire rope and wire rope slings and shall have such ratings available at the terminal. When the manufacturer is unable to supply such ratings, the employer shall use the tables for wire rope and wire rope slings found in American National Safety Standard for Slings, ANSI/ASME B30.9-1984. A design safety factor of at least five shall be maintained for the common sizes of running wire used as falls, in purchases or in such uses as light load slings. Wire rope with a safety factor of less than five may be used only:

(i) In specialized equipment, such as cranes designed to be used with lesser wire rope safety factors;

(ii) In accordance with design factors in standing rigging applications; or

(iii) For heavy lifts or other purposes for which a safety factor of five is impractical and for which the employer can demonstrate that equivalent safety is ensured.

(b) Wire rope or wire rope slings exhibiting any of the following conditions shall not be used:

(i) Ten randomly distributed broken wires in one rope lay or three or more broken wires in one strand in one rope lay;

(ii) Kinking, crushing, bird caging, or other damage resulting in distortion of the wire rope structure;

(iii) Evidence of heat damage;

(iv) Excessive wear, corrosion, deformation or other defect in the wire or attachments, including cracks in attachments;

(v) Any indication of strand or wire slippage in end attachments; or

(vi) More than one broken wire in the close vicinity of a socket or swaged fitting.

(c) Four by twenty-nine (4 x 29) wire rope shall not be used in any running rigging.

(d) Protruding ends of strands in splices on slings and bridles shall be covered or blunted. Coverings shall be removable so that splices can be examined. Means used to cover or blunt ends shall not damage the wire.

(e) Where wire rope clips are used to form eyes, the employer shall adhere to the manufacturer's recommendations, which shall be available at the terminal. If "U" bolt clips are used and the manufacturer's recommendations are not available, Table C-1 shall be used to determine the number and spacing of clips. "U" bolts shall be applied with the "U" section in contact with the dead end of the rope.

Improved Plow Steel, Rope Diameter (Inches)	Minimum Number of Clips		Minimum Spacing
	Drop Forged	Other Material	(Inches)
1/2 or less (1.3)	3	4	3 (7.6)
5/8 (1.6)	3	4	3 3/4 (9.5)
3/4 (1.9)	4	5	4 1/2 (11.4)
7/8 (2.2)	4	5	5 1/4 (13.3)
1 (2.5)	5	7	6 (15.2)
1 1/8 (2.7)	6	7	6 3/4 (17.1)
1 1/4 (3.2)	6	8	7 1/2 (18.1)
1 3/8 (3.5)	7	8	8 1/4 (21.0)
1 1/2 (3.8)	7	9	9 (22.9)

(f) Wire rope shall not be secured by knots.

(g) Eyes in wire rope bridles, slings, bull wires, or in single parts used for hoisting shall not be formed by wire rope clips or knots.

(h) Eye splices in wire ropes shall have at least three tucks with a whole strand of the rope and two tucks with one-half of the wire cut from each strand. Other forms of splices or connections which are demonstrated to be equally safe may be used.

(i) Except for eye splices in the ends of wires and for endless rope slings, each wire rope used in hoisting or lowering, or in bulling cargo, shall consist of one continuous piece without knot or splice.

(4) Natural fiber rope.

(a) The employer shall ascertain the manufacturer's ratings for the specific natural fiber rope used and have such ratings available at the terminal. The manufacturer's ratings shall be adhered to and a minimum design safety factor of five maintained.

(b) Eye splices shall consist of at least three full tucks. Short splices shall consist of at least six full tucks, three on each side of the center line.

(5) Synthetic rope.

(a) The employer shall adhere to the manufacturer's ratings and use recommendations for the specific synthetic fiber rope used and shall have such ratings available at the terminal.

(b) Unless otherwise recommended by the manufacturer, when synthetic fiber ropes are substituted for manila ropes of less than three inches (7.62 cm) circumference, the substitute shall be of equal size. Where substituted for manila rope of three inches or more in circumference, the size of the synthetic rope shall be determined from the formula:

$$C = \sqrt{.6(C_s^2) + .4(C_m^2)}$$

Where C = the required circumference of the synthetic rope in inches,  $C_s$  = the circumference to the nearest one-quarter inch of a synthetic rope having a breaking strength not less than that of the size manila rope that would be required by subsection (4) of this section, and  $C_m$  = the circumference of manila rope in inches which would be required by subsection (4) of this section. In making such substitution, it shall be ascertained that the inherent characteristics of the synthetic fiber are suitable for hoisting.

(6) Removal of natural and synthetic rope from service. Natural or synthetic rope having any of the following defects shall be removed from service:

(a) Abnormal wear;

(b) Powdered fiber between strands;

(c) Sufficient cut or broken fibers to affect the capacity of the rope;

(d) Variations in the size or roundness of strands;

(e) Discolorations other than stains not associated with rope damage;

(f) Rotting; or

(g) Distortion or other damage to attached hardware.

(7) Thimbles. Properly fitting thimbles shall be used where any rope is secured permanently to a ring, shackle or attachment, where practical.

(8) Synthetic web slings.

(a) Slings and nets or other combinations of more than one piece of synthetic webbing assembled and used as a single unit (synthetic web slings) shall not be used to hoist loads in excess of the sling's rated capacity.

(b) Synthetic web slings shall be removed from service if they exhibit any of the following defects:

(i) Acid or caustic burns;

(ii) Melting or charring of any part of the sling surface;

(iii) Snags, punctures, tears or cuts;

(iv) Broken or worn stitches; or

(v) Distortion or damage to fittings.

(c) Defective synthetic web slings removed from service shall not be returned to service unless repaired by a sling manufacturer or similar entity. Each repaired sling shall be proof tested by the repairer to twice the slings' rated capacity prior to its return to service. The employer shall retain a certificate of the proof test and make it available for examination.

(d) Synthetic web slings provided by the employer shall only be used in accordance with the manufacturer's recommendations, which shall be made available upon request.

(e) Fittings shall have a breaking strength at least equal to that of the sling to which they are attached and shall be free of sharp edges.

(9) Chains and chain slings used for hoisting.

(a) The employer shall adhere to the manufacturer's recommended ratings for safe working loads for the sizes of the wrought iron and alloy steel chains and chain slings used and shall have such ratings available. When the manufacturer is unable to provide such ratings, the employer shall use the tables for chains and chain slings found in American National Safety Standard for Slings, ANSI B30.9-1971.

(b) Proof coil steel chain, also known as common or hardware chain, and other chain not recommended by the manufacturer for slinging or hoisting shall not be used for slinging or hoisting.

(c)(i) Sling chains, including end fastenings, shall be inspected for visible defects before each day's use and as often as necessary during use to ensure integrity of the sling.

(ii) Thorough inspections of chains in use shall be made quarterly to detect wear, defective welds, deformation, increase in length or stretch. The month of inspection shall be indicated on each chain by color of paint on a link or by other effective means.

(iii) Chains shall be removed from service when maximum allowable wear, as indicated in Table C-2, is reached at any point of link.

(iv) Chain slings shall be removed from service when stretch has increased the length of a measured section by more than five percent; when a link is bent, twisted or otherwise damaged; or when a link has a raised scarf or defective weld.

(v) Only designated persons shall inspect chains used for slinging and hoisting.

CHAIN SIZE		MAXIMUM ALLOWABLE WEAR	
Inches	(cm)	Inches	(cm)
1/4 (9/32)	(0.6)	3/64	(0.1)
3/8	(1.0)	5/64	(0.2)
1/2	(1.3)	7/64	(0.3)
5/8	(1.6)	9/64	(0.4)
3/4	(1.9)	5/32	(0.4)
7/8	(2.2)	1 1/64	(0.4)
1	(2.5)	3/16	(0.5)
1 1/8	(2.9)	7/32	(0.6)
1 1/4	(3.2)	1/4	(0.6)
1 3/8	(3.5)	3/32	(0.7)
1 1/2	(3.8)	5/16	(0.8)
1 3/4	(4.4)	1 1/32	(0.9)

(d) Chains shall only be repaired under qualified supervision. Links or portions of chain defective under any of the criteria of WAC 296-56-60073 (9)(c) shall be replaced with properly dimensioned links or connections of material similar to that of the original chain. Before repaired chains are returned to service, they shall be tested to the proof test load recommended by the manufacturer for the original chain. Tests shall be performed by the manufacturer or shall be certified by an agency accredited for the purpose under WAC 296-56-60093. Test certificates shall be available at the terminal.

(e) Wrought iron chains in constant use shall be annealed or normalized at intervals not exceeding six months. Heat treatment certificates shall be available at the terminal. Alloy chains shall not be annealed.

(f) Kinked or knotted chains shall not be used for lifting. Chains shall not be shortened by bolting, wiring or knotting. Makeshift links or fasteners such as wire, bolts or rods shall not be used.

(g) Hooks, rings, links and attachments affixed to sling chains shall have rated capacities at least equal to that of the chains to which they are attached.

(h) Chain slings shall bear identification of size, grade and rated capacity.

(10) Shackles.

(a) If available, the manufacturer's recommended safe working loads for shackles shall not be exceeded. In the absence of manufacturer's recommendations, Table C-3 shall apply.

(b) Screw pin shackles used aloft in house fall or other gear, except in cargo hook assemblies, shall have their pins moused or otherwise effectively secured.

MATERIAL SIZE		PIN DIAMETER		SAFE WORKING LOAD IN 2,000 LB TONS
Inches	(cm)	Inches	(cm)	
1/4	(1.3)	5/8	(1.6)	1.4
5/8	(1.6)	3/4	(1.9)	2.2
3/4	(1.9)	7/8	(2.2)	3.2
7/8	(2.2)	1	(2.5)	4.3
1	(2.5)	1 1/8	(2.9)	5.6
1 1/8	(2.9)	1 1/4	(3.2)	6.7
1 1/4	(3.2)	1 3/8	(3.5)	8.2
1 3/8	(3.5)	1 1/2	(3.8)	10.0
1 1/2	(3.8)	1 5/8	(4.1)	11.9
1 3/4	(4.4)	2	(5.0)	16.2
2	(5.0)	2 1/4	(5.7)	21.2

(c) Tables G-2 through G-5 shall be used to determine the safe working loads of various sizes and classifications of

improved plow steel wire rope slings with various types of terminals. For sizes, classifications and grades not included in these tables the safe working load recommended by the manufacturer for specific, identifiable products shall be followed, however, a safety factor of not less than five shall be maintained.

Circumferences	Diameter in inches	Single Leg			
		0 Degrees	45 Degrees	90 Degrees	30 Degrees
3/4	1/4	120	204	170	120
1	5/16	200	346	252	200
1 1/8	3/8	270	467	380	270
1 1/4	7/16	350	605	493	350
1 1/2	15/32	450	775	635	450
1 3/8	1/2	530	915	796	530
1 3/4	9/16	690	1190	973	690
2	5/8	850	1510	1240	850
2 1/4	3/4	1080	1870	1520	1080
2 1/2	13/16	1300	2250	1830	1300
2 3/4	7/8	1540	2660	2170	1540
3	1	1800	3120	2540	1800
3 1/4	1-1/16	1.0	1.7	1.4	1.0
3 1/2	1-1/8	1.2	2.1	1.7	1.2
3 3/4	1-1/4	1.35	2.3	1.9	1.35
4	1-5/16	1.5	2.6	2.1	1.5
4 1/2	1-1/2	1.8	3.1	2.5	1.8
5	1-3/8	2.25	3.9	3.2	2.25
5 1/2	1-3/4	2.6	4.5	3.7	2.6
6	2	3.1	5.4	4.4	3.1
6 1/2	2-1/8	3.6	6.3	5.1	3.6

In making such a substitution it should be ascertained that the inherent characteristics of the synthetic fiber are suitable for the intended service of the rope.

Rope Diameter Inches	Single Leg					
	Vertical			Choker		
	A	B	C	A	B	C
6 x 19 Classification						
1/4"	.59	.56	.53	.44	.42	.40
3/8"	1.2	1.2	1.1	.98	.93	.86
1/2"	2.3	2.2	2.0	1.7	1.6	1.5
5/8"	3.4	3.4	3.0	2.7	2.5	2.2
3/4"	5.1	4.9	4.2	3.8	3.6	3.1
7/8"	6.9	6.6	5.5	5.2	4.9	4.1
1"	9.0	8.5	7.2	6.7	6.4	5.4
1-1/8"	11	10	9.0	8.5	7.8	6.8
6 x 37 Classification						
1-1/4"	13	12	10	9.9	9.2	7.9
1-3/8"	16	15	13	12	11	9.6
1-1/2"	19	17	15	14	13	11
1-3/4"	26	24	20	19	18	15
2"	33	30	26	25	23	20
2-1/4"	41	35	33	31	29	25

(A) -- Socket or Swaged Terminal attachment.  
(B) -- Mechanical Sleeve attachment.  
(C) -- Hand Turned Splice attachment.

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**TABLE G-3 RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE SLINGS (In Tons of 2,000 Pounds)**

Rope dia. inches	Two-leg bridle or basket hitch											
	Vertical			60 degree			45 degree			30 degree		
	A	B	C	A	B	C	A	B	C	A	B	C
6 x 19 Classification												
1/4"	1.2	1.1	1.0	1.0	.97	.92	.83	.79	.75	.59	.56	.53
3/8"	2.6	2.5	2.3	2.3	2.1	2.0	1.8	1.8	1.6	1.3	1.2	1.1
1/2"	4.6	4.4	3.9	4.0	3.8	3.4	3.2	3.1	2.5	2.3	2.2	2.0
5/8"	7.2	6.8	6.0	6.2	5.9	5.2	5.1	4.8	4.2	3.6	3.4	3.0
3/4"	10	9.7	8.4	8.9	8.4	7.3	7.2	6.9	5.8	5.1	4.9	4.2
7/8"	14	13	11	12	11	9.6	9.8	9.3	7.8	6.9	6.6	5.5
1"	18	17	14	15	15	12	13	12	10	9.0	8.5	7.3
1-1/8"	23	21	18	19	18	16	16	15	13	11	10	9.0
6 x 37 Classification												
1-1/4"	26	24	21	23	21	18	19	17	15	13	12	10
1-3/8"	32	29	25	25	25	22	23	21	18	16	15	13
1-1/2"	38	35	30	33	30	26	27	25	21	19	17	15
1-3/4"	51	47	41	44	41	35	36	33	29	26	24	20
2"	66	61	52	57	53	46	47	43	37	33	30	26
2-1/4"	83	76	66	72	66	57	58	54	47	41	38	33

(A) -- Socket or Swaged Terminal Attachment.  
 (B) -- Mechanical Sleeve Attachment.  
 (C) -- Hand Tucked Splice Attachment.

**TABLE G-6 ALLOY STEEL CHAIN (In Tons of 2,000 Pounds)**

Nominal size chain stock inch.	single leg	60 degree	45 degree	30 degree
1/4	1.62	1.32	1.27	1.62
3/8	3.30	5.70	4.65	3.30
1/2	5.62	9.75	7.90	5.62
5/8	8.25	14.25	11.65	8.25
3/4	11.5	19.9	16.2	11.5
7/8	14.3	24.9	20.3	14.3
1	19.3	33.5	27.3	19.8
1-1/8	22.2	38.5	31.5	22.2
1-1/4	28.7	49.7	40.5	28.7
1-3/8	33.5	58.0	47.0	33.5
1-1/2	39.7	68.5	56.0	39.7
1-5/8	42.5	73.5	59.5	42.5
1-3/4	47.0	81.5	62.0	47.0

**TABLE G-4 RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE AND WIRE ROPE SLINGS (In Tons of 2,000 pounds)**

Rope dia. inches	Single leg					
	Vertical			Choker		
	A	B	C	A	B	C
6 x 19 Classification						
1/4"	.55	.51	.49	.41	.38	.37
3/8"	1.2	1.1	1.1	.91	.55	.30
1/2"	2.1	2.0	1.8	1.6	1.5	1.4
5/8"	3.2	3.1	2.8	2.5	2.3	2.1
3/4"	4.8	4.4	3.9	3.6	3.3	2.9
7/8"	6.4	5.9	5.1	4.8	4.5	3.9
1"	8.4	7.7	6.7	6.3	5.8	5.0
1-1/8"	10	9.5	8.4	7.9	7.1	6.3
6 x 37 Classification						
1-1/4"	12	11	9.8	9.2	8.3	7.4
1-3/8"	15	13	12	11	10	8.9
1-1/2"	17	16	14	13	12	10
1-3/4"	24	21	19	18	16	14
2"	31	28	25	23	21	18

(A) -- Socket or Swaged Terminal attachment.  
 (B) -- Mechanical Sleeve attachment.  
 (C) -- Hand Tucked Splice attachment.

**TABLE G-5 RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE SLINGS (In Tons of 2,000 Pounds)**

Rope dia. inches	Two-leg bridle or basket hitch											
	Vertical			60 Degree			45 Degree			30 degree		
	A	B	C	A	B	C	A	B	C	A	B	C
6 x 19 Classification												
1/4	1.1	1.0	.99	.95	.88	.85	.77	.72	.70	.55	.51	.49
3/8	2.4	2.2	2.1	2.1	1.9	1.8	1.7	1.6	1.5	1.2	1.1	1.1
1/2	4.3	3.9	3.7	3.7	3.4	3.2	3.0	2.8	2.6	2.1	2.0	1.8
5/8	6.7	6.2	5.6	5.8	5.3	4.8	4.7	4.4	4.0	3.3	3.1	2.8
3/4	9.5	8.8	7.8	8.2	7.6	6.8	6.7	6.2	5.5	4.8	4.4	3.9
7/8	13	12	10	11	10	8.9	9.1	8.4	7.3	6.4	5.9	5.1
1	17	15	13	14	13	11	12	11	9.4	8.4	7.7	6.7
1-1/2	21	19	17	18	16	14	15	13	12	10	9.5	8.4
6 x 37 Classification												
1-1/4	25	22	20	21	19	17	17	16	14	12	11	9.8
1-3/8	30	27	24	26	23	20	21	19	17	15	13	12
1-1/2	35	32	28	30	27	24	25	22	20	17	16	14
1-3/4	48	43	38	41	37	33	34	30	27	24	21	19
2	62	55	49	53	48	43	43	39	35	31	28	25

(A) -- Socket or Swaged Terminal attachment.  
 (B) -- Mechanical Sleeve attachment.  
 (C) -- Hand Tucked Splice attachment.

(11) Hooks other than hand hooks.

(a) The manufacturer's recommendations shall be followed in determining the safe working loads of the various sizes and types of specific and identifiable hooks. All hooks for which no applicable manufacturer's recommendations are available shall be tested to twice the intended safe working load before they are initially put into use. The employer shall maintain a record of the dates and results of such tests.

(b) Loads shall be applied to the throat of the hook since loading the point may overstress, bend, or spring the hook.

(c) Hooks shall be inspected once a month to see that they have not been bent by overloading. Bent or sprung hooks shall not be used.

(d) Crane hooks. Magnetic particle or other suitable crack detecting inspection shall be performed at least once each year. When testing by x-ray, the pertinent provisions of the Nuclear Regulatory Commission's standards for protection against radiation, relating to protection against occupational radiation exposure, shall apply.

(e) Any activity which involves the use of radioactive materials or x-rays, whether or not under license from the Nuclear Regulatory Commission, shall be performed by competent persons specially trained in the proper and safe operation of such equipment. In the case of materials used under commission license, only persons actually licensed, or competent persons under direction and supervision of the licensee, shall perform such work.

(f) Teeth of case hooks shall not be split, cracked, or deformed.

(g) Jaws of patent clamp type plate hooks shall be kept in safe condition so that they will grip plates securely.

(12) Pallets.

(a) Pallets shall be made and maintained to safely support and carry loads being handled. Fastenings of reusable pallets used for hoisting shall be bolts and nuts, drive screws (helically threaded nails), annular threaded nails or fastenings of equivalent holding strength.

(b) Damaged pallets shall be stored in designated areas and identified.

(c) Reusable wing or lip-type pallets shall be hoisted by bar bridles or other suitable gear and shall have an overhanging wing or lip of at least three inches (76.2 mm). They shall not be hoisted by wire slings alone.

(d) Loaded pallets that do not meet the requirements of this paragraph shall be hoisted only after being placed on

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pallets meeting such requirements or shall be handled by other means providing equivalent protection.

(e) Bridles for handling flush end or box-type pallets shall be designed to prevent disengagement from the pallet under load.

(f) Pallets shall be stacked or placed to prevent falling, collapsing or otherwise causing a hazard under standard operating conditions.

(g) Disposable pallets intended only for one use shall not be re-used for hoisting.

**AMENDATORY SECTION** (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

**WAC 296-56-60083 Cranes and derricks.** (1) Scope.

(a) This section applies to every kind of crane and derrick and to any other type of equipment performing the functions of a crane or derrick except as noted in (b) of this subsection.

(b) This section does not apply to small industrial truck-type cranes, container handling toploaders and sideloaders, chain hoists, and mobile straddle-type cranes incapable of straddling two or more intermodal containers (sixteen feet (4.88 m) in width).

(2) Ratings.

(a) Except for bridge cranes covered by subsection (7) of this section, cranes and derricks having ratings that vary with boom length, radius (outreach) or other variables shall have a durable rating chart visible to the operator, covering the complete range of the manufacturer's (or design) capacity ratings. The rating chart shall include all operating radii (outreach) for all permissible boom lengths and jib lengths as applicable, with and without outriggers, and alternate ratings for optional equipment affecting such ratings. Precautions or warnings specified by the owner or manufacturer shall be included.

(b) The manufacturer's (or design) rated loads for the conditions of use shall not be exceeded.

(c) Designated working loads shall not be increased beyond the manufacturer's ratings or original design limitations unless such increase receives the manufacturer's approval. When the manufacturer's services are not available or where the equipment is of foreign manufacture, engineering design analysis shall be performed or approved by a person accredited for certifying the equipment under WAC 296-56-60093. Cranes shall conform with the manufacturer's specifications or any current ANSI standards that apply. Engineering design analysis shall be performed by a registered professional engineer competent in the field of cranes and derricks. Any structural changes necessitated by the change in rating shall be carried out.

(3) Radius indicator. When the rated load varies with the boom radius, the crane or derrick shall be fitted with a boom angle or radius indicator visible to the operator.

(4) Prohibited usage.

(a) Equipment shall not be used in a manner that exerts sideloading stresses upon the crane or derrick boom.

(b) No crane or derrick having a visible or known defect that affects safe operation shall be used.

(5) Protective devices.

(a) When exposed moving parts such as gears, chains and chain sprockets present a hazard to employees during

crane and derrick operations, those parts shall be securely guarded.

(b) Crane hooks shall be latched or otherwise secured to prevent accidental load disengagement.

(c) When hoisting personnel in an approved man basket, the hook shall have a positive safety latch to prevent rollouts.

(6) General.

(a) Operating controls.

(i) Crane and derrick operating controls shall be clearly marked, or a chart indicating their function shall be posted at the operator's position.

(ii) All crane controls shall operate in a uniform manner within a given port.

(iii) Overhead bridge and container gantry crane operating control levers shall be self-centering so that they will automatically move to the "off" position when the operator releases the control.

(b) Booms. Cranes with elevatable booms and without operable automatic limiting devices shall be provided with boom stops if boom elevation can exceed maximum design angles from the horizontal.

(c) Foot pedals. Foot pedals shall have a nonskid surface.

(d) Access. Ladders, stairways, stanchions, grab irons, foot steps or equivalent means shall be provided as necessary to ensure safe access to footwalks, cab platforms, the cab and any portion of the superstructure which employees must reach.

(i) Footwalks shall be of rigid construction, and shall be capable of supporting a load of one hundred pounds (4.79 kPa) per square foot.

(ii) If more than twenty feet (6.1 m) in height, vertical ladders shall comply with WAC 296-56-60209 (4), (5)(a), (5)(b)(iii) and (5)(b)(iv).

(iii) Stairways on cranes shall be equipped with rigid handrails meeting the requirements of WAC 296-56-60123 (5)(a).

(iv) If the top of a ladder or stairway or any position thereof is located where a moving part of a crane, such as a revolving house, could strike an employee ascending or descending the ladder or stairway, a prominent warning sign shall be posted at the foot of the ladder or stairway. A system of communication (such as a buzzer or bell) shall be established and maintained between the foot of the ladder or stairway and the operator's cab.

(e) Operator's station. The cab, controls, and mechanism of the equipment shall be so arranged that the operator has a clear view of the load or signalman, when one is used. Cab glass, when used, shall be safety plate glass or equivalent and good visibility shall be maintained through the glass. Clothing, tools and equipment shall be stored so as not to interfere with access, operation, or the operator's view.

(f) Counterweights or ballast. Cranes shall be operated only with the specified type and amount of ballast or counterweights. Ballast or counterweight shall be located and secured only as provided in the manufacturer's or design specifications, which shall be available.

(g) Outriggers. Outriggers shall be used according to the manufacturer's specifications or design data, which shall be available. Floats, when used, shall be securely attached

to the outriggers. Wood blocks or other support shall be of sufficient size to support the outrigger, free of defects that may affect safety and of sufficient width and length to prevent the crane from shifting or toppling under load.

(h) Exhaust gases. Engine exhaust gases shall be discharged away from the normal position of crane operating personnel.

(i) Electrical equipment shall be so located or enclosed that live parts will not be exposed to accidental contact. Designated persons may work on energized equipment only if necessary during inspection, maintenance, or repair.

(j) Fire extinguisher.

(i) At least one portable fire extinguisher of at least 5-BC rating or equivalent shall be accessible in the cab of the crane or derrick.

(ii) No portable fire extinguisher using carbon tetrachloride or chlorobromomethane extinguishing agents shall be used.

(k) Rope on drums. At least three full turns of rope shall remain on ungrooved drums, and two turns on grooved drums, under all operating conditions. Wire rope shall be secured to drums by clamps, U-bolts, shackles, or equivalent means. Fiber rope fastenings are prohibited.

(l) Assembly or disassembly of boom sections. Mobile crane booms being assembled or disassembled on the ground with or without the support of the boom harness shall be blocked to prevent dropping of the boom or boom sections.

(m) Brakes.

(i) Each independent hoisting unit of a crane shall be equipped with at least one holding brake, applied directly to the motor shaft or gear train.

(ii) Each independent hoisting unit of a crane, except worm geared hoists, the angle of whose worm is such as to prevent the load from accelerating in the lowering direction, shall, in addition to a holding brake, be equipped with a controlled braking means to control lowering speeds.

(iii) Holding brakes for hoist units shall have not less than the following percentage of the rated load hoisting torque at the point where the brake is applied:

(A) One hundred twenty-five percent when used with a controlled braking means.

(B) One hundred percent when used with a mechanically-controlled braking means.

(C) One hundred percent when two holding brakes are provided.

(iv) All power control braking means shall be capable of maintaining safe lowering speeds of rated loads.

(n) Each crane or derrick shall be equipped with sufficient lights to maintain five foot candles in the working area around the load hook. All crane ladders and machinery houses shall be illuminated at a minimum of two candle power.

(o) Light fixtures connected to the boom, gantry legs, or machinery house shall be provided with safety devices which will prevent the light fixture from falling in case of bracket failure.

(p) Electronic devices may be installed to prevent collision subject to approval of the accredited certification agency.

(q) On all rail gantry cranes, truck guards shall extend on the ends of the trucks, close to the top of the rail to prevent worker's feet from being caught between the rail and

wheel. This subsection does not apply if rail sweeps are present.

(r) All hydraulic cylinders used to control crane booms or to provide crane stability (outriggers) shall be equipped with a pilot operated check valve or a device which will prevent the boom or outrigger from retracting in case of failure of a component of the hydraulic system.

(s) Gantry cranes shall be provided with automatic rail clamps or other devices to prevent the crane from moving when not being used or when power is off.

(7) Rail-mounted cranes (excluding locomotive types).

(a) For the purposes of this section, rail-mounted cranes include bridge cranes and portal cranes.

(b) Rated load marking. The rated loads of bridge cranes shall be plainly marked on each side of the crane and in the cab. If there is more than one hoisting unit, each hoist shall have its rated load marked on it or on its load block. Marking shall be legible from the ground level.

(c) Wind-indicating devices.

(i) Each rail-mounted bridge and portal crane located outside of an enclosed structure shall be fitted with an operable wind-indicating device.

(ii) The wind indicating device shall provide a visible or audible warning to alert the operator of high wind conditions. That warning shall be transmitted whenever the following circumstances are present:

(A) When wind velocity reaches the warning speed, not exceeding the crane manufacturer's recommendations; and

(B) When wind velocity reaches the shutdown speed, not exceeding the crane manufacturer's recommendations, at which work is to be stopped and the crane secured.

(iii) Instructions. The employer shall post operating instructions for high wind conditions in the operator's cab of each crane. Operators shall be directed to comply with these instructions. The instructions shall include procedures for responding to high wind alerts and for any coordination necessary with other cranes.

(d) Securing of cranes in high winds.

(i) When the wind reaches the crane's warning speed:

(A) Gantry travel shall be stopped; and

(B) The crane shall be readied for shutdown.

(ii) When the wind reaches the crane's shutdown speed:

(A) Any portion of the crane spanning or partially spanning a vessel shall be moved clear of the vessel if safe to do so; and

(B) The crane shall be secured against travel, using all available means of securing.

(e) The employer shall monitor local weather conditions by subscribing to a weather service or using equally effective means.

(f) Stops and bumpers.

(i) The ends of all tracks shall be equipped with stops or bumpers. If a stop engages the tread of the wheel, it shall be of a height not less than the radius of the wheel.

(ii) When more than one crane operates on the same runway or more than one trolley on the same bridge, each crane or trolley shall be equipped with bumpers or equivalent devices at adjacent ends subject to impact.

(g) Employee exposure to crane movement. When employees may be in the vicinity of the tracks, crane trucks shall be equipped with personnel-deflecting guards.

(h) Pedestrian clearance. If the track area is used for employee passage or for work, a minimum clearance of three feet (0.9 m) shall be provided between trucks or the structures of rail-mounted cranes and any other structure or obstruction. When the required clearance is not available on at least one side of the crane's trucks, the area shall not be used and shall be marked and identified.

(i) Warning devices. Rail-mounted cranes shall be equipped with an effective audible and visible travel warning device which shall be used to warn employees who may be in the path of the moving crane.

(j) Communications.

(i) Means of communication shall be provided between the operator's cab and the base of the gantry of all rail-mounted cranes. This requirement may be met by telephone, radio, sound-signaling system or other effective methods, but not solely by hand-signaling.

(ii) All rail-mounted cranes thirty ton and above capacity shall be equipped with a voice hailing device (PA system) from the operator to the ground, audible within one hundred feet.

(k) Cranes and crane operations—Scope and application. The sections of this chapter, WAC 296-56-60083 through 296-56-60099, apply to cranes and crane operations.

(l) ~~((Signalmen))~~ Signal person. A ~~((signalman))~~ signal person shall be required when a crane operator's visibility is obstructed. When a ~~((signalman))~~ signal person is required to transmit hand signals, ~~((he))~~ they shall be in such a position that the operator can plainly see the signals.

(m) Signals. All operators and signalmen shall use standard signals as illustrated for longshore crane operations. (See Appendices C and D, at the end of this chapter.)

(n) Signalman for power units. Where power units, such as cranes and winches are utilized and signaling is required, the operator shall be instructed as to who is authorized to give signals. The operator shall take signals only from such authorized person. In case of emergency, any worker shall be authorized to give a stop signal.

(i) No draft shall be hoisted unless the winch or crane operator can clearly see the draft itself or see the signals of any signalman associated with the operation.

(ii) Loads requiring continuous manual guidance while in motion shall be provided with tag lines.

(o) Landing loads. Persons assisting in landing a load shall face the load and use caution to prevent themselves from getting in a position where they may be caught between the load and a fixed object.

(8) Stabilizing of locomotive cranes. Loads may be hoisted by locomotive cranes only if outriggers are in place, unless means are taken to prevent the load being carried by the truck springs of the crane.

(9) Operations.

(a) Use of cranes together. When two or more cranes hoist a load in unison, a designated person shall direct the operation and instruct personnel in positioning, rigging of the load and movements to be made.

(b) Guarding of swing radius. Accessible areas within the swing radius of the body of a revolving crane shall be physically guarded during operations to prevent an employee from being caught between the body of the crane and any fixed structure or between parts of the crane.

(c) Securing mobile crane components in transit. The crane's superstructure and boom shall be secured against rotation and carried in line with the direction of travel except when negotiating turns with an operator in the cab or when the boom is supported on a dolly. The empty hook or other attachment shall be secured.

(d) Unattended cranes. The following steps shall be taken before leaving a crane unattended between work periods:

(i) Suspended loads, such as those hoisted by lifting magnets or clamshell buckets, shall be landed unless the storage position or maximum hoisting of the suspended device will provide equivalent safety;

(ii) Clutches shall be disengaged;

(iii) The power supply shall be shut off;

(iv) The crane shall be secured against accidental travel; and

(v) The boom shall be lowered or secured against movement.

(e) Operating near electric power lines.

(i) Clearance. Unless electrical distribution and transmission lines are deenergized and visibly grounded at point of work, or unless insulating barriers not a part of or an attachment to the crane have been erected to prevent physical contact with lines, cranes may be operated near power lines only in accordance with following:

(A) For lines rated 50 kV or below, minimum clearance between the lines and any part of the crane or load shall be ten feet (3 m);

(B) For lines rated over 50 kV, minimum clearance between the lines and any part of the crane or load shall be either 10 feet (3 m) plus 0.4 inch (10 mm) for each 1 kV over 50 kV, or twice the length of the line insulator, but never less than ten feet; and

(C) In transit with no load and boom lowered, the clearance shall be a minimum of four feet (1.2 m).

(ii) Boom guards. Cage-type boom guards, insulating links or proximity warning devices may be used on cranes, but they shall not be used in place of the clearances required by subsection (9)(e)(i) of this section.

(iii) Determination of energized lines. Any overhead line shall be presumed to be energized until the owner of the line indicates that it is not energized.

(10) Protection for employees being hoisted.

(a) No employee shall be hoisted by the load hoisting apparatus of a crane or derrick except:

(i) On intermodal container spreaders, equipped in accordance with this subsection; or

(ii) In a boatswain's chair or other device rigged to prevent it from accidental disengagement from the hook or supporting member; or

(iii) On a platform meeting the following requirements:

(A) Enclosed by a railing or other means providing protection equivalent to that described in WAC 296-56-60123(3). If equipped with open railings, the platform shall be fitted with toe boards;

(B) Having a safety factor of four based on ultimate strength;

(C) Bearing a plate or permanent marking indicating maximum load rating, which shall not be exceeded, and the weight of the platform itself;

(D) Equipped with a device to prevent access doors, when used, from opening accidentally;

(E) Equipped with overhead protection for employees on the platform if they are exposed to falling objects or overhead hazards;

(F) Secured to the load line by means other than wedge and socket attachments, unless the free (bitter) end of the line is secured back to itself by a clamp placed as close above the wedge as possible.

(b) Except in an emergency, the hoisting mechanism of all overhead and container gantry cranes used to hoist personnel shall operate in power up and power down, with automatic brake application when not hoisting or lowering.

(c) Variable radius booms of a crane or derrick used to hoist personnel shall be so constructed or secured as to prevent accidental boom movement.

(d) Platforms or devices used to hoist employees shall be inspected for defects before each day's use and shall be removed from service if defective.

(e) Employees being hoisted shall remain in continuous sight of and communication with the operator or signalman.

(f) Operators shall remain at the controls when employees are hoisted.

(g) Cranes shall not travel while employees are hoisted, except in emergency or in normal tier to tier transfer of employees during container operations.

(h) When intermodal container spreaders are used to transfer employees to or from the tops of containers, the spreaders shall be equipped with a personnel platform equipped with fixed railings, provided that the railings have one or more openings for access. The openings shall be fitted with a means of closure, such as chains with hooks. Existing railings shall be at least thirty-six inches (0.91 m) in height. New railings installed after October 3, 1983 shall be forty-two inches (1.07 m), plus or minus three inches (7.6 cm), in height. The provisions of (a)(iii)(C), (D), and (F) of this subsection also apply to personnel platforms when container spreaders are used.

(i) Positive safety latch-type hooks or moused hooks shall be used.

(11) Routine inspection.

(a) Designated persons shall visually inspect each crane and derrick on each day of use for defects in functional operating components and shall report any defect found to the employer. The employer shall inform the operator of the findings.

(b) A designated person shall thoroughly inspect all functional components and accessible structural features of each crane or device at monthly intervals.

(c) Any defects found during such inspections which may create a safety hazard shall be corrected before further use. Repairs shall be performed only by designated persons.

(d) A record of monthly inspections shall be maintained for six months in or on the crane or derrick or at the terminal.

**AMENDATORY SECTION** (Amending Order 86-02, filed 1/17/86)

**WAC 296-56-60093 Certification of marine terminal material handling devices.** (1) The employer shall not use any material handling device listed in WAC 296-56-60098(8)

until he/she has ascertained that the device has been certified, as evidenced by current and valid documents attesting to compliance with the requirements of WAC 296-56-60097 and 296-56-60098.

(2) Certification surveys are to be completed for the conditions of use found at the time such surveys are performed. Equipment owners or users may change the configurations of the equipment according to the manufacturer's specifications without affecting the established certification status for the equipment.

(3) These rules apply to employment within a marine terminal including the loading, unloading, movement, or other handling of cargo, ship's stores, or gear within the terminal or into or out of any land carrier, holding or consolidation area, or any other activity within and associated with the overall operation and functions of the terminal, such as the use and routine maintenance of facilities and equipment.

(4) Inspection and test certificates shall be issued only for that equipment which meets or exceeds the requirements specified in these rules. All inspection and test certificates shall be issued through the office of the assistant director of the division of (~~industrial safety and health~~) consultation and compliance, department of labor and industries, and shall be valid for a period not to exceed one year from the date of issuance.

(5) Equipment requiring certification shall be inspected by representatives of the division of (~~industrial safety and health~~) consultation and compliance; or individuals who have received a "certificate of competency" from the (~~supervisor of industrial safety and health~~) assistant director, division of consultation and compliance indicating that they are qualified and capable of performing such work.

(6) When deficiencies are found they shall be noted on forms provided for such purpose by the division of (~~industrial safety and health~~) consultation and compliance. Copies shall be delivered to the owner of the equipment and the division of (~~industrial safety and health~~) consultation and compliance at the (~~Olympia~~) headquarter's office by the person conducting such tests or inspections.

(7) A certificate of unit test or examination of equipment shall not be issued for any equipment found not to be in compliance with the provisions of this chapter.

(8) Persons desiring a "certificate of competency" shall demonstrate and document their capabilities and qualifications to the assistant director of the division of (~~industrial safety and health~~) consultation and compliance, who will issue certificates to those persons who have demonstrated competency. The assistant director reserves the right to revoke such certificates at any time for cause. A "certificate of competency" shall be issued for a period of not more than three years. Applications for renewal may be made not more than sixty days prior to the expiration date shown on the certificate.

(9) The assistant director of (~~industrial safety and health~~) the division of consultation and compliance or his/her representative, reserves the right to inspect such equipment or to witness or attend any test or inspection in order to ascertain the adequacy of any certification activity performed.

(10) Unless otherwise exempted, all cranes or derricks required to be certificated by these regulations shall have a

current test certificate posted in the operator's cab or station. No person shall operate such crane or derrick unless a current valid certificate is posted.

AMENDATORY SECTION (Amending Order 86-02, filed 1/17/86)

**WAC 296-56-60095 Advisory crane certification panel.** (1) Any person desiring a certificate of competency for crane inspection or certification shall make application to the assistant director (~~((for industrial safety and health))~~ of the division of consultation and compliance for the certificate of competency. The application shall include documentation of all qualifications, including all past experience, education, training and any other factors deemed to be relevant to the application.

(2) The advisory crane certification panel shall assist the assistant director (~~((for industrial safety and health))~~ of the division of consultation and compliance in his/her duties under this chapter. The panel shall consist of six members. Two members shall represent labor, two members shall represent management, and one member shall be a crane expert. The sixth member shall be (~~(chairman)~~ chair of the panel. He/she shall be the assistant director of (~~((industrial safety and health))~~ consultation and compliance or his/her designee. The panel shall be responsible for advising the assistant director as to the issuance of any certificate of competency. The panel shall review all applications for certificates of competency. Minutes of meetings shall be kept.

(3) In addition, the panel shall, upon request by the assistant director, render advice concerning any matter which is relevant to crane safety. The panel shall meet twice yearly or more often as deemed necessary by the chairman of the panel. Any panel member who is not an employee of the state of Washington shall serve voluntarily.

AMENDATORY SECTION (Amending Order 86-02, filed 1/17/86)

**WAC 296-56-60097 Unit proof load test and inspection.** Cranes and derricks shall be proof load tested, rated and certified in tons (2,000 lbs. = 1 ton). Cranes and derricks shall be inspected and unit proof load tested prior to being put into use, after any significant modification or repairs of structural parts, or when deemed necessary by the assistant director of (~~((industrial safety and health))~~ consultation and compliance or his/her designee. However, each crane or derrick shall be unit proof load tested at least once during each twelve-month period. Unit proof load tests shall be carried out by the use of weights as a dead load. When use of weights for unit proof load tests is not possible or reasonable a dynamometer or other recording test equipment may be used. Such equipment shall be tested for accuracy with certified calibrating equipment within twelve months prior to being used and a copy of the certified calibration test shall be made available to authorized representatives of the division of (~~((industrial safety and health))~~ consultation and compliance upon request.

The weight of the objects used for a dead load weight test shall be certified and a record of the weight shall be made available upon request. Any replacements or repairs deemed necessary by the person conducting a test shall be

carried out before application of the required proof load unit test.

(1) The proof load tests for derricks shall be conducted as follows:

Safe Working Load	Proof Load
to 20 tons	25% in excess
20-50 tons	5 tons in excess
over 50 tons	10% in excess of manufacturer's recommended lifting capacity.

Proof load shall be applied at the designed maximum and minimum boom angles or radii, or if this is impractical, as close to these as practical. The angles or radii of test shall be stated in the certificate of test. Proof loads shall be swung as far as possible in all directions. The weight of auxiliary handling devices such as spreader bars, robots, clams, magnets, or other gear shall be considered a part of the load. Brakes shall be tested by holding the proof load suspended without other mechanical assistance. After satisfactory completion of a unit proof load test the derrick and all component parts thereof shall be carefully examined and nondestructive tests may be conducted to assure that the equipment is safe for use and has not been damaged in the unit proof load testing process.

(2) Unit proof load tests for cranes shall be carried out with the boom in the least stable direction relative to the mounting, based on the manufacturer's specifications.

Unit proof load tests for cranes shall be based on the manufacturer's load ratings for the conditions of use and shall, except in the case of bridge type cranes utilizing a trolley, consist of application of a proof load of ten percent in excess of the load ratings at maximum and minimum radius, and at such intermediate radii as the certifying authority may deem necessary in the circumstances. (The manufacturer's load ratings are usually based upon percentage of tipping loads under some conditions and upon limitations of structural competence at others, as well as on other criteria such as type of crane mounting, whether or not outriggers are used, etc. Some cranes utilizing a trolley may have only one load rating assigned and applicable at any outreach. It is important that the manufacturer's ratings be used.) Trolley equipped cranes shall be subject to a proof load of twenty-five percent in excess of the manufacturer's load rating. In cases of foreign manufacture, the manufacturer's specifications shall be subject to approval by the certifying authority. The weight of all auxiliary handling devices such as magnets, hooks, slings, and clamshell buckets shall be considered part of the load.

(3) In the event neither manufacturer's data nor design data on safe working loads (including any applicable limitations) are obtainable, the safe working load ratings assigned shall be based on the owner's information and warranty that those so assigned are correct. Unit test certificates shall state the basis for any safe working load assignment.

(4) If the operation in which equipment is engaged never utilizes more than a fraction of the safe working load rating, the owner of the equipment may, at his/her option, have the crane or derrick certified for and operated at a

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lesser maximum safe working load in keeping with the use and based on radius and other pertinent factors, however, the equipment concerned shall be physically capable of operation at the original load rating and the load reduction shall not be for the purpose of avoiding correction of any deficiency.

(5) Safe working load ratings shall not be increased beyond the manufacturer's ratings or original design limitations without prior approval by the accredited certification agency. Such prior approval shall be based on the manufacturer's approval of such increase or documented engineering design analysis or both. All necessary structural changes shall be completed prior to approval by the accredited certification agency.

**AMENDATORY SECTION** (Amending Order 86-02, filed 1/17/86)

**WAC 296-56-60098 Examination and inspection of cranes and derricks.** (1) An examination shall be carried out in conjunction with each annual unit proof load test. The accredited person, or ~~(his)~~ **their** authorized representative, shall make a determination as to correction of deficiencies found. The examination shall include the following: (Refer to WAC 296-56-60093(8) for definition of accredited person.)

(a) All functional operating mechanisms shall be examined for improper function, maladjustment, and excessive component wear, with particular attention to sheaves, pins, and drums. The examinations shall include operation with partial load, in which all functions and movements, including maximum possible rotation in both directions, are checked.

(b) All safety devices shall be examined for malfunction.

(c) Lines, tanks, valves, drains, pumps, and other parts of air or hydraulic systems shall be examined for deterioration or leakage.

(d) Rope reeving shall comply with the manufacturer's recommendations.

(e) Deformed, cracked, or excessively corroded members in crane structure and boom shall be repaired or replaced as necessary.

(f) Loose bolts, rivets, or other connections shall be corrected.

(g) Worn, cracked, or distorted parts affecting safe operation shall be corrected.

(h) All brakes, used to control the load, boom or travel of the crane, shall be tested. Air, hydraulic, or electrically operated brakes shall be of such design as to set and stop the load if the source of power fails.

(i) Brake and clutch system parts, linings, pawls, and ratchets shall be examined for excessive wear and free operation.

(j) Load, boom angle, or other indicators shall be checked over their full range. Defects in such indicators shall be immediately corrected.

(k) Where used, clamshell buckets or other similar equipment, such as magnets, shall be carefully examined in all respects, with particular attention to closing line wires and sheaves. The accredited person may supplement such examination by requesting any operational tests deemed appropriate.

(l) Careful examination of the junction areas of removable boom sections, particularly for proper seating, cracks, deformities, or other defects in securing bolts and in the vicinity of such bolts, shall be made.

(m) All platforms, steps and footwalks located on cranes where workers are exposed to the hazard of slipping shall be of a nonslip material. Wire rope used for railings on cranes shall be kept taut at all times.

Note: In critical areas such as footwalks along booms, a grating material should be used.

(n) No counterweights in excess weight of the manufacturer's specifications shall be fitted or used.

(o) Such other examination or supplemental functional tests shall be made as may be deemed necessary by the accredited person under the circumstances.

(2) Wire rope.

(a) All wire rope shall be inspected at least once a month, dependent upon conditions to which the wire ropes are subjected, and at intervals not exceeding a twelve-month period. Records of inspection of wire rope shall be kept and shall be available to the department of labor and industries representative. Records shall be kept for one year. Refer to the general safety and health standards, WAC 296-24-24013.

(b) Wire rope shall not be used if in any length of eight diameters, the total number of visible broken wires exceeds ten percent of the total number of wires, or if the rope shows other signs of excessive wear, corrosion, or defect. Particular attention shall be given to the condition of those sections of wire rope adjacent to any terminal connections, those sections exposed to abnormal wear, and those sections not normally exposed for examination.

(c) Documentation available for inspection shall include wire rope test certificates relating to any replacements made since the last unit test or annual examination as required.

(d) Wire rope and replacement wire rope shall be of the same size, same or better grade, and same construction as originally furnished by the equipment manufacturer or contemplated in the design, unless otherwise recommended by the equipment or wire rope manufacturer due to actual working conditions. In the absence of specific requirements, wire rope shall be of a size and construction suitable for the purpose, and shall have the capacity to handle four times the heaviest expected load, verified by wire rope test certificate.

(e) Wire rope in use on equipment previously constructed and prior to initial certification of said equipment shall not be required to be tested but shall be subject to thorough examination at the time of initial certification of the equipment.

(3)(a) Accessory components. Container spreader bar twist locks shall be carefully examined periodically and at the time of annual examination and inspection. Cracked or deformed hooks shall be discarded immediately and not reused.

(b) Crane hooks and container spreader bar twist lock. Magnetic particle or other suitable crack detecting inspection shall be performed at least once each year. When testing by x-ray, the pertinent provisions of the Nuclear Regulatory Commission's standards for protection against radiation, relating to protection against occupational radiation exposure, shall apply.

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(4) In the event that heat treatment of any loose gear is recommended by the manufacturer, the latest heat treatment certificate attesting to compliance with the manufacturer's specifications shall be part of the available documentation. Heat treatment shall be carried out in accordance with the specifications of the manufacturer by persons competent to perform such work.

(5) Replacement parts shall be of equal or better quality than the original equipment and suitable for the purpose. Repairs or modifications shall be such as to render the equipment equal to or better than the original construction or design.

(6) In cases of foreign manufactured cranes, there shall be an owner's warranty that the design is adequate for the intended use. The warranty shall be based on a thorough examination of the design specifications by a registered professional engineer familiar with the equipment.

(7) The certifications required by this section shall be performed in accordance with WAC 296-56-60093 by persons accredited by the assistant director of ~~((industrial safety and health))~~ consultation and compliance.

(8) The marine terminal material handling devices listed below shall be certified in the following manner:

(a) Each crane and derrick shall be tested and examined as a unit annually. A copy of the certificate of tests and examinations shall be posted in the crane operator's cab.

(b) Bulk cargo spouts and suckers, together with any portable extensions and rigging or outriggers supporting them vertically, shall be examined annually. Certificates attesting to the required examination shall be made readily available for inspection.

(c) Vertical pocket or bucket conveyors such as banana, sugar, and grain marine legs (other than those within a grain elevator structure) used within a marine terminal facility shall be examined annually. The annual examination shall include all supporting structures, rigging, mechanical components and observation of all steps of operations. Certificates attesting to the required examinations shall be readily available for inspection.

(d)(i) House fall cargo-handling gear shall be proof load tested as a unit upon initial certification and every fourth year thereafter. An examination shall be carried out in conjunction with each unit proof load test and annually thereafter. The unit test shall consist of a proof load of twenty-five percent in excess of the rated safe working load. Examinations shall include all supporting structures and components. Certificates attesting to the required tests and examinations shall be readily available for inspection.

(ii) House fall span beams or other house fall block supports shall be marked with the safe working load, which shall not be exceeded.

(e) Special gear.

(i) Special stevedoring gear provided by the employer, the strength of which depends upon components other than commonly used stock items such as shackles, ropes or chains, shall be tested as a unit in accordance with the following table before initially being put into use.

Safe Working Load	Proof Load
Up to 20 short tons . . . . .	25 percent in excess
Over 20 to 50 short tons . . . . .	5 short tons in excess
Over 50 short tons . . . . .	10 percent in excess

(ii) Every spreader not a part of ship's gear and used for hoisting intermodal containers shall be tested to a proof load equal to twenty-five percent in excess of its rated capacity. Additionally, any spreader which suffers damage necessitating structural repair shall be retested after repair and before being returned to service.

(iii) Certificates attesting to the required tests shall be available for inspection.

(f) Wire rope and loose gear used for material handling shall be tested and certified before being placed into use in accordance with the provisions of WAC 296-56-60097. Certificates attesting to the required tests, inspections and examinations shall be available.

(9) Disassembly and reassembly of equipment does not require recertification of the equipment provided that the equipment is reassembled and used in a manner consistent with its certification.

(10) Equipment certified in Washington and transferred to a site in another state does not require recertification in this state upon its return, until the next inspection or examination becomes due as if it had not been moved. Equipment certified in accordance with similar provisions of another jurisdiction and moved to a site in this state does not require certification upon initial transfer to this state.

(11) Certification procedures shall not be construed as a substitute for, or cause for elimination of, normal operational inspection and maintenance routine throughout the year.

(12)(a) Every unit of equipment requiring annual certification shall have had such annual certification within the previous twelve months. Equipment requiring annual certification shall have had such annual certification within the previous twelve months, except that no annual certification is required within twelve months after any required certification. Annual examinations for certification may be accomplished up to one month early without effect on subsequent due dates.

(b) When certified equipment is out of service for six months or more beyond the due date of a certification inspection, an examination equivalent to an initial certification, including unit proof load test, shall be performed before the equipment re-enters service.

(13) Loose gear shall bear a legible mark indicating that it has been tested (see WAC 296-56-60097). Single sheave blocks shall be marked with safe working loads and proof test loads. Marks relating to testing shall be identifiable on the related certificates, which shall be available.

(14) The certification requirements of this section do not apply to the following equipment:

(a) Industrial trucks and small industrial crane trucks; and

(b) Any straddle truck not capable of straddling two or more intermodal containers sixteen feet (4.88 m) in width.

**AMENDATORY SECTION** (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

**WAC 296-56-60235 Welding, cutting and heating (hot work).** (1) Definition. "Hot work" means riveting, welding, flame cutting or other fire or spark-producing operation.

(2) Hot work in confined spaces. Hot work shall not be performed in a confined space until (~~a designated person has tested the atmosphere and determined that it is not hazardous~~) All requirements of chapter 296-62 WAC, Part M, are met.

(3) Fire protection.

(a) To the extent possible, hot work shall be performed in designated locations that are free of fire hazards.

(b) When hot work must be performed in a location that is not free of fire hazards, all necessary precautions shall be taken to confine heat, sparks, and slag so that they cannot contact flammable or combustible material.

(c) Fire extinguishing equipment suitable for the location shall be immediately available and shall be maintained in readiness for use at all times.

(d) When the hot work operation is such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire during hot work and for a sufficient time after completion of the work to ensure that no fire hazard remains. The employer shall instruct all employees involved in hot work operations as to potential fire hazards and the use of fire fighting equipment.

(e) Drums and containers which contain or have contained flammable or combustible liquids shall be kept closed. Empty containers shall be removed from the hot work area.

(f) When openings or cracks in flooring cannot be closed, precautions shall be taken to ensure that no employees or flammable or combustible materials are exposed to sparks dropping through the floor. Similar precautions shall be taken regarding cracks or holes in walls, open doorways and open or broken windows.

(g) Hot work shall not be performed:

(i) In flammable or potentially flammable atmospheres;

(ii) On or in equipment or tanks that have contained flammable gas or liquid or combustible liquid or dust-producing material, until a designated person has tested the atmosphere inside the equipment or tanks and determined that it is not hazardous; or

(iii) Near any area in which exposed readily ignitable materials such as bulk sulphur, baled paper or cotton are stored. Bulk sulphur is excluded from this prohibition if suitable precautions are followed, the person in charge is knowledgeable and the person performing the work has been instructed in preventing and extinguishing sulphur fires.

(h)(i) Drums, containers or hollow structures that have contained flammable or combustible substances shall either be filled with water or cleaned, and shall then be ventilated. A designated person shall test the atmosphere and determine that it is not hazardous before hot work is performed on or in such structures.

(ii) Before heat is applied to a drum, container or hollow structure, an opening to release built-up pressure during heat application shall be provided.

(4) Gas welding and cutting.

(a) Compressed gas cylinders:

(i) Shall have valve protection caps in place except when in use, hooked up or secured for movement. Oil shall not be used to lubricate caps;

(ii) Shall be hoisted only while secured, as on a cradle or pallet, and shall not be hoisted by magnet, choker sling or cylinder caps;

(iii) Shall be moved only by tilting or rolling on their bottom edges;

(iv) Shall be secured when moved by vehicle;

(v) Shall be secured while in use;

(vi) Shall have valves closed when cylinders are empty, being moved or stored;

(vii) Shall be secured upright except when hoisted or carried;

(viii) Shall not be freed when frozen by prying the valves or caps with bars or by hitting the valve with a tool;

(ix) Shall not be thawed by boiling water;

(x) Shall not be exposed to sparks, hot slag, or flame;

(xi) Shall not be permitted to become part of electrical circuits or have electrodes struck against them to strike arcs;

(xii) Shall not be used as rollers or supports;

(xiii) Shall not have contents used for purposes not authorized by the supplier;

(xiv) Shall not be used if damaged or defective;

(xv) Shall not have gases mixed within, except by gas suppliers;

(xvi) Shall be stored so that oxygen cylinders are separated from fuel gas cylinders and combustible materials by either a minimum distance of twenty feet (6 m) or a barrier having a fire-resistance rating of thirty minutes; and

(xvii) Shall not have objects that might either damage the safety device or obstruct the valve placed on top of the cylinder when in use.

(b) Use of fuel gas. Fuel gas shall be used only as follows:

(i) Before regulators are connected to cylinder valves, the valves shall be opened slightly (cracked) and closed immediately to clear away dust or dirt. Valves shall not be cracked if gas could reach possible sources of ignition;

(ii) Cylinder valves shall be opened slowly to prevent regulator damage and shall not be opened more than one and one-half turns. Any special wrench required for emergency closing shall be positioned on the valve stem during cylinder use. For manifolded or coupled cylinders, at least one wrench shall be immediately available. Nothing shall be placed on top of a cylinder or associated parts when the cylinder is in use;

(iii) Pressure-reducing regulators shall be attached to cylinder valves when cylinders are supplying torches or devices equipped with shut-off valves;

(iv) Cylinder valves shall be closed and gas released from the regulator or manifold before regulators are removed;

(v) Leaking fuel gas cylinder valves shall be closed and the gland nut tightened. If the leak continues, the cylinder shall be tagged, removed from service, and moved to a location where the leak will not be hazardous. If a regulator attached to a valve stops a leak, the cylinder need not be removed from the workplace but shall be tagged and may not be used again before it is repaired; and

(vi) If a plug or safety device leaks, the cylinder shall be tagged, removed from service, and moved to a location where the leak will not be hazardous.

(c) Hose.

(i) Fuel gas and oxygen hoses shall be easily distinguishable from each other by color or sense of touch. Oxygen and fuel hoses shall not be interchangeable. Hoses having more than one gas passage shall not be used.

(ii) When oxygen and fuel gas hoses are taped together, not more than four of each twelve inches (10.2 cm of each 30.5 cm) shall be taped.

(iii) Hose shall be inspected before use. Hose subjected to flashback or showing evidence of severe wear or damage shall be tested to twice the normal working pressure but not less than two hundred p.s.i. (1378.96 kPa) before re-use. Defective hose shall not be used.

(iv) Hose couplings shall not unlock or disconnect without rotary motion.

(v) Hose connections shall be clamped or securely fastened to withstand twice the normal working pressure but not less than three hundred p.s.i. (2068.44 kPa) without leaking.

(vi) Gas hose storage boxes shall be ventilated.

(d) Torches.

(i) Torch tip openings shall only be cleaned with devices designed for that purpose.

(ii) Torches shall be inspected before each use for leaking shut-off valves, hose couplings and tip connections. Torches shall be inspected before each use for leaking shut-off valves, hose couplings and tip connections. Torches with such defects shall not be used.

(iii) Torches shall not be lighted from matches, cigarette lighters, other flames or hot work.

(e) Pressure regulators. Pressure regulators, including associated gauges, shall be maintained in safe working order.

(f) Operational precaution. Gas welding equipment shall be maintained free of oil and grease.

(5) Arc welding and cutting.

(a) Manual electrode holders.

(i) The employer shall ensure that only manual electrode holders intended for arc welding and cutting and capable of handling the maximum current required for such welding or cutting shall be used.

(ii) Current-carrying parts passing through those portions of the holder gripped by the user and through the outer surfaces of the jaws of the holder shall be insulated against the maximum voltage to ground.

(b) Welding cables and connectors.

(i) Arc welding and cutting cables shall be insulated, flexible and capable of handling the maximum current required by the operation, taking into account the duty cycles.

(ii) Only cable free from repair or splice for ten feet (3 m) from the electrode holder shall be used unless insulated connectors or splices with insulating quality equal to that of the cable are provided.

(iii) When a cable other than the lead mentioned in (b)(ii) of this subsection wears and exposes bare conductors, the portion exposed shall not be used until it is protected by insulation equivalent in performance capacity to the original.

(iv) Insulated connectors of equivalent capacity shall be used for connecting or splicing cable. Cable lugs, where

used as connectors, shall provide electrical contact. Exposed metal parts shall be insulated.

(c) Ground returns and machine grounding.

(i) Ground return cables shall have current-carrying capacity equal to or exceeding the total maximum output capacities of the welding or cutting units served.

(ii) Structures or pipelines, other than those containing gases or flammable liquids or conduits containing electrical circuits, may be used in the ground return circuit if their current-carrying capacity equals or exceeds the total maximum output capacities of the welding or cutting units served.

(iii) Structures or pipelines forming a temporary ground return circuit shall have electrical contact at all joints. Arcs, sparks or heat at any point in the circuit shall cause rejection as a ground circuit.

(iv) Structures or pipelines acting continuously as ground return circuits shall have joints bonded and maintained to ensure that no electrolysis or fire hazard exists.

(v) Arc welding and cutting machine frames shall be grounded, either through a third wire in the cable containing the circuit conductor or through a separate wire at the source of the current. Grounding circuits shall have resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(vi) Ground connections shall be mechanically and electrically adequate to carry the current.

(d) When electrode holders are left unattended, electrodes shall be removed and holders placed to prevent employee injury.

(e) Hot electrode holders shall not be dipped in water.

(f) The employer shall ensure that when arc welders or cutters leave or stop work or when machines are moved, the power supply switch is kept in the off position.

(g) Arc welding or cutting equipment having a functional defect shall not be used.

(h)(i) Arc welding and cutting operations shall be separated from other operations by shields, screens, or curtains to protect employees in the vicinity from the direct rays and sparks of the arc.

(ii) Employees in areas not protected from the arc by screening shall be protected by appropriate filter lenses in accordance with subsection (8) of this section. When welders are exposed to their own arc or to each other's arc, they shall wear filter lenses complying with the requirements of subsection (8) of this section.

(i) The control apparatus of arc welding machines shall be enclosed, except for operating wheels, levers, and handles.

(j) Input power terminals, top change devices and live metal parts connected to input circuits shall be enclosed and accessible only by means of insulated tools.

(k) When arc welding is performed in wet or high-humidity conditions, employees shall use additional protection, such as rubber pads or boots, against electric shock.

(6) Ventilation and employee protection in welding, cutting and heating.

(a) Mechanical ventilation requirements. The employer shall ensure that general mechanical ventilation or local exhaust systems shall meet the following requirements:

(i) General mechanical ventilation shall maintain vapors, fumes and smoke below a hazardous level;

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(ii) Local exhaust ventilation shall consist of movable hoods positioned close to the work and shall be of such capacity and arrangement as to keep breathing zone concentrations below hazardous levels;

(iii) Exhausts from working spaces shall be discharged into the open air, clear of intake air sources;

(iv) Replacement air shall be clean and respirable; and

(v) Oxygen shall not be used for ventilation, cooling or cleaning clothing or work areas.

(b) Hot work in confined spaces. Except as specified in (c)(ii) and (iii) of this subsection, when hot work is performed in a confined space the employer shall, in addition to the requirements of (~~WAC 296-62-145 through 296-62-14529~~) chapter 296-62 WAC, Part M, ensure that:

(i) General mechanical or local exhaust ventilations shall be provided; or

(ii) Employees in the space shall wear supplied air respirators in accordance with WAC 296-62-071 et seq. and a standby observer on the outside shall maintain communication with employees inside the space and shall be equipped and prepared to provide emergency aid.

(c) Welding, cutting or heating of toxic metals.

(i) In confined or enclosed spaces, hot work involving the following metals shall only be performed with general mechanical or local exhaust ventilation that ensures that employees are not exposed to hazardous levels of fumes:

(A) Lead base metals;

(B) Cadmium-bearing filler materials; and

(C) Chromium-bearing metals or metals coated with chromium-bearing materials.

(ii) In confined or enclosed spaces, hot work involving the following metals shall only be performed with local exhaust ventilation meeting the requirements of this subsection or by employees wearing supplied air respirators in accordance with chapter 296-62 WAC;

(A) Zinc-bearing base or filler metals or metals coated with zinc-bearing materials;

(B) Metals containing lead other than as an impurity, or coated with lead-bearing materials;

(C) Cadmium-bearing or cadmium-coated base metals; and

(D) Metals coated with mercury-bearing materials.

(iii) Employees performing hot work in confined or enclosed spaces involving beryllium-containing base or filler metals shall be protected by local exhaust ventilation and wear supplied air respirators or self-contained breathing apparatus, in accordance with the requirements of chapter 296-62 WAC.

(iv) The employer shall ensure that employees performing hot work in the open air that involves any of the metals listed in (c)(i) and (ii) of this subsection shall be protected by respirators in accordance with the requirements of chapter 296-62 WAC and those working on beryllium-containing base or filler metals shall be protected by supplied air respirators, in accordance with the requirements of chapter 296-62 WAC.

(v) Any employee exposed to the same atmosphere as the welder or burner shall be protected by the same type of respiratory and other protective equipment as that worn by the welder or burner.

(d) Inert-gas metal-arc welding. Employees shall not engage in and shall not be exposed to the inert-gas metal-arc welding process unless the following precautions are taken:

(i) Chlorinated solvents shall not be used within two hundred feet (61 m) of the exposed arc. Surfaces prepared with chlorinated solvents shall be thoroughly dry before welding is performed on them.

(ii) Employees in areas not protected from the arc by screening shall be protected by appropriate filter lenses in accordance with the requirements of subsection (8) of this section. When welders are exposed to their own arc or to each other's arc, filter lenses complying with the requirements of subsection (8) of this section shall be worn to protect against flashes and radiant energy.

(iii) Employees exposed to radiation shall have their skin covered completely to prevent ultraviolet burns and damage. Helmets and hand shields shall not have leaks, openings or highly reflective surfaces.

(iv) Inert-gas metal-arc welding on stainless steel shall not be performed unless exposed employees are protected either by local exhaust ventilation or by wearing supplied air respirators.

(7) Welding, cutting and heating on preservative coatings.

(a) Before hot work is commenced on surfaces covered by a preservative coating of unknown flammability, a test shall be made by a designated person to determine the coating's flammability. Preservative coatings shall be considered highly flammable when scrapings burn with extreme rapidity.

(b) Appropriate precaution shall be taken to prevent ignition of highly flammable hardened preservative coatings. Highly flammable coatings shall be stripped from the area to be heated. An uncoiled fire hose with fog nozzle, under pressure, shall be immediately available in the hot work area.

(c) Surfaces covered with preservative coatings shall be stripped for at least four inches (10.2 cm) from the area of heat application or employees shall be protected by supplied air respirators in accordance with the requirements of chapter 296-62 WAC.

(8) Protection against radiant energy.

(a) Employees shall be protected from radiant energy eye hazards by spectacles, cup goggles, helmets, hand shields or face shields with filter lenses complying with the requirements of this subsection.

(b) Filter lenses shall have an appropriate shade number, as indicated in Table G-1, for the work performed. Variations of one or two shade numbers are permissible to suit individual preferences.

(c) If filter lenses are used in goggles worn under the helmet, the shade numbers of both lenses equals the value shown in Table G-1 for the operation.

Table G-1.—Filter Lenses for Protection Against Radiant Energy

Operation	Shade No.
Soldering . . . . .	2
Torch Brazing . . . . .	3 or 4
Light cutting, up to 1 inch . . . . .	3 or 4
Medium cutting, 1-6 inches . . . . .	4 or 5

Heavy cutting, over 6 inches . . . . . 5 or 6  
 Light gas welding, up to 1/8 inch . . . . . 4 or 5  
 Medium gas welding, 1/8-1/2 inch . . . . . 5 or 6  
 Heavy gas welding, over 1/2 inch . . . . . 6 or 8  
 Shielded Metal-Arc Welding 1/16 to  
     5/32-inch electrodes . . . . . 10  
 Inert gas Metal-Arc Welding (non-ferrous)  
     1/16 to 5/32-inch electrodes . . . . . 11  
 Shielded Metal-Arc Welding:  
     3/16 to 1/4-inch electrodes . . . . . 12  
     5/16 and 3/8-inch electrodes . . . . . 14

**AMENDATORY SECTION** (Amending Order 88-11, filed 7/6/88)

**WAC 296-59-060 Vessel or confined area requirements.** The requirements of WAC 296-62-145 through 296-62-14529, general occupational health standards, shall be applicable within the scope of chapter 296-59 WAC.

**AMENDATORY SECTION** (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-62-07105 Definitions.** ~~((1))~~ Abrasive-blasting respirator. See "respirator." A respirator designed to protect the wearer against inhalation of abrasive material and against impact and abrasion from rebounding abrasive material.

~~((2))~~ Accepted. Reviewed and listed as satisfactory for a specified use by the director or his or her designee.

~~((3))~~ Aerodynamic diameter. The diameter of a unit density sphere having the same settling velocity as the particle in question of whatever shape and density.

~~((4))~~ Aerosol. A system consisting of particles, solid or liquid, suspended in air.

~~((5))~~ Air-line respirator. See "respirator."

~~((6))~~ Air-purifying respirator. See "respirator."

~~((7))~~ Air-regulating valve. An adjustable valve used to regulate, but which cannot completely shut off the airflow to the facepiece, helmet, hood, or suit of an air-line respirator.

~~((8))~~ Air-supply device. A hand- or motor-operated blower for the hose mask, or a compressor or other source of respirable air for the air-line respirator.

~~((9))~~ Approved. Tested and listed as satisfactory by the Bureau of Mines (BM) of the U.S. Department of Interior, or jointly by the Mining Enforcement and Safety Administration (MESA) of the U.S. Department of Interior and the National Institute for Occupational Safety and Health (NIOSH) of the U.S. Department of Health and Human Services, or jointly by the Mine Safety and Health Administration (MSHA) of the U.S. Department of Labor and NIOSH under the provisions of Title 30, Code of Federal Regulations, Part 11.

~~((10))~~ Bioassay. A determination of the concentration of a substance in a human body by an analysis of urine, feces, blood, bone, or tissue.

~~((11))~~ Breathing tube. A tube through which air or oxygen flows to the facepiece, mouthpiece, helmet, hood, or suit.

~~((12))~~ Canister (air-purifying). A container with a filter, sorbent, or catalyst, or any combination thereof, which removes specific contaminants from the air drawn through it.

~~((13))~~ Canister (oxygen-generating). A container filled with a chemical which generates oxygen by chemical reaction.

~~((14))~~ Carcinogen. A substance known to produce cancer in some individuals following a latent period (for example: Asbestos, Chromates, radioactive particulates).

~~((15))~~ Cartridge (air-purifying). A small canister.

~~((16))~~ Catalyst. In respirator use, a substance which converts a toxic gas (or vapor) into a less-toxic gas (or vapor).

~~((17))~~ Ceiling concentration. The concentration of an airborne substance that shall not be exceeded.

~~((18))~~ Chemical-cartridge respirator. See respirator.

~~((19))~~ Confined space. Chapter 296-62 WAC Part M.

~~((20))~~ Contaminant. A harmful, irritating, or nuisance material that is foreign to the normal atmosphere.

~~((21))~~ Corrective lens. A lens ground to the wearer's individual corrective prescription to permit normal visual acuity.

~~((22))~~ Demand. A type of self-contained breathing apparatus or type of air-line respirator which functions due to the negative pressure created by inhalation (i.e., air flow into the facepiece on "demand").

~~((23))~~ Detachable coupling. A device which permits the respirator wearer, without using hand tools, to detach the air-supply line from that part of the respirator worn on the person.

~~((24))~~ Dust. See WAC 296-62-07001(1).

~~((25))~~ Emergency respirator use. Wearing a respirator when a hazardous atmosphere suddenly occurs that requires immediate use of a respirator either for escape from the hazardous atmosphere or for entry into the hazardous atmosphere.

~~((26))~~ Exhalation valve. A device that allows exhaled air to leave a respirator and prevents outside air from entering through the valve.

~~((27))~~ Eyepiece. A gas-tight, transparent window(s) in a full facepiece, helmet, hood, or suit, through which the wearer may see.

~~((28))~~ Facepiece. That portion of a respirator that covers the wearer's nose and mouth in quarter-mask (above the chin) or half-mask (under the chin) facepiece or that covers the nose, mouth, and eyes in a full facepiece. It is designed to make a gas-tight or particle-tight fit with the face and includes the headbands, exhalation valve(s), and connections for an air-purifying device or respirable gas source, or both.

~~((29))~~ Face shield. A device worn in front of the eyes and a portion of, or all of, the face, whose predominant function is protection of the eyes and the face.

~~((30))~~ Fibrosis-producing dust. Dust which, when inhaled, deposited, and retained in the lungs, may produce findings of fibrotic growth that may cause pulmonary disease.

~~((31))~~ Filter. A media component used in respirators to remove solid or liquid particles from the inspired air.

~~((32))~~ Filter respirator. See respirator.

~~((33))~~ Fog. A mist of sufficient concentration to perceptibly obscure vision.

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((34)) Full facepiece. See facepiece.

((35)) Fume. See WAC 296-62-07001(2).

((36)) Gas. An aeriform fluid which is in the gaseous state at ordinary temperature and pressure.

((37)) Gas mask. See respirator.

((38)) Goggle. A device, with contour-shaped eyecups with glass or plastic lenses, worn over eyes and held in place by a headband or other suitable means for the protection of the eyes and eye sockets.

((39)) Half-mask facepiece. See facepiece.

((40)) Hazardous atmosphere. Any atmosphere, either immediately or not immediately dangerous to life or health, which is oxygen deficient or which contains a toxic or disease-producing contaminant.

((41)) Head harness. That part of a facepiece assembly which secures the facepiece to the wearer.

((42)) Helmet. That portion of a respirator which shields the eyes, face, neck, and other parts of the head.

((43)) High-efficiency filter. A filter which removes from air 99.97% or more of monodisperse dioctyl phthalate (DOP) particles having a mean particle diameter of 0.3 micrometer.

((44)) Hood. That portion of a respirator which completely covers the head, neck, and portions of the shoulders.

((45)) Hose mask. See respirator.

((46)) Immediately dangerous to life or health (IDLH). Any atmosphere that poses an immediate hazard to life or produces immediate irreversible debilitating effects on health.

((47)) Inhalation valve. A device that allows respirable air to enter a respirator and prevents exhaled air from leaving the respirator through the valve.

((48)) Irrespirable. Unfit for breathing.

((49)) Maximum use limit of filter, cartridge, or canister. The maximum concentration of a contaminant for which an air-purifying filter, cartridge, or canister is approved for use.

((50)) Mist. See WAC 296-62-07001(4).

((51)) Mouthpiece. That portion of a respirator which is held in the wearer's mouth and is connected to an air-purifying device or respirable gas source, or both. It is designed to make a gas-tight or particle-tight fit with the mouth.

((52)) MPCa. Maximum permissible airborne concentration. These concentrations are set by the National Committee on Radiation Protection. They are recommended maximum average concentrations of radionuclides to which a worker may be exposed, assuming that he/she works 8 hours a day, 5 days a week, and 50 weeks a year.

((53)) Negative pressure respirator. A respirator in which the air pressure inside the respiratory-inlet covering is positive during exhalation in relation to the air pressure of the outside atmosphere and negative during inhalation in relation to the air pressure of the outside atmosphere.

((54)) Nonroutine respirator use. Wearing a respirator when carrying out a special task that occurs infrequently.

((55)) Nose clamp. A device used with a respirator equipped with a mouthpiece that closes the nostrils of the wearer (sometimes called a nose clip).

((56)) Not immediately dangerous to life or health. Any hazardous atmosphere which may produce physical discomfort immediately, chronic poisoning after repeated

exposure, or acute adverse physiological symptoms after prolonged exposure.

((57)) Odor threshold limit. The lowest concentration of a contaminant in air that can be detected by the olfactory sense.

((58)) Oxygen deficiency - immediately dangerous to life or health. An atmosphere which causes an oxygen partial pressure of 95 millimeters of mercury column or less or has less than 12.5% by volume in the freshly inspired air in the upper portion of the lungs which is saturated with water vapor.

((59)) Oxygen deficiency - not immediately dangerous to life or health. An atmosphere having an oxygen concentration below the minimum legal requirement of 19.5% by volume or has a partial pressure of oxygen of 148 millimeters of mercury for respirable air at sea-level conditions, but above that which is immediately dangerous to life or health.

((60)) Particulate matter. A suspension of fine solid or liquid particles in air, such as: Dust, fog, fume, mist, smoke, or spray. Particulate matter suspended in air is commonly known as an aerosol.

((61)) Permissible exposure limit (PEL). The legally established time-weighted average (TWA) concentration or ceiling concentration of a contaminant that shall not be exceeded.

((62)) Permit-required confined space. See chapter 296-62 WAC, Part M.

Pneumoconiosis-producing dust. Dust which, when inhaled, deposited, and retained in the lungs, may produce signs, symptoms, and findings of pulmonary disease.

((63)) Positive-pressure respirator. A respirator in which the air pressure inside the respiratory-inlet covering is positive in relation to the air pressure of the outside atmosphere during exhalation and inhalation.

((64)) Powered air-purifying respirator. See respirator.

((65)) Pressure demand. Similar to a demand type respirator but so designed to maintain positive pressure in the facepiece at all times.

((66)) Protection factor. The ratio of the ambient concentration of an airborne substance to the concentration of the substance inside the respirator at the breathing zone of the wearer. The protection factor is a measure of the degree of protection provided by a respirator to the wearer. As used herein, a protection factor is synonymous with the fit factor assigned to a respirator facepiece by the use of qualitative and quantitative fitting tests.

((67)) Rescue respirator use. Wearing a respirator for entry into a hazardous atmosphere to rescue a person(s) in the hazardous atmosphere.

((68)) Resistance. Opposition to the flow of air, as through a canister, cartridge, particulate filter, orifice, valve, or hose.

((69)) Respirable. Suitable for breathing.

((70)) Respirator. A device designed to protect the wearer from the inhalation of harmful atmospheres.

((71)) Respiratory-inlet covering. That portion of a respirator which connects the wearer's respiratory tract to an air-purifying device or respirable gas source, or both. It may be a facepiece, helmet, hood, suit, or mouthpiece/nose clamp.

((72)) Routine respirator use. Wearing a respirator as a normal procedure when carrying out a regular and frequently repeated task.

((73)) Sanitization. The removal of dirt and the inhibiting of the action of agents that cause infection or disease.

((74)) Self-contained breathing apparatus. See respirator.

((75)) Service life. The period of time that a respirator provides adequate protection to the wearer - for example, the period of time that an air-purifying device is effective for removing a harmful substance from inspired air.

((76)) Smoke. A system which includes the products of combustion, pyrolysis, or chemical reaction of substances in the form of visible and invisible solid and liquid particles and gaseous products in air. Smoke is usually of sufficient concentration to perceptibly obscure vision.

((77)) Sorbent. A material which is contained in cartridge or canister and which removes toxic gases and vapors from the inhaled air.

((78)) Spray. A liquid, mechanically produced particle with sizes generally in the visible or macroscopic range.

((79)) Supplied-air respirator. See respirator.

((80)) Supplied-air suit. A suit that is impermeable to most particulate and gaseous contaminants and that is provided with an adequate supply of respirable air.

((81)) Time-weighted average (TWA). The average concentration of a contaminant in air during a specific time period.

((82)) Valve (air or oxygen). A device which controls the pressure, direction, or rate of flow of air or oxygen.

((83)) Vapor. The gaseous state of a substance that is solid or liquid at ordinary temperature and pressure.

((84)) Welding helmet. A device designed to provide protection for the eyes and face against intense radiant energy and molten metal splatter encountered in the welding and cutting of metals.

((85)) Window indicator. A device on a cartridge or canister that visually denotes the service life of the cartridge or canister.

**AMENDATORY SECTION** (Amending Order 93-04, filed 9/22/93, effective 11/1/93)

**WAC 296-62-07711 Regulated areas.** (1) General. The employer shall establish a regulated area in work areas where airborne concentrations of asbestos exceed or can reasonably be expected to exceed the permissible exposure limits prescribed in WAC 296-62-07705.

(2) Demarcation. The regulated area shall be demarcated in any manner that minimizes the number of persons within the area and protects persons outside the area from exposure to airborne concentrations of asbestos in excess of the permissible exposure limits.

(3) Access. Access to regulated areas shall be limited to authorized persons or to persons authorized by the Washington Industrial Safety and Health Act or regulations issued pursuant thereto.

(4) Provision of respirators. Each person entering a regulated area shall be supplied with and required to use a respirator, selected in accordance with WAC 296-62-07715.

(5) Protective clothing. All persons entering a regulated area shall be supplied with and required to wear protective clothing, selected in accordance with WAC 296-62-07717.

(6) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in the regulated areas.

(7) Permit-required confined space. The employer shall determine if a permit-required confined space hazard exists and shall take any necessary precautions in accordance with chapter 296-62 WAC Part M.

**AMENDATORY SECTION** (Amending Order 80-20, filed 11/13/80)

**WAC 296-62-11001 Definition.** Ventilation shall mean the provision, circulation or exhausting of air into or from an area or space.

(1) "Local exhaust ventilation" shall mean the mechanical removal of contaminated air from the point where the contaminant is being generated or liberated.

(2) "Dilution ventilation" means inducing and mixing uncontaminated air with contaminated air in such quantities that the resultant mixture in the breathing zone will not exceed the permissible exposure limit (PEL) specified for any contaminant.

(3) "Exhaust ventilation" means the general movement of air out of the area or permit-required confined space by mechanical or natural means.

(4) "Tempered makeup air" means air which has been conditioned by changing its heat content to obtain a specific desired temperature.

**AMENDATORY SECTION** (Amending Order 73-3, filed 5/7/73)

**WAC 296-62-145 Permit-required confined spaces.**

**NEW SECTION**

**WAC 296-62-14500 Scope and application.** (1) Scope. This part contains minimum requirements for practices and procedures to protect employees in all industries from the hazards of entry and/or work in permit-required confined spaces.

(2) Application. Part M (Permit-required confined spaces) applies to all employers under the jurisdiction of the Washington Industrial Safety and Health Act, chapter 49.17 RCW. Part M may be augmented by more protective requirements for confined spaces in vertical standards. Where there is conflict between an industry specific vertical standard and chapter 296-62 WAC, Part M, the vertical standard shall apply.

**AMENDATORY SECTION** (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-62-14501 Definitions.** ~~((1)) "Confined space" means any space having a limited means of egress which is subject to the accumulation of toxic or flammable contaminants or an oxygen deficient atmosphere. Confined spaces include but are not limited to storage tanks, process vessels, bins, boilers, ventilation or exhaust ducts, sewers, underground utility vaults, tunnels, pipelines and open top~~

~~spaces more than 4 feet in depth, such as pits, tubes, vaults and vessels.~~

~~(2) Toxic atmospheres are atmospheres having concentrations of airborne chemicals in excess of permissible exposure limits as defined in WAC 296-62-075 through 296-62-07517.~~

~~(3) Chemical contact agents are defined in WAC 296-62-07003.~~

~~(4) Oxygen deficient atmospheres are deemed to exist if the atmosphere at sea level has less than 19.5% oxygen by volume or has a partial pressure of 148 millimeters of mercury or less. This may deviate when working at higher altitudes and should be determined for an individual location. Factors such as acclimatization, physical condition of persons involved, etc., must be considered for such circumstances and conditions.~~

~~(5) Flammable atmospheres are atmospheres in excess of 20% of the lower explosive limit. These are usually toxic as well as flammable.)~~ **Acceptable entry conditions** means the conditions that must exist in a permit space to allow entry and to ensure that employees involved with a permit-required confined space entry can safely enter into and work within the space.

**Attendant** means an individual stationed outside one or more permit spaces who monitors the authorized entrants and who performs all attendant's duties assigned in the employer's permit space program.

**Authorized entrant** means an employee who is authorized by the employer to enter a permit space.

**Blanking or blinding** means the absolute closure of a pipe, line, or duct by the fastening of a solid plate (such as a spectacle blind or a skillet blind) that completely covers the bore and that is capable of withstanding the maximum pressure of the pipe, line, or duct with no leakage beyond the plate.

**Confined space** means a space that:

(1) Is large enough and so configured that an employee can bodily enter and perform assigned work; and

(2) Has limited or restricted means for entry or exit (For example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry.); and

(3) Is not designed for continuous employee occupancy.

**Double block and bleed** means the closure of a line, duct, or pipe by closing and locking or tagging two in-line valves and by opening and locking or tagging a drain or vent valve in the line between the two closed valves.

**Emergency** means any occurrence (including any failure of hazard control or monitoring equipment) or event internal or external to the permit space that could endanger entrants.

**Engulfment** means the surrounding and effective capture of a person by a liquid or finely divided (flowable) solid substance that can be aspirated to cause death by filling or plugging the respiratory system or that can exert enough force on the body to cause death by strangulation, constriction, or crushing.

**Entry** means the action by which a person passes through an opening into a permit-required confined space. Entry includes ensuing work activities in that space and is considered to have occurred as soon as any part of the entrant's body breaks the plane of an opening into the space.

**Entry permit (permit)** means the written or printed document that is provided by the employer to allow and control entry into a permit space and that contains the information specified in WAC 296-62-14509.

**Entry supervisor** means the person (such as the employer, crew leader, or crew chief) responsible for determining if acceptable entry conditions are present at a permit space where entry is planned, for authorizing entry and overseeing entry operations, and for terminating entry as required by this part.

**Note:** An entry supervisor also may serve as an attendant or as an authorized entrant, as long as that person is trained and equipped as required by this section for each role he or she fills. Also, the duties of entry supervisor may be passed from one individual to another during the course of an entry operation.

**Hazardous atmosphere** means an atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (that is, escape unaided from a permit space), injury, or acute illness from one or more of the following causes:

(1) Flammable gas, vapor, or mist in excess of ten percent of its lower flammable limit (LFL);

(2) Airborne combustible dust at a concentration that meets or exceeds its LFL;

**Note:** This concentration may be approximated as a condition in which the dust obscures vision at a distance of five feet (1.52 m) or less.

(3) Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent;

(4) Atmospheric concentration of any substance for which a dose or a permissible exposure limit is published in Subpart G, Occupational Health and Environmental Control, or in Subpart Z, Toxic and Hazardous Substances, of this part and which could result in employee exposure in excess of its dose or permissible exposure limit;

**Note:** An atmospheric concentration of any substance that is not capable of causing death, incapacitation, impairment of ability to self-rescue, injury, or acute illness due to its health effects is not covered by this provision.

(5) Any other atmospheric condition that is immediately dangerous to life or health.

**Note:** For air contaminants for which WISHA has not determined a dose or permissible exposure limit, other sources of information such as material safety data sheets that comply with the Hazard Communication Standard, chapter 296-62 WAC, Part C, published information, and internal documents can provide guidance in establishing acceptable atmospheric conditions.

**Hot work permit** means the employer's written authorization to perform operations (for example, riveting, welding, cutting, burning, and heating) capable of providing a source of ignition.

**Immediately dangerous to life or health (IDLH)** means any condition that poses an immediate or delayed threat to life or that would cause irreversible adverse health effects or that would interfere with an individual's ability to escape unaided from a permit space.

**Note:** Some materials - hydrogen fluoride gas and cadmium vapor, for example - may produce immediate transient effects that, even if severe, may pass without medical attention, but are followed by sudden, possibly fatal collapse 12-72 hours after exposure. The victim "feels normal" from recovery from transient effects until

collapse. Such materials in hazardous quantities are considered to be "immediately" dangerous to life or health.

**Inerting** means the displacement of the atmosphere in a permit space by a noncombustible gas (such as nitrogen) to such an extent that the resulting atmosphere is noncombustible.

Note: This procedure produces an IDLH oxygen-deficient atmosphere.

**Isolation** means the process by which a permit space is removed from service and completely protected against the release of energy and material into the space by such means as: Blanking or blinding; misaligning or removing sections of lines, pipes, or ducts; a double block and bleed system; lockout or tagout of all sources of energy; or blocking or disconnecting all mechanical linkages.

**Line breaking** means the intentional opening of a pipe, line, or duct that is or has been carrying flammable, corrosive, or toxic material, an inert gas, or any fluid at a volume, pressure, or temperature capable of causing injury.

**Nonpermit confined space** means a confined space that does not contain or, with respect to atmospheric hazards, have the potential to contain any hazard capable of causing death or serious physical harm.

**Oxygen deficient atmosphere** means an atmosphere containing less than 19.5 percent oxygen by volume.

**Oxygen enriched atmosphere** means an atmosphere containing more than 23.5 percent oxygen by volume.

**Permit-required confined space (permit space)** means a confined space that has one or more of the following characteristics:

(1) Contains or has a potential to contain a hazardous atmosphere;

(2) Contains a material that has the potential for engulfing an entrant;

(3) Has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section; or

(4) Contains any other recognized serious safety or health hazard.

**Permit-required confined space program (permit space program)** means the employer's overall program for controlling, and, where appropriate, for protecting employees from, permit space hazards and for regulating employee entry into permit spaces.

**Permit system** means the employer's written procedure for preparing and issuing permits for entry and for returning the permit space to service following termination of entry.

**Prohibited condition** means any condition in a permit space that is not allowed by the permit during the period when entry is authorized.

**Rescue service** means the personnel designated to rescue employees from permit spaces.

**Retrieval system** means the equipment (including a retrieval line, chest or full-body harness, wristlets, if appropriate, and a lifting device or anchor) used for nonentry rescue of persons from permit spaces.

**Testing** means the process by which the hazards that may confront entrants of a permit space are identified and evaluated. Testing includes specifying the tests that are to be performed in the permit space.

Note: Testing enables employers both to devise and implement adequate control measures for the protection of authorized entrants and to determine if acceptable entry conditions are present immediately prior to, and during, entry.

AMENDATORY SECTION (Amending Order 91-01, filed 5/20/91, effective 6/20/91)

**WAC 296-62-14503 ((Personnel)) General requirements ((for entry into confined spaces)).** ((Employees required to enter confined spaces shall be protected from the hazards which may result from the entry.

(1) Management shall be responsible for procedures, training, and planning for entry into confined spaces which present a problem due to toxicity, flammability, oxygen deficiency or excess, mechanical, electrical, corrosive or temperature hazard.

(2) Management shall develop, distribute and enforce a written procedure which shall include planning, general precautions, procedures, evaluation of hazards, ventilation requirements, personal protection, isolation and responsibilities.

(3) For each project or job, individuals who are competent in the evaluation of hazards, precautions, first aid and artificial respiration shall specifically be assigned. All personnel shall be trained in the use of personal protective equipment required for the job assignment.

(4) Management shall instruct all involved employees in the safe procedures to be followed. (1) The employer shall evaluate the workplace to determine if any spaces are permit-required confined spaces.

Note: Proper application of the decision flow chart in WAC 296-62-14521, Appendix A, would facilitate compliance with this requirement.

(2) If the workplace contains permit spaces, the employer shall inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of and the danger posed by the permit spaces.

Note: A sign reading "DANGER-PERMIT-REQUIRED CONFINED SPACE, DO NOT ENTER" or using other similar language would satisfy the requirement for a sign.

(3) If the employer decides that its employees will not enter permit spaces, the employer shall take effective measures to prevent its employees from entering the permit spaces and shall comply with subsections (1), (2), (6), and (8) of this section.

(4) If the employer decides that its employees will enter permit spaces, the employer shall develop and implement a written permit space program that complies with this part. The written program shall be available for inspection by employees and their authorized representatives.

(5) An employer may use the alternate procedures specified in (b) of this subsection for entering a permit space under the conditions set forth in (a) of this subsection.

(a) An employer whose employees enter a permit space need not comply with WAC 296-62-14505 through 296-62-14509 and WAC 296-62-14513 through 296-62-14519, provided that:

(i) The employer can demonstrate that the only hazard posed by the permit space is an actual or potential hazardous atmosphere;

(ii) The employer can demonstrate that continuous forced air ventilation alone is sufficient to maintain that permit space safe for entry;

(iii) The employer develops monitoring and inspection data that supports the demonstrations required by (a)(i) and (ii) of this subsection;

(iv) If an initial entry of the permit space is necessary to obtain the data required by (a)(iii) of this subsection, the entry is performed in compliance with WAC 296-62-14505 through 296-62-14519;

(v) The determinations and supporting data required by (a)(i), (ii), and (iii) of this subsection are documented by the employer and are made available to each employee who enters the permit space under the terms of WAC this subsection; and

(vi) Entry into the permit space under the terms of (a) of this subsection is performed in accordance with the requirements of (b) of this subsection.

Note: See subsection (7) of this section for reclassification of a permit space after all hazards within the space have been eliminated.

(b) The following requirements apply to entry into permit spaces that meet the conditions set forth in (a) of this subsection.

(i) Any conditions making it unsafe to remove an entrance cover shall be eliminated before the cover is removed.

(ii) When entrance covers are removed, the opening shall be promptly guarded by a railing, temporary cover, or other temporary barrier that will prevent an accidental fall through the opening and that will protect each employee working in the space from foreign objects entering the space.

(iii) Before an employee enters the space, the internal atmosphere shall be tested, with a calibrated direct-reading instrument, for the following conditions in the order given:

(A) Oxygen content,

(B) Flammable gases and vapors, and

(C) Potential toxic air contaminants.

(iv) There may be no hazardous atmosphere within the space whenever any employee is inside the space.

(v) Continuous forced air ventilation shall be used, as follows:

(A) An employee may not enter the space until the forced air ventilation has eliminated any hazardous atmosphere;

(B) The forced air ventilation shall be so directed as to ventilate the immediate areas where an employee is or will be present within the space and shall continue until all employees have left the space;

(C) The air supply for the forced air ventilation shall be from a clean source and may not increase the hazards in the space.

(vi) The atmosphere within the space shall be periodically tested as necessary to ensure that the continuous forced air ventilation is preventing the accumulation of a hazardous atmosphere.

(vii) If a hazardous atmosphere is detected during entry:

(A) Each employee shall leave the space immediately;

(B) The space shall be evaluated to determine how the hazardous atmosphere developed; and

(C) Measures shall be implemented to protect employees from the hazardous atmosphere before any subsequent entry takes place.

(viii) The employer shall verify that the space is safe for entry and that the preentry measures required by (b) of this subsection have been taken, through a written certification that contains the date, the location of the space, and the signature of the person providing the certification. The certification shall be made before entry and shall be made available to each employee entering the space.

(6) When there are changes in the use or configuration of a nonpermit confined space that might increase the hazards to entrants, the employer shall reevaluate that space and, if necessary, reclassify it as a permit-required confined space.

(7) A space classified by the employer as a permit-required confined space may be reclassified as a nonpermit confined space under the following procedures:

(a) If the permit space poses no actual or potential atmospheric hazards and if all hazards within the space are eliminated without entry into the space, the permit space may be reclassified as a nonpermit confined space for as long as the nonatmospheric hazards remain eliminated.

(b) If it is necessary to enter the permit space to eliminate hazards, such entry shall be performed under WAC 296-62-14505 through 296-62-14519. If testing and inspection during that entry demonstrate that the hazards within the permit space have been eliminated, the permit space may be reclassified as a nonpermit confined space for as long as the hazards remain eliminated.

Note: Control of atmospheric hazards through forced air ventilation does not constitute elimination of the hazards. Subsection (5) of this section covers permit space entry where the employer can demonstrate that forced air ventilation alone will control all hazards in the space.

(c) The employer shall document the basis for determining that all hazards in a permit space have been eliminated, through a certification that contains the date, the location of the space, and the signature of the person making the determination. The certification shall be made available to each employee entering the space.

(d) If hazards arise within a permit space that has been declassified to a nonpermit space under this subsection, each employee in the space shall exit the space. The employer shall then reevaluate the space and determine whether it must be reclassified as a permit space, in accordance with other applicable provisions of this part.

(8) When an employer (host employer) arranges to have employees of another employer (contractor) perform work that involves permit space entry, the host employer shall:

(a) Inform the contractor that the workplace contains permit spaces and that permit space entry is allowed only through compliance with a permit space program meeting the requirements of this part;

(b) Apprise the contractor of the elements, including the hazards identified and the host employer's experience with the space, that make the space in question a permit space;

(c) Apprise the contractor of any precautions or procedures that the host employer has implemented for the protection of employees in or near permit spaces where contractor personnel will be working;

(d) Coordinate entry operations with the contractor, when both host employer personnel and contractor personnel will be working in or near permit spaces, as required by WAC 296-62-14505(11); and

(e) Debrief the contractor at the conclusion of the entry operations regarding the permit space program followed and regarding any hazards confronted or created in permit spaces during entry operations.

(9) In addition to complying with the permit space requirements that apply to all employers, each contractor who is retained to perform permit space entry operations shall:

(a) Obtain any available information regarding permit space hazards and entry operations from the host employer;

(b) Coordinate entry operations with the host employer, when both host employer personnel and contractor personnel will be working in or near permit spaces, as required by WAC 296-62-14505(11); and

(c) Inform the host employer of the permit space program that the contractor will follow and of any hazards confronted or created in permit spaces, either through a debriefing or during the entry operation.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14505 (~~General precautions~~) Permit-required confined space program (permit space program). (~~((1) Toxic or flammable atmospheres. Employees shall not be permitted to enter atmospheres in a confined space which has contained toxic, flammable or corrosive materials or which may have had such materials accidentally introduced or generated until such space has been evaluated and/or tested by a competent person who shall declare the space safe for entry.~~)

(2) Exposure to temperature extremes and noise shall be controlled as defined in WAC 296-62-09011 and 296-62-09013.

(3) ~~Exposure to ionizing radiation shall be controlled as defined in rules and regulations for radiation protection, chapter 402-12 WAC as administered by the state of Washington, department of social and health services, health services division.~~ Under the permit space program required by WAC 296-62-14503(4), the employer shall:

(1) Implement the measures necessary to prevent unauthorized entry;

(2) Identify and evaluate the hazards of permit spaces before employees enter them;

(3) Develop and implement the means, procedures, and practices necessary for safe permit space entry operations, including, but not limited to, the following:

(a) Specifying acceptable entry conditions;

(b) Isolating the permit space;

(c) Purging, inerting, flushing, or ventilating the permit space as necessary to eliminate or control atmospheric hazards;

(d) Providing pedestrian, vehicle, or other barriers as necessary to protect entrants from external hazards; and

(e) Verifying that conditions in the permit space are acceptable for entry throughout the duration of an authorized entry.

(4) Provide the following equipment (specified in (a) through (i) of this subsection) at no cost to employees, maintain that equipment properly, and ensure that employees use that equipment properly:

(a) Testing and monitoring equipment needed to comply with subsection (5) of this section;

(b) Ventilating equipment needed to obtain acceptable entry conditions;

(c) Communications equipment necessary for compliance with WAC 296-62-14513(3) and 296-62-14515(5);

(d) Personal protective equipment insofar as feasible engineering and work practice controls do not adequately protect employees;

(e) Lighting equipment needed to enable employees to see well enough to work safely and to exit the space quickly in an emergency;

(f) Barriers and shields as required by subsection (3)(d) of this section;

(g) Equipment, such as ladders, needed for safe ingress and egress by authorized entrants;

(h) Rescue and emergency equipment needed to comply with subsection (9) of this section, except to the extent that the equipment is provided by rescue services; and

(i) Any other equipment necessary for safe entry into and rescue from permit spaces.

(5) Evaluate permit space conditions as follows when entry operations are conducted:

(a) Test conditions in the permit space to determine if acceptable entry conditions exist before entry is authorized to begin, except that, if isolation of the space is infeasible because the space is large or is part of a continuous system (such as a sewer), preentry testing shall be performed to the extent feasible before entry is authorized and, if entry is authorized, entry conditions shall be continuously monitored in the areas where authorized entrants are working;

(b) Test or monitor the permit space as necessary to determine if acceptable entry conditions are being maintained during the course of entry operations; and

(c) When testing for atmospheric hazards, test first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors.

Note: Atmospheric testing conducted in accordance with WAC 296-62-14523, Appendix B, would be considered as satisfying the requirements of this paragraph. For permit space operations in sewers, atmospheric testing conducted in accordance with Appendix B, as supplemented by WAC 296-62-14529, Appendix E, would be considered as satisfying the requirements of this subdivision.

(6) Provide at least one attendant outside the permit space into which entry is authorized for the duration of entry operations;

Note: Attendants may be assigned to monitor more than one permit space provided the duties described in WAC 296-62-14515 can be effectively performed for each permit space that is monitored. Likewise, attendants may be stationed at any location outside the permit space to be monitored as long as the duties described in WAC 296-62-14515 can be effectively performed for each permit space that is monitored. However, it is important to assess if it is appropriate or possible to have multiple permit spaces monitored by a single attendant or have attendants stationed at a location outside the monitored permit space. Due to the variability of permit space work environments, the appropriateness of how a permit space is monitored must be tai-

lored to the requirements of the permit space and the work being performed.

(7) If multiple spaces are to be monitored by a single attendant, include in the permit program the means and procedures to enable the attendant to respond to an emergency affecting one or more of the permit spaces being monitored without distraction from the attendant's responsibilities under WAC 296-62-14515;

(8) Designate the persons who are to have active roles (as, for example, authorized entrants, attendants, entry supervisors, or persons who test or monitor the atmosphere in a permit space) in entry operations, identify the duties of each such employee, and provide each such employee with the training required by WAC 296-62-14511;

(9) Develop and implement procedures for summoning rescue and emergency services, for rescuing entrants from permit spaces, for providing necessary emergency services to rescued employees, and for preventing unauthorized personnel from attempting a rescue;

(10) Develop and implement a system for the preparation, issuance, use, and cancellation of entry permits as required by this part;

(11) Develop and implement procedures to coordinate entry operations when employees of more than one employer are working simultaneously as authorized entrants in a permit space, so that employees of one employer do not endanger the employees of any other employer;

(12) Develop and implement procedures (such as closing off a permit space and canceling the permit) necessary for concluding the entry after entry operations have been completed;

(13) Review entry operations when the employer has reason to believe that the measures taken under the permit space program may not protect employees and revise the program to correct deficiencies found to exist before subsequent entries are authorized; and

Note: Examples of circumstances requiring the review of the permit space program are: Any unauthorized entry of a permit space, the detection of a permit space hazard not covered by the permit, the detection of a condition prohibited by the permit, the occurrence of an injury or near-miss during entry, a change in the use or configuration of a permit space, and employee complaints about the effectiveness of the program.

(14) Review the permit space program, using the canceled permits retained under WAC 296-62-14507(6) within one year after each entry and revise the program as necessary, to ensure that employees participating in entry operations are protected from permit space hazards.

Note: Employers may perform a single annual review covering all entries performed during a twelve-month period. If no entry is performed during a twelve-month period, no review is necessary.

WAC 296-62-14525, Appendix C, presents examples of permit space programs that are considered to comply with the requirements of WAC 296-62-14505.

AMENDATORY SECTION (Amending Order 81-20, filed 7/27/81)

WAC 296-62-14507 ((~~Toxic atmospheres.~~) **Permit system.** ((~~(1) Atmospheres where contamination is below permissible exposure limits as defined in chapter 296-62 WAC may be entered without respiratory protection.~~

~~(2) Atmospheres where contamination is above the permissible exposure limits but below values immediately hazardous to life or health may be entered when respiratory protective equipment as defined in the applicable provisions of chapter 296-62 WAC is properly worn.~~

~~(3) Atmospheres immediately hazardous to life may be entered only in the event of emergency and then only when employees are protected by equipment approved for such exposures.~~

~~(4) Atmospheres where the toxicity is not known shall require full protection.~~

~~(5) Entry into spaces which contain or could contain corrosive chemicals or chemicals which are toxic through skin absorption shall require equipment to prevent skin and/or eye contact.)~~

(1) Before entry is authorized, the employer shall document the completion of measures required by WAC 296-62-14505(3) by preparing an entry permit.

Note: WAC 296-62-14527, Appendix D, presents examples of permits whose elements are considered to comply with the requirements of this part.

(2) Before entry begins, the entry supervisor identified on the permit shall sign the entry permit to authorize entry.

(3) The completed permit shall be made available at the time of entry to all authorized entrants, by posting it at the entry portal or by any other equally effective means, so that the entrants can confirm that preentry preparations have been completed.

(4) The duration of the permit may not exceed the time required to complete the assigned task or job identified on the permit in accordance with WAC 296-62-14509(2).

(5) The entry supervisor shall terminate entry and cancel the entry permit when:

(a) The entry operations covered by the entry permit have been completed; or

(b) A condition that is not allowed under the entry permit arises in or near the permit space.

(6) The employer shall retain each canceled entry permit for at least one year to facilitate the review of the permit-required confined space program required by WAC 296-62-14505(14). Any problems encountered during an entry operation shall be noted on the pertinent permit so that appropriate revisions to the permit space program can be made.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14509 ((~~Flammable atmospheres.~~) **Entry permit.** ((~~Atmospheres which contain or could contain flammable gases or vapors shall not be entered if the concentration of gases or vapors in any part of the area is more than 20% of the lower explosive limit except in the event of emergency and then only when employees are protected by equipment approved for such exposures.~~) The entry permit that documents compliance with this part and authorizes entry to a permit space shall identify:

(1) The permit space to be entered;

(2) The purpose of the entry;

(3) The date and the authorized duration of the entry permit;

(4) The authorized entrants within the permit space, by name or by such other means (for example, through the use

of rosters or tracking systems) as will enable the attendant to determine quickly and accurately, for the duration of the permit, which authorized entrants are inside the permit space;

Note: This requirement may be met by inserting a reference on the entry permit as to the means used, such as a roster or tracking system, to keep track of the authorized entrants within the permit space.

(5) The personnel, by name, currently serving as attendants;

(6) The individual, by name, currently serving as entry supervisor, with a space for the signature or initials of the entry supervisor who originally authorized entry;

(7) The hazards of the permit space to be entered;

(8) The measures used to isolate the permit space and to eliminate or control permit space hazards before entry;

Note: Those measures can include the lockout or tagging of equipment and procedures for purging, inerting, ventilating, and flushing permit spaces.

(9) The acceptable entry conditions;

(10) The results of initial and periodic tests performed under WAC 296-62-14505(5), accompanied by the names or initials of the testers and by an indication of when the tests were performed;

(11) The rescue and emergency services that can be summoned and the means (such as the equipment to use and the numbers to call) for summoning those services;

(12) The communication procedures used by authorized entrants and attendants to maintain contact during the entry;

(13) Equipment, such as personal protective equipment, testing equipment, communications equipment, alarm systems, and rescue equipment, to be provided for compliance with this part;

(14) Any other information whose inclusion is necessary, given the circumstances of the particular confined space, in order to ensure employee safety; and

(15) Any additional permits, such as for hot work, that have been issued to authorize work in the permit space.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-62-14511 ((~~Oxygen deficiency or excess~~))

Training. ((~~(1) All employees required to enter into confined spaces shall be instructed as to the nature of the hazards involved, the necessary precautions to be taken and in the use of protective and emergency equipment required. The employer shall comply with any specific regulations that apply to work in dangerous or potentially dangerous areas.~~

(2) Atmospheres having an oxygen content less than 19.5% oxygen at sea level (this may deviate at higher elevations) shall not be entered without approved respiratory protective equipment which will provide an adequate supply of breathing air.

(3) In the event that the air may be diluted by an unknown gas, the atmosphere shall be considered highly toxic and/or flammable.)) (1) The employer shall provide training so that all employees whose work is regulated by this section acquire the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this part.

(2) Training shall be provided to each affected employee:

(a) Before the employee is first assigned duties under this section;

(b) Before there is a change in assigned duties;

(c) Whenever there is a change in permit space operations that presents a hazard about which an employee has not previously been trained;

(d) Whenever the employer has reason to believe either that there are deviations from the permit space entry procedures required by WAC 296-62-14505(3) or that there are inadequacies in the employee's knowledge or use of these procedures.

(3) The training shall establish employee proficiency in the duties required by this part and shall introduce new or revised procedures, as necessary, for compliance with this part.

(4) The employer shall certify that the training required by subsections (1) through (3) of this section has been accomplished. The certification shall contain each employee's name, the signatures or initials of the trainers, and the dates of training. The certification shall be available for inspection by employees and their authorized representatives.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14513 ((~~Mechanical hazards~~)) Duties of authorized entrants. ((~~(1) Confined areas containing parts which may move or which contain agitators, fans or other power driven moving parts of potential hazard to employees shall not be entered until it is assured that such parts cannot move to injure the employee.~~

(a) Open and lock circuit breakers or switches, or remove fuses or disconnect wiring and tag the location.

(b) Disconnect and tag belt or mechanical linkage.

(c) Physically block part against movement and tag switches, clutches or other means of control.

(d) Tagging of controls without other means of control shall be considered satisfactory only if the control is barricaded and/or is under constant observation during occupancy of the space.)) The employer shall ensure that all authorized entrants:

(1) Know the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure;

(2) Properly use equipment as required by WAC 296-62-14505(4);

(3) Communicate with the attendant as necessary to enable the attendant to monitor entrant status and to enable the attendant to alert entrants of the need to evacuate the space as required by WAC 296-62-14515(6).

(4) Alert the attendant whenever:

(a) The entrant recognizes any warning sign or symptom of exposure to a dangerous situation, or

(b) The entrant detects a prohibited condition; and

(5) Exit from the permit space as quickly as possible whenever:

(a) An order to evacuate is given by the attendant or the entry supervisor,

- (b) The entrant recognizes any warning sign or symptom of exposure to a dangerous situation,
- (c) The entrant detects a prohibited condition, or
- (d) An evacuation alarm is activated.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-62-14515 ((~~Electrical hazards~~)) Duties of attendants. ((~~(1) Electrical circuits in the confined area which may present a hazard shall be disconnected, locked out and tagged in accordance with WAC 296-62-14513(1)(a). All temporary lights shall be protected against damage and cords shall be heavy duty and kept clear of working spaces and walkways. Only low voltage, battery operated, or ground fault protected equipment shall be used on water-sides of boilers or when electrically conductive liquids are involved.~~

(2) Electric supply circuits, lighting, portable tools, and other equipment used where potentially hazardous concentrations of flammable vapors, gases or dusts are present or may develop shall conform to chapter 296-24 WAC Part L.

(3) Portable electric tools shall be grounded or isolation transformers, ground fault interrupters or double insulated tools shall be required.)) The employer shall ensure that each attendant:

(1) Knows the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure;

(2) Is aware of possible behavioral effects of hazard exposure in authorized entrants;

(3) Continuously maintains an accurate count of authorized entrants in the permit space and ensures that the means used to identify authorized entrants under WAC 296-62-14509(4) accurately identifies who is in the permit space;

(4) Remains outside the permit space during entry operations until relieved by another attendant;

Note: When the employer's permit entry program allows attendant entry for rescue, attendants may enter a permit space to attempt a rescue if they have been trained and equipped for rescue operations as required by WAC 296-62-14519(1) and if they have been relieved as required by subsection (4) of this section.

(5) Communicates with authorized entrants as necessary to monitor entrant status and to alert entrants of the need to evacuate the space under subsection (6) of this section;

(6) Monitors activities inside and outside the space to determine if it is safe for entrants to remain in the space and orders the authorized entrants to evacuate the permit space immediately under any of the following conditions:

(a) If the attendant detects a prohibited condition;  
(b) If the attendant detects the behavioral effects of hazard exposure in an authorized entrant;

(c) If the attendant detects a situation outside the space that could endanger the authorized entrants; or

(d) If the attendant cannot effectively and safely perform all the duties required under this section;

(7) Summon rescue and other emergency services as soon as the attendant determines that authorized entrants may need assistance to escape from permit space hazards;

(8) Takes the following actions when unauthorized persons approach or enter a permit space while entry is underway:

(a) Warn the unauthorized persons that they must stay away from the permit space;

(b) Advise the unauthorized persons that they must exit immediately if they have entered the permit space; and

(c) Inform the authorized entrants and the entry supervisor if unauthorized persons have entered the permit space;

(9) Performs nonentry rescues as specified by the employer's rescue procedure; and

(10) Performs no duties that might interfere with the attendant's primary duty to monitor and protect the authorized entrants.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14517 ((~~Procedures for entry into toxic or flammable atmospheres~~)) Duties of entry supervisors. ((Every reasonable effort shall be made to reduce the hazard to safe levels prior to permitting entry into the enclosed space.

(1) Preliminary preparations.

(a) Determine type and extent of contamination including gases, liquids, sludge, residue or absorbed and/or absorbed material.

(b) Survey area to determine the effect of escape of gases or vapors in surrounding areas.

(c) Post or barricade area to prevent unauthorized entry.

(d) Ensure control of all sources of ignition when a potential fire hazard exists.

(e) Collect and inspect the condition of all equipment needed including pumps, ventilating equipment, personal protective equipment, atmospheric testing equipment and mechanical equipment. Ensure that all equipment is in good condition and is compatible with the work involved.

(f) Ensure that all required personnel are available and familiar with the hazards.)) The employer shall ensure that each entry supervisor:

(1) Knows the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure;

(2) Verifies, by checking that the appropriate entries have been made on the permit, that all tests specified by the permit have been conducted and that all procedures and equipment specified by the permit are in place before endorsing the permit and allowing entry to begin;

(3) Terminates the entry and cancels the permit as required by WAC 296-62-14507(5);

(4) Verifies that rescue services are available and that the means for summoning them are operable;

(5) Removes unauthorized individuals who enter or who attempt to enter the permit space during entry operations; and

(6) Determines, whenever responsibility for a permit space entry operation is transferred and at intervals dictated by the hazards and operations performed within the space, that entry operations remain consistent with terms of the entry permit and that acceptable entry conditions are maintained.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-62-14519 ((Removal of flammable or toxic material.)) Rescue and emergency services. (((1) Remove all possible liquid product, sludge or residue if present by draining, pumping or washing as applicable. Dispose of solid, liquid or gaseous materials in a manner which will not cause air or water pollution, a fire hazard or endanger workers or equipment.

(2) Vent any pressure as required.

(3) Isolate tank or confined space from all potential sources of hazardous materials by one of the following:

(a) Remove a valve, spool piece, or expansion joint and cap open ends. Tag line.

(b) Insert a blank in the line and tag it.)) (1) The following requirements apply to employers who have employees enter permit spaces to perform rescue services.

(a) The employer shall ensure that each member of the rescue service is provided with, and is trained to use properly, the personal protective equipment and rescue equipment necessary for making rescues from permit spaces.

(b) Each member of the rescue service shall be trained to perform the assigned rescue duties. Each member of the rescue service shall also receive the training required of authorized entrants under WAC 296-62-14511.

(c) Each member of the rescue service shall practice making permit space rescues at least once every twelve months, by means of simulated rescue operations in which they remove dummies, mannequins, or actual persons from the actual permit spaces or from representative permit spaces. Representative permit spaces shall, with respect to opening size, configuration, and accessibility, simulate the types of permit spaces from which rescue is to be performed.

(d) Each member of the rescue service shall be trained in basic first-aid and in cardiopulmonary resuscitation (CPR). At least one member of the rescue service holding current certification in first aid and in CPR shall be available.

(2) When an employer (host employer) arranges to have persons other than the host employer's employees perform permit space rescue, the host employer shall:

(a) Inform the rescue service of the hazards they may confront when called on to perform rescue at the host employer's facility, and

(b) Provide the rescue service with access to all permit spaces from which rescue may be necessary so that the rescue service can develop appropriate rescue plans and practice rescue operations.

(3) To facilitate nonentry rescue, retrieval systems or methods shall be used whenever an authorized entrant enters a permit space, unless the retrieval equipment would increase the overall risk of entry or would not contribute to the rescue of the entrant. Retrieval systems shall meet the following requirements.

(a) Each authorized entrant shall use a chest or full-body harness, with a retrieval line attached at the center of the entrant's back near shoulder level, or above the entrant's head. Wristlets may be used in lieu of the chest or full-body harness if the employer can demonstrate that the use of a chest or full-body harness is infeasible or creates a greater hazard and that the use of wristlets is the safest and most effective alternative.

(b) The other end of the retrieval line shall be attached to a mechanical device or fixed point outside the permit space in such a manner that rescue can begin as soon as the rescuer becomes aware that rescue is necessary. A mechanical device shall be available to retrieve personnel from vertical type permit spaces more than five feet (1.52 m) deep.

(4) If an injured entrant is exposed to a substance for which a material safety data sheet (MSDS) or other similar written information is required to be kept at the worksite, that MSDS or written information shall be made available to the medical facility treating the exposed entrant.

#### NEW SECTION

WAC 296-62-14520 Appendices to WAC 296-62-145—Permit-required confined spaces.

Note: Appendices A through E serve to provide information and nonmandatory guidelines to assist employers and employees in complying with the appropriate requirements of this part.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14521 ((Vapor freeing.)) Appendix A—Permit-required confined space decision flow chart. (((1) Vapor Freeing is usually done by ventilation. The effectiveness of ventilation is dependent upon the number of air changes and the efficiency of mixing of the air with the gas in the tank. Ventilation by supply air provides more efficient mixing than exhaust air but cannot be used if it creates a hazard near the discharge point. Exhaust air ducts must be placed at locations remote from air inlets and may require moving to various locations.

(2) Prior to entry, a minimum of five air changes is recommended where oxygen deficiency may exist and ten air changes is recommended where a toxic and/or flammable material is involved.

(3) Concentrations of vapors or gases in the flammable or above the flammable range may require replacement by an inerting gas such as nitrogen or carbon dioxide to prevent explosions:

(a) When inert gases are used, they must subsequently be replaced by air prior to entry except when the inerting provides safer working conditions.

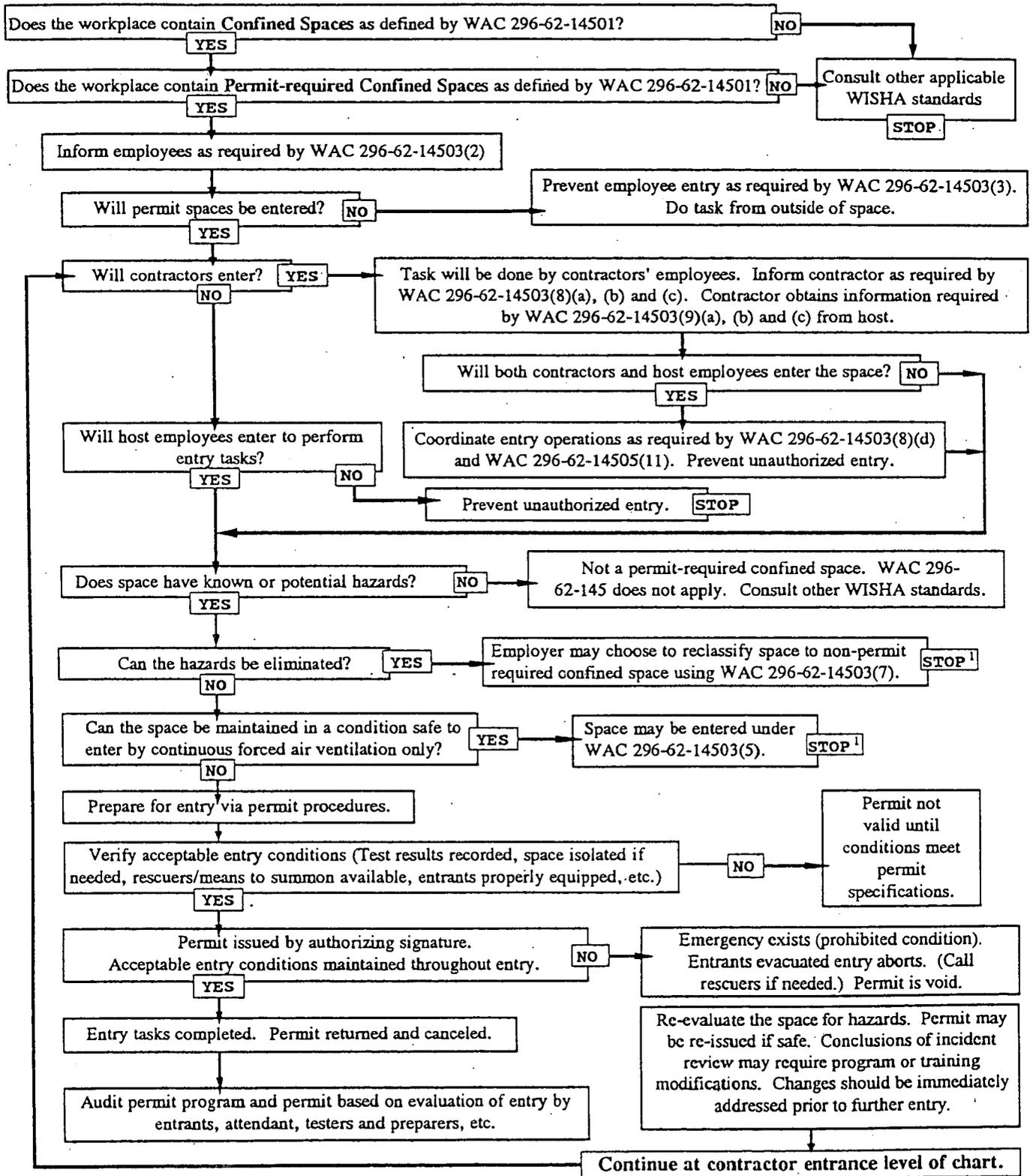
(4) All fans and other equipment used for removing flammable gases or vapors shall conform to NFPA requirements and shall not create an ignition hazard.

(5) Oxygen shall never be used for ventilation.))

WAC 296-62-14521

Appendix A

Permit-required Confined Space Decision Flow Chart



PROPOSED

<sup>1</sup> Spaces may have to be evacuated and re-evaluated if hazards arise during entry.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

~~WAC 296-62-14523 ((Evaluation of potentially hazardous atmospheres.)) Appendix B—Procedures for atmospheric testing. ((Evaluation of the atmospheres shall be made by competent personnel.~~

~~(1) Atmospheric tests shall be made using accepted procedures and/or instruments to determine the kind and extent of any hazards present. However, atmospheric tests should be supplemented by other types of evaluation.~~

~~(2) Evaluation shall consider such factors as degree of toxicity, flammability, oxygen deficiency, noise, temperature, vapor pressures, sorption on surface, sludges, residue and ventilation rates.~~

~~(3) Evaluation shall be made immediately prior to entry and during occupation at intervals dependent on the possibility of changing conditions.~~

~~(4) Testing or other evaluation shall be made in all locations where employees may be exposed.~~

~~(5) If there is any doubt as to the validity of evaluation, the hazard shall be assumed to be high, and personal protective equipment or measures used accordingly.)) Atmospheric testing is required for two distinct purposes: Evaluation of the hazards of the permit space and verification that acceptable entry conditions for entry into that space exist.~~

~~(1) Evaluation testing. The atmosphere of a confined space should be analyzed using equipment of sufficient sensitivity and specificity to identify and evaluate any hazardous atmospheres that may exist or arise, so that appropriate permit entry procedures can be developed and acceptable entry conditions stipulated for that space. Evaluation and interpretation of these data, and development of the entry procedure, should be done by, or reviewed by, a technically qualified professional (e.g., WISHA consultation service, or certified industrial hygienist, registered safety engineer, certified safety professional, certified marine chemist, etc.,) based on evaluation of all serious hazards.~~

~~(2) Verification testing. The atmosphere of a permit space which may contain a hazardous atmosphere should be tested for residues of all contaminants identified by evaluation testing using permit specified equipment to determine that residual concentrations at the time of testing and entry are within the range of acceptable entry conditions. Results of testing (i.e., actual concentration, etc.,) should be recorded on the permit in the space provided adjacent to the stipulated acceptable entry condition.~~

~~(3) Duration of testing. Measurement of values for each atmospheric parameter should be made for at least the minimum response time of the test instrument specified by the manufacturer.~~

~~(4) Testing stratified atmospheres. When monitoring for entries involving a descent into atmospheres that may be stratified, the atmospheric envelope should be tested a distance of approximately four feet (1.22 m) in the direction of travel and to each side. If a sampling probe is used, the entrant's rate of progress should be slowed to accommodate the sampling speed and detector response.~~

~~(5) Order of testing. A test for oxygen is performed first because most combustible gas meters are oxygen dependent and will not provide reliable readings in an~~

oxygen deficient atmosphere. Combustible gases are tested for next because the threat of fire or explosion is both more immediate and more life threatening, in most cases, than exposure to toxic gases and vapors. If tests for toxic gases and vapors are necessary, they are performed last.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

~~WAC 296-62-14525 ((Entry into confined space.)) Appendix C—Examples of permit-required confined space programs. ((After initial cleaning, vapor freeing, and evaluation of the atmosphere, the confined space may be entered to complete cleaning, repair or other work.~~

~~(1) Respiratory protective equipment shall be used when indicated.~~

~~(2) An observer capable of maintaining communication at all times shall be located outside the confined space. He/she shall have respiratory protection available when indicated.~~

~~(3) If the possibility of a highly toxic or flammable atmosphere, or oxygen deficiency exists or can develop, workers shall wear safety harness with lifeline attached and a means of rescue shall be provided.~~

~~(4) Fire extinguishing equipment shall be immediately available when indicated.~~

~~(5) Ventilation shall be maintained at all times when employees are in confined spaces except when the atmosphere has been purposely inerted to provide safer working conditions. All work shall stop and the area shall be evacuated if ventilation fails.~~

~~(6) All tools and equipment shall be available as required.~~

~~(7) Emergency lighting shall be available as required.~~

~~(8) The area shall be evacuated if any indication of ill effects such as dizziness, irritation or excessive odors are noted.)) Example 1. Workplace. Sewer entry.~~

~~(1) Potential hazards. The employees could be exposed to the following:~~

~~(a) Engulfment.~~

~~(b) Presence of toxic gases. Equal to or more than 10 ppm hydrogen sulfide measured as an eight-hour time-weighted average. If the presence of other toxic contaminants is suspected, specific monitoring programs will be developed.~~

~~(c) Presence of explosive/flammable gases. Equal to or greater than ten percent of the lower flammable limit (LFL).~~

~~(d) Oxygen deficiency. A concentration of oxygen in the atmosphere equal to or less than 19.5% by volume.~~

~~(2) Entry without permit/attendant:~~

~~(a) Certification. Confined spaces may be entered without the need for a written permit or attendant provided that the space can be maintained in a safe condition for entry by mechanical ventilation alone, as provided in WAC 296-62-14503(5). All spaces shall be considered permit-required confined spaces until the preentry procedures demonstrate otherwise. Any employee required or permitted to precheck or enter an enclosed/confined space shall have successfully completed, as a minimum, the training as required by the following sections of these procedures.~~

~~A written copy of operating and rescue procedures as required by these procedures shall be at the work site for the~~

duration of the job. The confined space preentry check list must be completed by the LEAD WORKER before entry into a confined space. This list verifies completion of items listed below. This check list shall be kept at the job site for duration of the job. If circumstances dictate an interruption in the work, the permit space must be reevaluated and a new check list must be completed.

(b) Control of atmospheric and engulfment hazards.

(i) Pumps and lines. All pumps and lines which may reasonably cause contaminants to flow into the space shall be disconnected, blinded and locked out, or effectively isolated by other means to prevent development of dangerous air contamination or engulfment. Not all laterals to sewers or storm drains require blocking. However, where experience or knowledge of industrial use indicates there is a reasonable potential for contamination of air or engulfment into an occupied sewer, then all affected laterals shall be blocked. If blocking and/or isolation requires entry into the space the provisions for entry into a permit-required confined space must be implemented.

(ii) Surveillance. The surrounding area shall be surveyed to avoid hazards such as drifting vapors from the tanks, piping, or sewers.

(iii) Testing. The atmosphere within the space will be tested to determine whether dangerous air contamination and/or oxygen deficiency exists. Detector tubes, alarm only gas monitors and explosion meters are examples of monitoring equipment that may be used to test permit space atmospheres. Testing shall be performed by the LEAD WORKER who has successfully completed the gas detector training for the monitor to be used. The minimum parameters to be monitored are oxygen deficiency, LFL, and hydrogen sulfide concentration. A written record of the preentry test results shall be made and kept at the work site for the duration of the job. The supervisor will certify in writing, based upon the results of the preentry testing, that all hazards have been eliminated. Affected employees shall be able to review the testing results. The most hazardous conditions shall govern when work is being performed in two adjoining, connecting spaces.

(c) Entry procedures. If there are no nonatmospheric hazards present and if the preentry tests show there is no dangerous air contamination and/or oxygen deficiency within the space and there is no reason to believe that any is likely to develop, entry into and work within may proceed.

Continuous testing of the atmosphere in the immediate vicinity of the workers within the space shall be accomplished. The workers will immediately leave the permit space when any of the gas monitor alarm set points are reached as defined. Workers will not return to the area until a SUPERVISOR who has completed the gas detector training has used a direct reading gas detector to evaluate the situation and has determined that it is safe to enter.

(d) Rescue. Arrangements for rescue services are not required where there is no attendant. See the rescue portion of subsection (3), below, for instructions regarding rescue planning where an entry permit is required.

(3) Entry permit required.

(a) Permits. Confined space entry permit. All spaces shall be considered permit-required confined spaces until the preentry procedures demonstrate otherwise. Any employee required or permitted to precheck or enter a permit-required

confined space shall have successfully completed, as a minimum, the training as required by the following sections of these procedures.

A written copy of operating and rescue procedures as required by these procedures shall be at the work site for the duration of the job. The confined space entry permit must be completed before approval can be given to enter a permit-required confined space. This permit verifies completion of items listed below. This permit shall be kept at the job site for the duration of the job. If circumstances cause an interruption in the work or a change in the alarm conditions for which entry was approved, a new confined space entry permit must be completed.

(b) Control of atmospheric and engulfment hazards.

(i) Surveillance. The surrounding area shall be surveyed to avoid hazards such as drifting vapors from tanks, piping or sewers.

(ii) Testing. The confined space atmosphere shall be tested to determine whether dangerous air contamination and/or oxygen deficiency exists. A direct reading gas monitor shall be used. Testing shall be performed by the SUPERVISOR who has successfully completed the gas detector training for the monitor he will use.

The minimum parameters to be monitored are oxygen deficiency, LFL and hydrogen sulfide concentration. A written record of the preentry test results shall be made and kept at the work site for the duration of the job. Affected employees shall be able to review the testing results. The most hazardous conditions shall govern when work is being performed in two adjoining, connected spaces.

(iii) Space ventilation. Mechanical ventilation systems, where applicable, shall be set at one hundred percent outside air. Where possible, open additional manholes to increase air circulation. Use portable blowers to augment natural circulation if needed. After a suitable ventilating period, repeat the testing. Entry may not begin until testing has demonstrated that the hazardous atmosphere has been eliminated.

(c) Entry procedures. The following procedure shall be observed under any of the following conditions:

(i) Testing demonstrates the existence of dangerous or deficient conditions and additional ventilation cannot reduce concentrations to safe levels;

(ii) The atmosphere tests as safe but unsafe conditions can reasonably be expected to develop;

(iii) It is not feasible to provide for ready exit from spaces equipped with automatic fire suppression systems and it is not practical or safe to deactivate such systems; or

(iv) An emergency exists and it is not feasible to wait for preentry procedures to take effect.

(d) All personnel must be trained. A self-contained breathing apparatus shall be worn by any person entering the space. At least one worker shall stand by the outside of the space ready to give assistance in case of emergency. The standby worker shall have a self-contained breathing apparatus available for immediate use. There shall be at least one additional worker within sight or call of the standby worker. Continuous powered communications shall be maintained between the worker within the confined space and standby personnel.

(e) If at any time there is any questionable action or nonmovement by the worker inside, a verbal check will be

made. If there is no response, the worker will be moved immediately.

Exception: If the worker is disabled due to falling or impact, he/she shall not be removed from the confined space unless there is immediate danger to his/her life. Local fire department rescue personnel shall be notified immediately. The standby worker may only enter the confined space in case of an emergency (wearing the self-contained breathing apparatus) and only after being relieved by another worker. Safety belt or harness with attached lifeline shall be used by all workers entering the space with the free end of the line secured outside the entry opening. The standby worker shall attempt to remove a disabled worker via his lifeline before entering the space.

(f) When practical, these spaces shall be entered through side openings - those within three and one-half feet (1.07 m) of the bottom. When entry must be through a top opening, the safety belt shall be of the harness type that suspends a person upright and a hoisting device or similar apparatus shall be available for lifting workers out of the space.

(g) In any situation where their use may endanger the worker, use of a hoisting device or safety belt and attached lifeline may be discontinued.

(h) When dangerous air contamination is attributable to flammable and/or explosive substances, lighting and electrical equipment shall be Class 1, Division 1 rated per National Electrical Code and no ignition sources shall be introduced into the area.

(i) Continuous gas monitoring shall be performed during all confined space operations. If alarm conditions change adversely, entry personnel shall exit the confined space and a new confined space permit issued.

(j) Rescue. Call the fire department services for rescue. Where immediate hazards to injured personnel are present, workers at the site shall implement emergency procedures to fit the situation.

Example 2. Workplace. Meat and poultry rendering plants.

Cookers and dryers are either batch or continuous in their operation. Multiple batch cookers are operated in parallel. When one unit of a multiple set is shut down for repairs, means are available to isolate that unit from the others which remain in operation.

Cookers and dryers are horizontal, cylindrical vessels equipped with a center, rotating shaft and agitator paddles or discs. If the inner shell is jacketed, it is usually heated with steam at pressures up to 150 psig (1034.25 kPa). The rotating shaft assembly of the continuous cooker or dryer is also steam heated.

(1) Potential hazards. The recognized hazards associated with cookers and dryers are the risk that employees could be:

(a) Struck or caught by rotating agitator;

(b) Engulfed in raw material or hot, recycled fat;

(c) Burned by steam from leaks into the cooker/dryer steam jacket or the condenser duct system if steam valves are not properly closed and locked out;

(d) Burned by contact with hot metal surfaces, such as the agitator shaft assembly, or inner shell of the cooker/dryer;

(e) Heat stress caused by warm atmosphere inside cooker/dryer;

(f) Slipping and falling on grease in the cooker/dryer;

(g) Electrically shocked by faulty equipment taken into the cooker/dryer;

(h) Burned or overcome by fire or products of combustion; or

(i) Overcome by fumes generated by welding or cutting done on grease covered surfaces.

(2) Permits. The supervisor in this case is always present at the cooker/dryer or other permit entry confined space when entry is made. The supervisor must follow the preentry isolation procedures described in the entry permit in preparing for entry, and ensure that the protective clothing, ventilating equipment and any other equipment required by the permit are at the entry site.

(3) Control of hazards. Mechanical. Lock out main power switch to agitator motor at main power panel. Affix tag to the lock to inform others that a permit entry confined space entry is in progress.

(4) Engulfment. Close all valves in the raw material blow line. Secure each valve in its closed position using chain and lock. Attach a tag to the valve and chain warning that a permit entry confined space entry is in progress. The same procedure shall be used for securing the fat recycle valve.

(5) Burns and heat stress. Close steam supply valves to jacket and secure with chains and tags. Insert solid blank at flange in cooker vent line to condenser manifold duct system. Vent cooker/dryer by opening access door at discharge end and top center door to allow natural ventilation throughout the entry. If faster cooling is needed, use a portable ventilation fan to increase ventilation. Cooling water may be circulated through the jacket to reduce both outer and inner surface temperatures of cooker/dryers faster. Check air and inner surface temperatures in cooker/dryer to assure they are within acceptable limits before entering, or use proper protective clothing.

(6) Fire and fume hazards. Careful site preparation, such as cleaning the area within four inches (10.16 cm) of all welding or torch cutting operations, and proper ventilation are the preferred controls. All welding and cutting operations shall be done in accordance with the requirements of chapter 296-24 WAC, Part I, Welding, cutting, and brazing. Proper ventilation may be achieved by local exhaust ventilation, or the use of portable ventilation fans, or a combination of the two practices.

(7) Electrical shock. Electrical equipment used in cooker/dryers shall be in serviceable condition.

(8) Slips and falls. Remove residual grease before entering cooker/dryer.

(9) Attendant. The supervisor shall be the attendant for employees entering cooker/dryers.

(10) Permit. The permit shall specify how isolation shall be done and any other preparations needed before making entry. This is especially important in parallel arrangements of cooker/dryers so that the entire operation need not be shut down to allow safe entry into one unit.

(11) Rescue. When necessary, the attendant shall call the employer's trained rescue team or the local fire services as previously arranged.

Example 3. Workplace. Workplaces where tank cars, trucks, and trailers, dry-bulk tanks and trailers, railroad tank cars, and similar portable tanks are fabricated or serviced.

(1) During fabrication. These tanks and dry-bulk carriers are entered repeatedly throughout the fabrication process. These products are not configured identically, but the manufacturing processes by which they are made are very similar.

(a) Sources of hazards. In addition to the mechanical hazards arising from the risks that an entrant would be injured due to contact with components of the tank or the tools being used, there is also the risk that a worker could be injured by breathing fumes from welding materials or mists or vapors from materials used to coat the tank interior. In addition, many of these vapors and mists are flammable, so the failure to properly ventilate a tank could lead to a fire or explosion.

(b) Control of hazards.

(i) Welding. Local exhaust ventilation shall be used to remove welding fumes once the tank or carrier is completed to the point that workers may enter and exit only through a manhole. (Follow the requirements of chapter 296-24 WAC, Part I, Welding, cutting and brazing, at all times.) Welding gas tanks may never be brought into a tank or carrier that is a permit entry confined space.

(ii) Application of interior coatings/linings. Atmospheric hazards shall be controlled by forced air ventilation sufficient to keep the atmospheric concentration of flammable materials below ten percent of the lower flammable limit (LFL) (or lower explosive limit (LEL), whichever term is used locally). The appropriate respirators are provided and shall be used in addition to providing forced ventilation if the forced ventilation does not maintain acceptable respiratory conditions.

(c) Permits. Because of the repetitive nature of the entries in these operations, an "area entry permit" will be issued for a one-month period to cover those production areas where tanks are fabricated to the point that entry and exit are made using manholes.

(d) Authorization. Only the area supervisor may authorize an employee to enter a tank within the permit area. The area supervisor must determine that conditions in the tank trailer, dry-bulk trailer or truck, etc., meet permit requirements before authorizing entry.

(e) Attendant. The area supervisor shall designate an employee to maintain communication by employer specified means with employees working in tanks to ensure their safety. The attendant may not enter any permit entry confined space to rescue an entrant or for any other reason, unless authorized by the rescue procedure and, and even then, only after calling the rescue team and being relieved by an attendant by another worker.

(f) Communications and observation. Communications between attendant and entrant(s) shall be maintained throughout entry. Methods of communication that may be specified by the permit include voice, voice-powered radio, tapping or rapping codes on tank walls, signaling tugs on a rope, and the attendant's observation that work activities such as chipping, grinding, welding, spraying, etc., which require deliberate operator control continue normally. These activities often generate so much noise that the necessary hearing protection makes communication by voice difficult.

(g) Rescue procedures. Acceptable rescue procedures include entry by a team of employee-rescuers, use of public emergency services, and procedures for breaching the tank.

The area permit specifies which procedures are available, but the area supervisor makes the final decision based on circumstances. (Certain injuries may make it necessary to breach the tank to remove a person rather than risk additional injury by removal through an existing manhole. However, the supervisor must ensure that no breaching procedure used for rescue would violate terms of the entry permit. For instance, if the tank must be breached by cutting with a torch, the tank surfaces to be cut must be free of volatile or combustible coatings within four inches (10.16 cm) of the cutting line and the atmosphere within the tank must be below the LFL.)

(h) Retrieval line and harnesses. The retrieval lines and harnesses generally required under this standard are usually impractical for use in tanks because the internal configuration of the tanks and their interior baffles and other structures would prevent rescuers from hauling out injured entrants. However, unless the rescue procedure calls for breaching the tank for rescue, the rescue team shall be trained in the use of retrieval lines and harnesses for removing injured employees through manholes.

(2) Repair or service of "used" tanks and bulk trailers.

(a) Sources of hazards. In addition to facing the potential hazards encountered in fabrication or manufacturing, tanks or trailers which have been in service may contain residues of dangerous materials, whether left over from the transportation of hazardous cargoes or generated by chemical or bacterial action on residues of nonhazardous cargoes.

(b) Control of atmospheric hazards. A "used" tank shall be brought into areas where tank entry is authorized only after the tank has been emptied, cleansed (without employee entry) of any residues, and purged of any potential atmospheric hazards.

(c) Welding. In addition to tank cleaning for control of atmospheric hazards, coating and surface materials shall be removed four inches (10.16 cm) or more from any surface area where welding or other torch work will be done and care taken that the atmosphere within the tank remains well below the LFL. (Follow the requirements of chapter 296-24 WAC, Part I, Welding, cutting and brazing, at all times.)

(d) Permits. An entry permit valid for up to one year shall be issued prior to authorization of entry into used tank trailers, dry-bulk trailers or trucks. In addition to the preentry cleaning requirement, this permit shall require the employee safeguards specified for new tank fabrication or construction permit areas.

(e) Authorization. Only the area supervisor may authorize an employee to enter a tank trailer, dry-bulk trailer or truck within the permit area. The area supervisor must determine that the entry permit requirements have been met before authorizing entry.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14527 ((Hot work.)) Appendix D—  
Sample permits. ((1) Any hot work involving sources of ignition and including welding and burning shall require positive assurance that fire hazards and flammable atmospheres have been controlled. Combustible material shall be protected.

PROPOSED

~~(2) Usually the atmosphere should be tested by a combustible gas indicator and/or other device as indicated. Tests should be made frequently enough to assure that safe conditions prevail.~~

~~(3) Hot work permits are required prior to entry.~~

~~(4) Where hot work involves the generation of toxic gases, vapors, or fumes, local exhaust and/or respiratory protection shall be required.~~

~~(5) Compressed gas cylinders should not generally be allowed in confined spaces. Compressed gas lines shall be protected from rupture or damage.~~

~~(6) Compressed gas cylinders or electric generators should be attended at all times. Sources of compressed gases or arc welding power shall be turned off immediately when an emergency arises or when work is interrupted or completed.)~~

WAC 296-62-14527, Appendix D, Sample A  
Confined Space Entry Permit

Date & Time Issued: \_\_\_\_\_  
Job site/Space I.D.: \_\_\_\_\_  
Equipment to be worked on: \_\_\_\_\_

Date & Time Expires: \_\_\_\_\_  
Job Supervisor: \_\_\_\_\_  
Work to be performed: \_\_\_\_\_

Stand-by personnel \_\_\_\_\_

1. Atmospheric Checks: Time \_\_\_\_\_  
Oxygen \_\_\_\_\_ %  
Explosive \_\_\_\_\_ % L.F.L.  
Toxic \_\_\_\_\_ PPM

2. Tester's signature \_\_\_\_\_  
3. Source isolation (No Entry): N/A YES NO  
Pumps or lines blinded, ( ) ( ) ( )  
disconnected, or blocked ( ) ( ) ( )

4. Ventilation Modification: N/A YES NO  
Mechanical ( ) ( ) ( )  
Natural Ventilation only ( ) ( ) ( )

5. Atmospheric check after isolation and Ventilation:  
Oxygen \_\_\_\_\_ % > 19.5%  
Explosive \_\_\_\_\_ % L.F.L. < 10 %  
Toxic \_\_\_\_\_ PPM < 10 PPM H<sub>2</sub>S  
Time \_\_\_\_\_  
Testers signature \_\_\_\_\_

6. Communication procedures: \_\_\_\_\_

7. Rescue procedures: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Entry, standby, and back up persons: Yes No  
Successfully completed required ( ) ( )  
training? ( ) ( )  
Is it current? ( ) ( )

9. Equipment: N/A Yes No  
Direct reading gas monitor - tested ( ) ( ) ( )  
Safety harnesses and lifelines for entry and standby persons ( ) ( ) ( )  
Hoisting equipment ( ) ( ) ( )  
Powered communications ( ) ( ) ( )  
SCBA's for entry and standby persons ( ) ( ) ( )  
Protective Clothing ( ) ( ) ( )  
All electric equipment listed Class I, Division I, Group D and Non-sparking tools ( ) ( ) ( )

10. Periodic atmospheric tests:  
Oxygen \_\_\_\_\_ % Time \_\_\_\_\_ Oxygen \_\_\_\_\_ % Time \_\_\_\_\_  
Oxygen \_\_\_\_\_ % Time \_\_\_\_\_ Oxygen \_\_\_\_\_ % Time \_\_\_\_\_  
Explosive \_\_\_\_\_ % Time \_\_\_\_\_ Explosive \_\_\_\_\_ % Time \_\_\_\_\_  
Explosive \_\_\_\_\_ % Time \_\_\_\_\_ Explosive \_\_\_\_\_ % Time \_\_\_\_\_  
Toxic \_\_\_\_\_ % Time \_\_\_\_\_ Toxic \_\_\_\_\_ % Time \_\_\_\_\_  
Toxic \_\_\_\_\_ % Time \_\_\_\_\_ Toxic \_\_\_\_\_ % Time \_\_\_\_\_

We have reviewed the work authorized by this permit and the information contained here-in. Written instructions and safety procedures have been received and are understood. Entry cannot be approved if any squares are marked in the "No" column. This permit is not valid unless all appropriate items are completed.

Permit Prepared By: (Supervisor) \_\_\_\_\_  
Approved By: (Unit Supervisor) \_\_\_\_\_  
Reviewed By: (Cs Operations Personnel) \_\_\_\_\_  
(printed name) (signature)

This permit to be kept at job site. Return job site copy to Safety Office following job completion.

WAC 296-62-14527, Appendix D, Sample B ENTRY PERMIT
PERMIT VALID FOR 8 HOURS ONLY. ALL PERMIT COPIES REMAIN AT SITE UNTIL JOB COMPLETED.
DATE: - - SITE LOCATION/DESCRIPTION
PURPOSE OF ENTRY
SUPERVISOR(S) in charge of crews. Type of Crew Phone #

COMMUNICATION PROCEDURES
RESCUE PROCEDURES (PHONE NUMBERS AT BOTTOM)

\*BOLD DENOTES MINIMUM REQUIREMENTS TO BE COMPLETED AND REVIEWED PRIOR TO ENTRY\*

Table with 6 columns: REQUIREMENTS COMPLETED, DATE, TIME, REQUIREMENTS COMPLETED, DATE, TIME. Lists safety requirements like LockOut/De-energize, Full Body Harness, etc.

Note: Items that do not apply enter N/A in the blank.

Table for CONTINUOUS MONITORING\*\* RECORD CONTINUOUS MONITORING RESULTS EVERY 2 HOURS \*\*. Columns include TEST(S) TO BE TAKEN, PERCENT OF OXYGEN, LOWER FLAMMABLE LIMIT, CARBON MONOXIDE, etc.

\* Short-term exposure limit: Employee can work in the area up to 15 minutes.
+ 8 hr. Time Weighted Avg.: Employee can work in area 8 hrs (longer with appropriate respiratory protection).

REMARKS:
GAS TESTER NAME & CHECK # INSTRUMENT(S) USED MODEL &/OR TYPE SERIAL &/OR UNIT #
SAFETY STANDBY PERSON IS REQUIRED FOR ALL CONFINED SPACE WORK
SAFETY STANDBY PERSON(S) CHECK # CONFINED SPACE ENTRANT(S) CHECK # CONFINED SPACE ENTRANT(S) CHECK #
SUPERVISOR AUTHORIZATION - ALL CONDITIONS SATISFIED DEPARTMENT/PHONE #
ABULANCE # FIRE # Safety # Gas Coordinator #

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14529 ((Use of toxic and/or flammable materials in confined spaces.) Appendix E—Sewer system entry. ((Work in confined spaces frequently requires the use of toxic or flammable materials. These include but are not confined to coatings, linings, paints, cements, and solvents.

- (1) Quantities of toxic or flammable materials brought into or used in confined spaces shall be limited to the smallest amount consistent with efficient use.
(2) Containers shall be designed to minimize evaporation and spillage. Safety cans or small squeeze bottles are preferable when applicable.
(3) Continuous ventilation shall be provided in sufficient quantity and design to control fire and health hazards.
(4) Atmospheres shall be tested and/or evaluated to provide positive assurance that hazards do not exist. In no instance shall flammable vapor concentrations exceed 20%

- of the lower explosive limit. Evaluation shall be repeated at intervals to ensure no hazardous build up of concentrations.
(5) Spraying of toxic or flammable substances such as paint is not recommended.
(6) Respiratory protective equipment shall be used as defined in WAC 296-62-14507.
(7) Sources of ignition shall be eliminated when flammable liquids are used.
(8) Materials, equipment and training shall be provided to clean up spills.
(9) All applicable instructions or recommendations from the manufacturer shall be enforced.) Sewer entry differs in three vital respects from other permit entries:
• There rarely exists any way to completely isolate the space (a section of a continuous system) to be entered;
• Because isolation is not complete, the atmosphere may suddenly and unpredictably become lethally hazardous (toxic, flammable or explosive) from causes beyond the control of the entrant or employer; and

PROPOSED

• Experienced sewer workers are especially knowledgeable in entry and work in their permit spaces because of their frequent entries. Unlike other employments where permit space entry is a rare and exceptional event, sewer workers' usual work environment is a permit space.

(1) Adherence to procedure. The employer should designate as entrants only employees who are thoroughly trained in the employer's sewer entry procedures and who demonstrate that they follow these entry procedures exactly as prescribed when performing sewer entries.

(2) Atmospheric monitoring. Entrants should be trained in the use of, and be equipped with, atmospheric monitoring equipment which sounds an audible alarm, in addition to its visual readout, whenever one of the following conditions is encountered: Oxygen concentration less than 19.5 percent; flammable gas or vapor at ten percent or more of the lower flammable limit (LFL); or hydrogen sulfide or carbon monoxide at or above 10 ppm or 35 ppm, respectively, measured as an eight-hour time-weighted average.

Atmospheric monitoring equipment needs to be calibrated according to the manufacturer's instructions. The oxygen sensor/broad range sensor is best suited for initial use in situations where the actual or potential contaminants have not been identified, because broad range sensors, unlike substance-specific sensors, enable employers to obtain an overall reading of the hydrocarbons (flammables) present in the space.

However, such sensors only indicate that a hazardous threshold of a class of chemicals has been exceeded. They do not measure the levels of contamination of specific substances. Therefore, substance-specific devices, which measure the actual levels of specific substances, are best suited for use where actual and potential contaminants have been identified.

The measurements obtained with substance-specific devices are of vital importance to the employer when decisions are made concerning the measures necessary to protect entrants (such as ventilation or personal protective equipment) and the setting and attainment of appropriate entry conditions. However, the sewer environment may suddenly and unpredictably change, and the substance-specific devices may not detect the potentially lethal atmospheric hazards which may enter the sewer environment.

(a) Although WISHA considers the information and guidance provided above to be appropriate and useful in most sewer entry situations, the department emphasizes that each employer must consider the unique circumstances, including the predictability of the atmosphere, of the sewer permit spaces in the employer's workplace in preparing for entry. Only the employer can decide, based upon his or her knowledge of, and experience with permit spaces in sewer systems, what the best type of testing instrument may be for any specific entry operation.

(b) The selected testing instrument should be carried and used by the entrant in sewer line work to monitor the atmosphere in the entrant's environment, and in advance of the entrant's direction of movement, to warn the entrant of any deterioration in atmospheric condition. Where several entrants are working together in the same immediate location, one instrument, used by the lead entrant, is acceptable.

(3) Surge flow and flooding. Sewer crews should develop and maintain liaison, to the extent possible, with the

local weather bureau and fire and emergency services in their area so that sewer work may be delayed or interrupted and entrants withdrawn whenever sewer lines might be suddenly flooded by rain or fire suppression activities, or whenever flammable or other hazardous materials are released into sewers during emergencies by industrial or transportation accidents.

(4) Special equipment. Entry into large bore sewers may require the use of special equipment. Such equipment might include such items as atmosphere monitoring devices with automatic audible alarms, escape self-contained breathing apparatus (ESCBAs) with at least ten minute air supply (or other NIOSH approved self-rescuer), and waterproof flashlights, and may also include boats and rafts, radios and rope stand-offs for pulling around bends and corners as needed.

AMENDATORY SECTION (Amending Order 89-10, filed 10/10/89, effective 11/24/89)

#### **WAC 296-62-3010 Safety and health program.**

Note: Safety and health programs developed and implemented to meet other federal, state, or local regulations are considered acceptable in meeting this requirement if they cover or are modified to cover the topics required in this section. An additional or separate safety and health program is not required by this section.

##### **(1) General.**

(a) Employers shall develop and implement a written safety and health program for their employees involved in hazardous waste operations. The program shall be designed to identify, evaluate, and control safety and health hazards and provide for emergency response for hazardous waste operations.

(b) The written safety and health program shall incorporate the following:

- (i) An organizational structure;
- (ii) A comprehensive workplan;
- (iii) A site-specific safety and health plan which need not repeat the employer's standard operating procedures required in (b)(vi) of this subsection;
- (iv) The safety and health training program;
- (v) The medical surveillance program;
- (vi) The employer's standard operating procedures for safety and health; and
- (vii) Any necessary interface between general program and site specific activities.

(c) Site excavation. Site excavations created during initial site preparation or during hazardous waste operations shall be shored or sloped as appropriate to prevent accidental collapse in accordance with subpart N of chapter 296-155 WAC.

(d) Contractors and subcontractors. An employer who retains contractor or subcontractor services for work in hazardous waste operations shall inform those contractors, subcontractors, or their representatives of the site emergency response procedures and any potential fire, explosion, health, safety, or other hazards of the hazardous waste operation that have been identified by the employer, including those identified in the employer's information program.

(e) Program availability. The written safety and health program shall be made available to any contractor or

subcontractor or their representative who will be involved with the hazardous waste operation; to employees; to employee designated representatives; to WISHA personnel, and to personnel of other federal, state, or local agencies with regulatory authority over the site.

(2) Organizational structure part of the site program.

(a) The organizational structure part of the program shall establish the specific chain of command and specify the overall responsibilities of supervisors and employees. It shall include at a minimum, the following elements:

(i) A general supervisor who has the responsibility and authority to direct all hazardous waste operations.

(ii) A site safety and health supervisor who has the responsibility and authority to develop and implement the site safety and health plan and verify compliance.

(iii) All other personnel needed for hazardous waste site operations and emergency response and their general functions and responsibilities.

(iv) The lines of authority, responsibility, and communication.

(b) The organizational structure shall be reviewed and updated as necessary to reflect the current status of waste site operations.

(3) Comprehensive workplan part of the site program. The comprehensive workplan shall address the tasks and objectives of site operations and the logistics and resources required to reach those tasks and objectives.

(a) The comprehensive workplan shall address anticipated clean-up activities as well as normal operating procedures which need not repeat the employers procedures available elsewhere.

(b) The comprehensive workplan shall define work tasks and objectives and identify the methods for accomplishing those tasks and objectives.

(c) The comprehensive workplan shall establish personnel requirements for implementing the plan.

(d) The comprehensive workplan shall provide for the implementation of the training required in WAC 296-62-3040.

(e) The comprehensive workplan shall provide for the implementation of the required informational programs required in WAC 296-62-3080.

(f) The comprehensive workplan shall provide for the implementation of the medical surveillance program described in WAC 296-62-3050.

(4) Site-specific safety and health plan part of the program.

(a) General. The site safety and health plan, which must be kept on site, shall address the safety and health hazards of each phase of site operation; and include the requirements and procedures for employee protection.

(b) Elements. The site safety and health plan, as a minimum, shall address the following:

(i) Names of key personnel and alternates responsible for site safety and health, including a site safety and health supervisor.

(ii) A safety and health risk or hazard analysis for each site task and operation found in the workplan.

(iii) Employee training assignments to assure compliance with WAC 296-62-3040.

(iv) Personal protective equipment to be used by employees for each of the site tasks and operations being

conducted as required by the personal protective equipment program in WAC 296-62-3060(5).

(v) Medical surveillance requirements in accordance with the program in WAC 296-62-3050.

(vi) Frequency and types of air monitoring, personnel monitoring, and environmental sampling techniques and instrumentation to be used, including methods of maintenance and calibration of monitoring and sampling equipment to be used.

(vii) Site control measures in accordance with the site control program required in WAC 296-62-3030.

(viii) Decontamination procedures in accordance with WAC 296-62-3100.

(ix) An emergency response plan meeting the requirements of WAC 296-62-3110 for safe and effective responses to emergencies, including the necessary PPE and other equipment.

(x) Confined space and permit-required confined space entry procedures as addressed in chapter 296-62 WAC, Part M.

(xi) A spill containment program meeting the requirements of WAC 296-62-3090.

(c) Preentry briefing. The site specific safety and health plan shall provide for preentry briefings to be held prior to initiating any site activity, and at such other times as necessary to ensure that employees are apprised of the site safety and health plan and that this plan is being followed. The information and data obtained from site characterization and analysis work required in WAC 296-62-3020 shall be used to prepare and update the site safety and health plan.

(d) Effectiveness of site safety and health plan. Inspections shall be conducted by the site safety and health supervisor or, in the absence of that individual, another individual who is knowledgeable in occupational safety and health acting on behalf of the employer as necessary to determine the effectiveness of the site safety and health plan. Any deficiencies in the effectiveness of the site safety and health plan shall be corrected by the employer.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-62-3040 Training.** (1) General.

(a) All employees working on site (such as but not limited to equipment operators, general laborers, and others) exposed to hazardous substances, health hazards, or safety hazards, and their supervisors and management responsible for the site, shall receive training meeting the requirements of this subsection before they are permitted to engage in hazardous waste operations that could expose them to hazardous substances, safety, or health hazards, and they shall review training as specified in this subsection.

(b) Employees shall not be permitted to participate in or supervise field activities until they have been trained to a level required by their job function and responsibility.

(2) Elements to be covered. The training shall thoroughly cover the following:

(a) Names of personnel and alternates responsible for site safety and health;

(b) Safety, health, and other hazards present on the site;

(c) Use of personal protective equipment;

(d) Work practices by which the employee can minimize risks from hazards;

(e) Safe use of engineering controls and equipment on the site;

(f) Medical surveillance requirements including recognition of symptoms and signs which might indicate overexposure to hazards; and

(g) The contents of items (vii) through (x) of the site safety and health plan set forth in WAC 296-62-3010 (4)(b).

(3) Initial training. General site workers (such as equipment operators, general laborers, and supervisory personnel) engaged in hazardous substance removal or other activities which expose or potentially expose workers to hazardous substances and health hazards shall receive the following required training:

(a) General site workers required to wear Level A or Level B personal protective equipment because of the types of hazards to which they are exposed or have the potential for being exposed are required to have 80 hours of training and a minimum of three days actual field experience under the direct supervision of a trained, experienced supervisor.

(b) General site workers required to wear Level C or D personal protective equipment, equipment operators or transport vehicle operators, are required to have 40 hours of training and a minimum of three days actual field experience under the direct supervision of a trained, experienced supervisor.

(c) General site workers on site only occasionally for specific limited tasks, and supervisors not working in the two inner zones are required to have 24 hours of training. For example, certain Environmental Protection Agency, and department of ecology employees, labor and industries inspectors and other short-term monitoring and surveying personnel would be required to only have 24 hours of training if they are on-site only occasionally for a specific limited task and are unlikely to be exposed over permissible exposure levels and published exposure limits. A minimum of one day actual field experience under direct supervision is also required.

(d) Workers regularly on site who work in areas which have been monitored and fully characterized indicating that exposures are under permissible exposure limits and published exposure limits where respirators are not necessary, and the characterization indicates that there are no health hazards or the possibility of an emergency developing, shall receive a minimum of 24 hours of instruction off the site and the minimum of one day actual field experience under the direct supervision of a trained, experienced supervisor.

(e) Workers with 24 hours of training who are covered by (c) and (d) of this subsection, and who become general site workers or who are required to wear respirators, shall have the additional 16 hours and two days of training necessary to total the training specified in (b) of this subsection.

(4) Management and supervisor training. On-site management and supervisors directly responsible for, or who supervise employees engaged in, hazardous waste operations shall receive the same initial training as listed in subsection (3) of this section, and three days of supervised field experience and at least eight additional hours of specialized training at the time of job assignment on such topics as, but not limited to, the employer's safety and health program and

the associated employee training program, personal protective equipment program, spill containment program, and health hazard monitoring procedure and techniques.

(5) Law enforcement at illicit drug labs.

Exception: WISHA did not intend application of the 80 hour training requirement to law enforcement personnel required to enter illicit drug labs, secure the premise, and obtain necessary evidence for law enforcement purposes. Attendance at a specific 40 hours course, such as that presented by the criminal justice training commission, is acceptable.

Note: If cleanup activities are conducted by law enforcement personnel, then appropriate hazardous waste cleanup training would be required.

(6) Training course content.

(a) 40 and 80 hour hazardous waste cleanup courses. As a minimum, the training course content for the 40 hour and 80 hour training program shall include the following topics:

(i) Overview of the applicable sections of Part P of chapter 296-62 WAC and the elements of an employer's effective occupational safety and health program.

(ii) Effect of chemical exposure to hazardous substances (i.e., toxicity, carcinogens, irritants, sensitizers, etc.).

(iii) Effects of biological and radiological exposures.

(iv) Fire and explosion hazards (i.e., flammable and combustible liquids, reactive materials).

(v) General safety hazards, including electrical hazards, powered equipment hazards, walking-working surface hazards and those hazards associated with hot and cold temperature extremes.

(vi) Permit-required confined space, tank, and vault hazards and entry procedures.

(vii) Names of personnel and alternates, where appropriate, responsible for site safety and health at the site.

(viii) Specific safety, health, and other hazards that are to be addressed at a site and in the site safety and health plan.

(ix) Use of personal protective equipment and the implementation of the personal protective equipment program.

(x) Work practices that will minimize employee risk from site hazards.

(xi) Safe use of engineering controls and equipment and any new relevant technology or procedure.

(xii) Content of the medical surveillance program and requirements, including the recognition of signs and symptoms of overexposure to hazardous substances.

(xiii) The contents of an effective site safety and health plan.

(xiv) Use of monitoring equipment with "hands-on" experience and the implementation of the employee and site monitoring program.

(xv) Implementation and use of the information program.

(xvi) Drum and container handling procedures and the elements of a spill containment program.

(xvii) Selection and use of material handling equipment.

(xviii) Methods for assessment of risk and handling of radioactive wastes.

(xix) Methods for handling shock-sensitive wastes.

(xx) Laboratory waste pack handling procedures.

(xxi) Container sampling procedures and safeguards.

(xxii) Safe preparation procedures for shipping and transport of containers.

(xxiii) Decontamination program and procedures.

(xxiv) Emergency response plan and procedures including first aid.

(xxv) Safe site illumination levels.

(xxvi) Site sanitation procedures and equipment for employee needs.

(xxvii) Review of the applicable appendices to Part P of chapter 296-62 WAC.

(xxviii) Overview and explanation of WISHA's hazard communication standard Part C of chapter 296-62 WAC.

(xxix) Sources of reference, additional information and efficient use of relevant manuals and hazard coding systems.

(xxx) Principles of toxicology and biological monitoring.

(xxxi) Rights and responsibilities of employees and employers under WISHA and CERCLA.

(xxxii) "Hands-on" field exercises and demonstrations.

(b) 24-hour hazardous waste cleanup course. As a minimum, the 24-hour training course required in WAC 296-62-3040 (3)(c) and (d) for employees engaged in occasional visits to uncontrolled hazardous waste sites shall include the following topics where they are applicable to the job function to be performed:

(i) Overview of applicable sections of Part P of chapter 296-62 WAC and the elements of the employer's effective occupational safety and health program.

(ii) Employee rights and responsibilities under WISHA and CERCLA.

(iii) Overview of relevant chemical exposures to hazardous substances (i.e., toxics, carcinogens, irritants, sensitizers, etc.).

(iv) Overview of the principles of toxicology and biological monitoring.

(v) Use of monitoring equipment with hands-on practice and an overview of a site monitoring program.

(vi) Overview of site hazards including fire and explosion, confined spaces, oxygen deficiency, electrical hazards, powered equipment hazards, walking-working surface hazards.

(vii) The contents of an effective site safety and health plan.

(viii) Use of personal protective equipment and the implementation of the personal protective equipment program.

(ix) Work practices that will minimize employee risk from site hazards.

(x) Site simulations with "hands-on" exercises and practice.

(xi) Emergency response planning and response including first aid.

(xii) Content of the medical surveillance program and requirements, including the recognition of signs and symptoms of overexposure to hazardous substances.

(xiii) Decontamination programs and procedures.

(xiv) Safe use of engineering controls and equipment.

(xv) Sources of references and efficient use of relevant manuals and knowledge of hazard coding systems.

(c) 16-hour supplemental training for hazardous waste sites. As a minimum, employees who have received 24 hours of training for hazardous waste site operations shall receive training in the following topics before they are

allowed to work as general site workers or if they are required to wear respirators:

(i) Relevant chemical exposures to hazardous substances beyond that previously covered.

(ii) Site hazards including fire and explosion, confined spaces, oxygen deficiency, electrical, powered equipment, and walking-working surfaces beyond that previously covered.

(iii) Names of personnel and alternates responsible for site safety and health at the site, where appropriate.

(iv) Use of monitoring equipment and the implementation of the employee and the site monitoring program beyond that previously covered.

(v) Implementation and use of the informational program.

(vi) Drum and container handling procedures and the elements of a spill containment program.

(vii) Selection and use of material handling equipment.

(viii) Methods for assessment of risk and handling of radioactive wastes.

(ix) Methods for handling shock-sensitive wastes.

(x) Laboratory waste pack handling procedures.

(xi) Container sampling procedures and safeguards.

(xii) Safe preparation procedures for shipping and transport of containers.

(xiii) Decontamination program and procedures.

(xiv) Safety site illumination levels.

(xv) Site sanitation procedures and equipment.

(xvi) Review of the applicable appendices to Part P of chapter 296-62 WAC.

(xvii) Overview and explanation of WISHA's Hazard communication standard Part C of chapter 296-62 WAC.

(xviii) Sources of reference and additional information.

(d) Additional 8 hours of training for supervisors and managers. Supervisors and managers shall receive an additional eight hours of training in the following subjects:

(i) Management of hazardous wastes and their disposal.

(ii) Federal, state, and local agencies to be contacted in the event of a release of hazardous substances.

(iii) Management of emergency procedures in the event of a release of hazardous substances.

(7) Qualifications for trainers. Trainers shall be qualified to instruct employees about the subject matter that is being presented in training. Such trainers shall have satisfactorily completed a training program for teaching the subjects they are expected to teach, or they shall have the academic credentials and instructional experience necessary for teaching the subjects. Instructors shall demonstrate competent instructional skills and knowledge of the applicable subject matter.

(8) Training certification. Employees and supervisors that have received and successfully completed the training and field experience specified in subsections (1) through (4) of this section shall be certified by their instructor or the head instructor and trained supervisor as having successfully completed the necessary training. A written certificate shall be given to each person so certified. Any person who has not been so certified or who does not meet the requirements of subsection (11) of this section shall be prohibited from engaging in hazardous waste operations.

(9) Emergency response. Employees who are engaged in responding to hazardous emergency situations at hazard-

ous waste clean-up sites that may expose them to hazardous substances shall be trained in how to respond to expected emergencies.

(10) Refresher training. Employees specified in subsection (1) of this section, and managers specified in subsection (4) of this section, shall receive eight hours of refresher training annually on the items specified in subsections (2) and/or (4) of this section, any critique of incidents that have occurred in the past year that can serve as training examples of related work, and other relevant topics.

(11) Equivalent training. Employers who can show by documentation or certification that an employee's work experience and/or training has resulted in training equivalent to that training required in subsections (1) through (4) of this section shall not be required to provide the initial training requirements of those sections to such employees and shall provide a copy of the certification or documentation to the employee upon request. However, certified employees or employees with equivalent training new to a site shall receive appropriate, site specific training before site entry and have appropriate supervised field experience at the new site. Equivalent training includes any academic training or the training that existing employees might have already received from actual hazardous waste site work experience. The 80 hours of instruction required can be fulfilled as follows:

(a) Instruction can include a combination of presently available 40 hour training sessions and other related classes or training including additional supervised on-the-job training as long as material covered includes elements required in the training section WAC 296-62-3040(2) of the regulations. A single 80 hour training session is also acceptable.

(b) Previously attended courses including eight-hour refresher courses apply toward the 80 hour requirement and need not be repeated.

(c) Documentation of previous experience and training by qualified trainers is required of employers and must be available to inspectors for review.

(d) When calculating hours of training, WISHA assumes a "normal" work day to be eight hours with sufficient time for lunch and other breaks.

**AMENDATORY SECTION** (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-115-015 Definitions applicable to all sections of this chapter.**

Note: Meaning of words. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

((1)) "Approved" - approved by the director; however, if a provision of this chapter states that approval by an agency or organization other than the department such as nationally recognized testing laboratories or the United States Coast Guard is required, then approval by the specified authority shall be accepted.

((2)) "Authorized person" - a person approved or assigned by the employer to perform a specific type of duty or duties or be at a specific location or locations at the workplace.

((3)) "Bare boat" charter means the unconditional lease, rental, or charter of a boat by the owner, or his or her

agent, to a person who by written agreement, or contract, assumes all responsibility and liability for the operation, navigation, and provisioning of the boat during the term of the agreement or contract, except when a captain or crew is required or provided by the owner or owner's agents to be hired by the charterer to operate the vessel.

((4)) "Carrying passengers or cargo" means the transporting of any person or persons or cargo on a vessel for a fee or other consideration.

"CFR" - Code of Federal Regulations.

((5)) "Charter boat" means a vessel or barge operating on inland navigable waters of the state of Washington which is not inspected or licensed by the United States Coast Guard and over which the United States Coast Guard does not exercise jurisdiction and which is rented, leased, or chartered to carry more than six persons or cargo.

((6)) "Commercial" - any activity from which the operator, or the person chartering, renting, or leasing a vessel derives a profit, and/or which qualifies as a legitimate business expense under the Internal Revenue Statutes.

((7)) "Competent person" - one who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt action to eliminate them.

((8)) "Confined (~~or enclosed~~) space" - ~~((any space having a limited means of egress that is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, process vessels, bins, boilers, ventilation or exhaust ducts, tunnels, pipelines and open top spaces more than four feet in depth, such as pits, tubs, vaults, and vessels))~~ means a space that:

(1) Is large enough and so configured that an employee can bodily enter and perform assigned work; and

(2) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and

(3) Is not designed for continuous employee occupancy.

((9)) "Defect" - any characteristic or condition that tends to weaken or reduce the strength of the tool, object, or structure of which it is a part.

((10)) "Department" - the department of labor and industries.

((11)) "Director" - the director of the department of labor and industries, or his/her designated representative.

((12)) "Employer" - any person, firm, corporation, partnership, business trust, legal representative, or other business entity that operates a passenger vessel for hire in this state and employs one or more employees or contracts with one or more persons, the essence of which is the personal labor of such persons. Any person, partnership, or business entity that has no employees, and is covered by the Industrial Insurance Act shall be considered both an employer and an employee.

((13)) "Enclosed space" - means any space, other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.

"Equipment" means a system, part, or component of a vessel as originally manufactured, or a system, part, or

component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment for, or appurtenance to a vessel; or a marine safety article, accessory, or equipment, including radio equipment, intended for use by a person on board a vessel.

((14)) "Hazard" - a condition, potential or inherent, that is likely to cause injury, death, or occupational disease.

((15)) "Hazardous substance" - a substance that, because it is explosive, flammable, poisonous, corrosive, oxidizing, irritating, or otherwise harmful, is likely to cause death or injury, including all substances listed on the USCG hazardous materials list.

((16)) "Inspection" - the examination of vessels by the director or an authorized representative of the director.

((17)) "Marine and dock section" - the chief and staff of the marine and dock section, department of labor and industries.

((18)) "Passenger" - any person or persons, carried on board a vessel in consideration of the payment of a fee or other consideration.

((19)) "Port" - left hand side of a vessel as one faces the bow.

((20)) "Starboard" - right hand side of a vessel as one faces the bow.

((21)) "Power driven vessel" - any vessel propelled by machinery.

((22)) "Qualified" - one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve problems relating to the subject matter, the work, or the project.

((23)) "Safety factor" - the ratio of the ultimate breaking strength of a member or piece of material or equipment to the actual working stress or safe load when in use.

((24)) "Safety and health standard" - a standard that requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

((25)) "Shall" - the provision of the standard is mandatory.

((26)) "Should" - recommended.

((27)) "Substantial" - constructed of such strength, of such material, and of such workmanship, that the object referred to will withstand all normal wear, shock, and usage.

((28)) "Standard safeguard" - a device intended to remove a hazard incidental to the machine, appliance, tool, or equipment to which the device is attached.

Standard safeguards shall be constructed of either metal, wood, other suitable material, or a combination of these. The final determination of the sufficiency of any safeguard rests with the director.

((29)) "Suitable" - that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

((30)) "Under way" - a vessel is not at anchor, or made fast to the shore, or aground.

((31)) "USCG" - United States Coast Guard.

"United States Coast Guard Navigation" - rules International/Inland, Commandants Instruction M16672.29 as now

adopted, or hereafter legally amended by the United States Coast Guard.

~~((32))~~ "Vessel" means every description of motorized watercraft, other than a bare boat charter boat, seaplane, or sailboat, used or capable of being used to transport more than six passengers or cargo on water for rent, lease, or hire.

~~((33))~~ "Working day" - a calendar day, except Saturdays, Sundays, and legal holidays as set forth in RCW 1.16.050, as now or hereafter amended. The time within which an act is to be done under the provisions of this chapter shall be computed by excluding the first working day and including the last working day.

~~((34))~~ "~~(Workman)~~ Worker," "personnel," "man," "person," "employee," and other terms of like meaning, unless the context indicates otherwise - an employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his/her personal labor for an employer whether by manual labor or otherwise.

~~((35) Abbreviations used in this chapter:~~

~~(a) "CFR" - Code of Federal Regulations.~~

~~(b) "USCG" - United States Coast Guard.)~~

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-155-100 Management's responsibility.** (1)

It shall be the responsibility of management to establish, supervise, and enforce, in a manner which is effective in practice:

(a) A safe and healthful working environment.

(b) An accident prevention program as required by these standards.

(c) Training programs to improve the skill and competency of all employees in the field of occupational safety and health.

(2) Employees required to handle or use poisons, caustics, and other harmful substances shall be instructed regarding the safe handling and use, and be made aware of the potential hazards, personal hygiene, and personal protective measures required.

(3) In job site areas where harmful plants or animals are present, employees who may be exposed shall be instructed regarding the potential hazards, and how to avoid injury, and the first aid procedures to be used in the event of injury.

(4) Employees required to handle or use flammable liquids, gases, or toxic materials shall be instructed in the safe handling and use of these materials and made aware of the specific requirements contained in Parts B, D, and other applicable parts of this standard.

(5) Permit-required confined spaces. The requirements of chapters 296-24, 296-62 and 296-155 WAC apply.

(6) The employer shall ensure that work assignments place no employee in a position or location not within ordinary calling distance of another employee able to render assistance in case of emergency.

Note: This subsection does not apply to operators of motor vehicles, watchpersons or other jobs which, by their nature, are single employee assignments. However, a definite procedure for

checking the welfare of all employees during working hours should be instituted and all employees so advised.

(7) Each employer shall post and keep posted a notice or notices (Job Safety and Health Protection - Form F416-081-000) to be furnished by the department of labor and industries, informing employees of the protections and obligations provided for in the act and that for assistance and information, including copies of the act, and of specific safety and health standards employees should contact the employer or the nearest office of the department of labor and industries. Such notice or notices shall be posted by the employer at each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to assure that such notices are not altered, defaced, or covered by other material.

**AMENDATORY SECTION** (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-012 Definitions applicable to all sections of this chapter.**

Note: Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section. Certain parts of this chapter contain definitions as they apply to that particular part.

((1)) "Approved" means approved by the director of the department of labor and industries or his/her authorized representative: *Provided, however,* That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the bureau of mines, the provisions of WAC 296-155-006 shall apply.

((2)) "Assistant director" means the individual in charge of the division of (~~industrial safety and health~~) consultation and compliance, department of labor and industries, or an authorized representative.

((3)) "Authorized person" means a person approved or assigned by the employer to perform a specific type of duty or duties or be at a specific location or locations at the workplace.

((4)) "Competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective action to eliminate them.

((5)) "Confined (~~or enclosed~~) space" means (~~any space having a limited means of egress, which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, process vessels, bins, boilers, ventilation or exhaust ducts, sewers, underground utility vaults, tunnels, pipelines, and open top spaces more than 4 feet in depth such as pits, tubs, vaults, and vessels~~) a space that:

(1) Is large enough and so configured that an employee can bodily enter and perform assigned work; and

(2) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and

(3) Is not designed for continuous employee occupancy.

((6)) "Construction work" shall mean and include all or any part of excavation, construction, erection, alteration, repair, demolition, and dismantling, of buildings and other structures and all operations in connection therewith; the excavation, construction, alteration and repair of sewers, trenches, caissons, conduits, pipe lines, roads and all operations pertaining thereto; the moving of buildings and other structures, and to the construction, alteration, repair, or removal of wharfs, docks, bridges, culverts, trestles, piers, abutments or any other construction, alteration, repair or removal work related thereto.

((7)) "Defect" means any characteristic or condition which tends to weaken or reduce the strength of the tool, object, or structure of which it is a part.

((8)) "Department" means the department of labor and industries.

((9)) "Designated person" means "authorized person" as defined in (~~subsection (3) of~~) this section.

((10)) "Director" means the director of the department of labor and industries, or his/her designated representative.

((11)) "Division" means the division of (~~industrial safety and health~~) consultation and compliance of the department.

((12)) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: *Provided,* that any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.

((13)) "Equipment" means all machinery, devices, tools, facilities, safeguards, and protective construction used in connection with construction operations.

((14)) "Ground fault circuit interrupter" means a fast acting circuit breaker that is sensitive to very low levels of current leakage to ground. The device is designed to limit the electric shock to a current and time duration below that which can cause serious injury.

((15)) "Hazard" means that condition, potential or inherent, which is likely to cause injury, death, or occupational disease.

((16)) "Hazardous substance" means a substance which, by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritating, or otherwise harmful, is likely to cause death or injury.

((17)) "Maintenance" means the work of keeping a building, machine, roadway, etc., in a state of good repair.

((18)) "Part" means a major division, of this chapter, relating to a specific topic or topics and containing various sections, subsections, etc.

"Permit-required confined space (permit space)" means a confined space that has one or more of the following characteristics:

(1) Contains or has a potential to contain a hazardous atmosphere;

(2) Contains a material that has the potential for engulfing an entrant;

(3) Has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section; or

(4) Contains any other recognized serious safety or health hazard.

~~((19))~~ "Qualified" means one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated ~~((his))~~ their ability to solve or resolve problems relating to the subject matter, the work, or the project.

~~((20))~~ "Repair" means to restore a building, machine, roadway, etc., to an original state after damage or decay.

~~((21))~~ "Safety factor" means the ratio of the ultimate breaking strength of a member or piece of material or equipment to the actual working stress or safe load when in use.

~~((22))~~ "Safety and health standard" means a standard which requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

~~((23))~~ "Shall" means that the provision(s) of the standard are mandatory.

~~((24))~~ "Substantial" means constructed of such strength, of such material, and of such workmanship, that the object referred to will withstand all normal wear, shock and usage.

~~((25))~~ "Standard safeguard" means a device designed and constructed with the object of removing the hazard of accident incidental to the machine, appliance, tool, building, or equipment to which it is attached.

Standard safeguards shall be constructed of either metal or wood or other suitable material or a combination of these. The final determination of the sufficiency of any safeguard rests with the director of the department of labor and industries through the division of ~~((industrial safety and health))~~ consultation and compliance.

~~((26))~~ "Suitable" means that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

~~((27))~~ "Working day" means a calendar day, except Saturdays, Sundays, and legal holidays as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, shall be computed by excluding the first working day and including the last working day.

~~((28))~~ "Worker," "personnel," "man," "person," "employee," and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, mean an employee of an employer who is employed in the business of ~~((his))~~ their employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is ~~((his))~~ their personal labor for an employer whether by manual labor or otherwise.

~~((29))~~ "Work place" means any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which

the employer has the right of access or control, and includes, but is not limited to, all work places covered by industrial insurance under Title 51 RCW, as now or hereafter amended.

~~((30))~~ Abbreviations used in this chapter:

~~((a))~~ "ANSI" means American National Standards Institute.

~~((b))~~ "API" means American Petroleum Institute.

~~((c))~~ "ASA" means American Standards Association.

~~((d))~~ "ASAE" means American Society of Agricultural Engineers.

~~((e))~~ "ASHRE" means American Society of Heating and Refrigeration Engineers.

~~((f))~~ "ASME" means American Society of Mechanical Engineers.

~~((g))~~ "ASTM" means American Society of Testing and Materials.

~~((h))~~ "AWS" means American Welding Society.

~~((i))~~ "BTU" means British thermal unit.

~~((j))~~ "BTUH" means British thermal unit per hour.

~~((k))~~ "CFM" means cubic feet per minute.

~~((l))~~ "CFR" means Code of Federal Register.

~~((m))~~ "CGA" means Compressed Gas Association.

~~((n))~~ "CIE" means Commission Internationale de l'Eclairage.

~~((o))~~ "DOT" means department of transportation.

~~((p))~~ "FRP" means fiberglass reinforced plastic.

~~((q))~~ "GPM" means gallons per minute.

~~((r))~~ "ICC" means Interstate Commerce Commission.

~~((s))~~ "ID" means inside diameter.

~~((t))~~ "LPG" means liquefied petroleum gas.

~~((31))~~ Additional abbreviations used in this chapter:

~~((a))~~ "MCA" means Manufacturing Chemist Association.

~~((b))~~ "MSHA" means United States Department of Labor, Mine Safety and Health Administration.

~~((c))~~ "NBFU" means National Board of Fire Underwriters.

~~((d))~~ "NEMA" means National Electrical Manufacturing Association.

~~((e))~~ "NFPA" means National Fire Protection Association.

~~((f))~~ "NTP" means normal temperature and pressure.

~~((g))~~ "OD" means outside diameter.

~~((h))~~ "PSI" means pounds per square inch.

~~((i))~~ "PSIA" means pounds per square inch absolute.

~~((j))~~ "PSIG" means pounds per square inch gauge.

~~((k))~~ "RMA" means Rubber Manufacturers Association.

~~((l))~~ "SAE" means Society of Automotive Engineers.

~~((m))~~ "TFI" means The Fertilizer Institute.

~~((n))~~ "TSC" means Trailer Standard Code.

~~((o))~~ "UL" means Underwriters' Laboratories, Inc.

~~((p))~~ "USASI" means United States of America Standards Institute.

~~((q))~~ "USC" means United States Code.

~~((r))~~ "USCG" means United States Coast Guard.

~~((s))~~ "WAC" means Washington Administrative Code.

~~((t))~~ "WISHA" means Washington Industrial Safety and Health Act of 1973.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-155-20301 Definitions.** ~~((4))~~ **Confined space** (~~—Any space having a limited means of egress which is subject to the accumulation of toxic or flammable contaminants or an oxygen deficient atmosphere. Confined spaces include but are not limited to storage tanks, process vessels, bins, boilers, ventilation or exhaust ducts, sewers, underground utility vaults, tunnels, pipelines and open top spaces more than 4 feet in depth, such as pits, tubes, vaults and vessels. (See WAC 296-62-14501(1).)~~)

~~(2) Toxic atmospheres — Atmospheres having concentrations of airborne chemicals in excess of permissible exposure limits as defined in chapter 296-62 WAC.~~

~~(3) Chemical contact agents — Defined in WAC 296-62-07003.~~

~~(4))~~ means a space that:

(1) Is large enough and so configured that an employee can bodily enter and perform assigned work; and

(2) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and

(3) Is not designed for continuous employee occupancy.

"Corrosives" means substances which in contact with living tissue cause destruction of the tissue by chemical action.

"Hazardous atmosphere" means an atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (that is, escape unaided from a permit space), injury, or acute illness from one or more of the following causes:

(1) Flammable gas, vapor, or mist in excess of ten percent of its lower flammable limit (LFL);

(2) Airborne combustible dust at a concentration that meets or exceeds its LFL;

Note: This concentration may be approximated as a condition in which the dust obscures vision at a distance of five feet (1.52m) or less.

(3) Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent;

(4) Atmospheric concentration of any substance for which a dose or a permissible exposure limit is published in Subpart G, Occupational Health and Environmental Control, or in Subpart Z, Toxic and Hazardous Substances, of this part and which could result in employee exposure in excess of its dose or permissible exposure limit;

Note: An atmospheric concentration of any substance that is not capable of causing death, incapacitation, impairment of ability to self-rescue, injury, or acute illness due to its health effects is not covered by this provision.

(5) Any other atmospheric condition that is immediately dangerous to life or health.

Note: For air contaminants for which WISHA has not determined a dose or permissible exposure limit, other sources of information, such as material safety data sheets that comply with the Hazard Communication Standard, chapter 296-62 WAC, Part C, published information, and internal documents can provide guidance in establishing acceptable atmospheric conditions.

"Irritants" means substances which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

"Oxygen deficient atmospheres" ((-)) means atmospheres at sea level having less than 19.5% oxygen by volume or having a partial pressure of 148 millimeters of mercury or less. This may deviate when working at higher altitudes and should be determined for an individual location. Factors such as acclimatization, physical condition of persons involved, etc., must be considered for such circumstances and conditions. (See ((WAC 296-62-14501(4))) chapter 296-62 WAC, Part M, permit-required confined spaces.)

~~((5) Flammable atmospheres — Atmospheres in excess of 20% of the lower explosive limit. These are usually toxic as well as flammable. (See WAC 296-62-14501(5).))~~

"Toxicants" means substances which have the inherent capacity to produce personal injury or illness to persons by absorption through any body surface.

AMENDATORY SECTION (Amending Order 93-04, filed 9/22/93, effective 11/1/93)

**WAC 296-155-24510 Fall restraint, fall arrest systems.** (1) When employees are exposed to a hazard of falling from a location 10 feet or more in height, the employer shall ensure that fall restraint or fall arrest systems are provided, installed, and implemented according to the following requirements.

(2) Fall restraint protection shall consist of:

(a) Standard guardrails as described in chapter 296-155 WAC Part K.

(b) Safety belts and/or harness attached to securely rigged restraint lines.

(i) Safety belts and/or harness shall conform to ANSI Standard:

Class I - body belt

Class II - chest harness

Class III - full body harness

Class IV - suspension/position belt

(ii) All safety belt and lanyard hardware assemblies shall be capable of withstanding a tensile loading of 4,000 pounds without cracking, breaking, or taking a permanent deformation.

(iii) Rope grab devices are prohibited for fall restraint applications unless they are part of a fall restraint system designed specifically for the purpose by the manufacturer, and used in strict accordance with the manufacturer's recommendations and instructions.

(iv) The employer shall ensure component compatibility.

(v) Components of fall restraint systems shall be inspected prior to each use for mildew, wear, damage, and other deterioration, and defective components shall be removed from service if their function or strength have been adversely affected.

(vi) Anchorage points used for fall restraint shall be capable of supporting 4 times the intended load.

(vii) Restraint protection shall be rigged to allow the movement of employees only as far as the sides and edges of the walking/working surface.

(c) A warning line system as prescribed in ((the)) WAC 296-155-24515(3) and supplemented by the use of a safety monitor system as prescribed in WAC 296-155-24521 to

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protect workers engaged in duties between the forward edge of the warning line and the unprotected sides and edges, including the leading edge, of a low pitched roof or walking/working surface.

(d) Warning line and safety monitor systems as described in WAC 296-155-24515 (3) through (4)(f) and 296-155-24520 respectively are prohibited on surfaces exceeding a 4 in 12 pitch, and on any surface whose dimensions are less than 45 inches in all directions.

(3) Fall arrest protection shall consist of:

(a) Full body harness.

(i) An approved Class III full body harness shall be used.

(ii) Body harness systems or components subject to impact loading shall be immediately removed from service and shall not be used again for employee protection unless inspected and determined by a competent person to be undamaged and suitable for reuse.

(iii) All safety lines and lanyards shall be protected against being cut or abraded.

(iv) Body harness systems shall be rigged to minimize free fall distance with a maximum free fall distance allowed of 6 feet, and such that the employee will not contact any lower level.

(v) Hardware shall be drop forged, pressed or formed steel, or made of materials equivalent in strength.

(vi) Hardware shall have a corrosion-resistant finish, and all surfaces and edges shall be smooth to prevent damage to the attached body harness or lanyard.

(vii) When vertical lifelines (droplines) are used, not more than one employee shall be attached to any one lifeline.

(viii) Full body harness systems shall be secured to anchorages capable of supporting 5,000 pounds per employee except: When self-retracting lifelines or other deceleration devices are used which limit free fall to two feet, anchorages shall be capable of withstanding 3,000 pounds.

(ix) Vertical lifelines (droplines) shall have a minimum tensile strength of 5,000 pounds (22.2kN), except that self-retracting lifelines and lanyards which automatically limit free fall distance to two feet (.61 m) or less shall have a minimum tensile strength of 3,000 pounds (13.3 kN).

(x) Horizontal lifelines shall have a tensile strength capable of supporting a fall impact load of at least 5,000 pounds (22.2 kN) per employee using the lifeline, applied anywhere along the lifeline.

(xi) Lanyards shall have a minimum tensile strength of 5,000 pounds (22.2 kN).

(xii) All components of body harness systems whose strength is not otherwise specified in subsection (3) of this section shall be capable of supporting a minimum fall impact load of 5,000 pounds (22.2 kN) applied at the lanyard point of connection.

(xiii) Snap-hooks shall not be connected to loops made in webbing-type lanyards.

(xiv) Snap-hooks shall not be connected to each other.

(xv) Not more than one snap-hook shall be connected to any one D-ring unless they are the double locking type.

(xvi) Full body harness systems shall be inspected prior to each use for mildew, wear, damage, and other deterioration, and defective components shall be removed from

service if their function or strength have been adversely affected.

(b) Safety nets.

(i) All new nets shall meet accepted performance standards of 17,500 foot-pounds minimum impact resistance as determined and certified by the manufacturers, and shall bear a label of proof test.

(ii) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(iii) Safety nets shall be installed as close as practicable under the walking/working surface on which employees are working, but in no case more than 10 feet below such level.

(iv) Safety nets shall extend outward at least 8 feet from the outermost projection of the work surface.

(v) Safety nets shall be installed with sufficient clearance under them to prevent contact with the surface or structures below when subjected to an impact force equal to the drop test specified in subsection (3)(b)(vii) of this section.

(vi) Safety nets and their installations shall be capable of absorbing an impact force equal to that produced by the drop test specified in subsection (3)(b)(vii) of this section.

(vii) Safety nets and safety net installations shall be drop-tested at the jobsite before used as a fall protection system. The drop-test shall consist of a 400 pound (180 kg) bag of sand 30+2 inches (76+5 cm) in diameter dropped into the net from the highest walking/working surface on which employees are to be protected. Exception: When the employer can demonstrate that a drop-test is not feasible or practicable, the net and net installation shall be certified by a qualified person to be in compliance with the provisions of this section.

(viii) Safety nets shall be inspected weekly for mildew, wear, damage, and other deterioration, and defective components shall be removed from service.

(ix) Materials, scrap pieces, and tools which have fallen into the safety net shall be removed as soon as possible from the net and at least before the next work shift.

(x) The maximum size of each safety net mesh opening shall not exceed 36 square inches (230 cm<sup>2</sup>) nor be longer than six inches (15 cm) on any side measured center-to-center of mesh ropes or webbing. All mesh crossing shall be secured to prevent enlargement of the mesh opening.

(xi) Each safety net (or section of it) shall have a border rope for webbing with a minimum breaking strength of 5,000 pounds (22.2 kN).

(xii) Connections between the safety net panels shall be as strong as integral net components and shall be spaced not more than six inches (15 cm) apart.

(c) Catch platforms.

(i) A catch platform shall be installed within 10 vertical feet of the work area.

(ii) The catch platforms width shall equal the distance of the fall but shall be a minimum of 45 inches wide and shall be equipped with standard guardrails on all open sides.

(4) Droplines or lifelines used on rock-scaling operations, or in areas where the lifeline may be subjected to cutting or abrasion, shall be a minimum of 7/8-inch wire core manila rope. For all other lifeline applications, a minimum of 3/4-inch manila or equivalent, with a minimum breaking strength of 5,000 pounds, shall be used.

(5) Safety harnesses, lanyards, lifelines or droplines, independently attached or attended, shall be used while performing the following types of work when other equivalent type protection is not provided:

(a) Work performed in ~~((hoppers, bins, silos, tanks, or))~~ permit-required confined spaces and other confined spaces shall follow the procedures as described in chapter 296-62 WAC Part M.

(b) Work on hazardous slopes, or dismantling safety nets, working on poles or from boatswains chairs at elevations greater than six feet (1.83 m), swinging scaffolds or other unguarded locations.

(c) Work on skips and platforms used in shafts by crews when the skip or cage does not occlude the opening to within one foot (30.5 cm) of the sides of the shaft, unless cages are provided.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

**WAC 296-155-407 Protective clothing.** (1) General requirements. Employees exposed to the hazards created by welding, cutting, or brazing operations shall be protected by personal protective equipment in accordance with the requirements of chapter 296-24 WAC ((296-24-07501)), Part A-2 and Part I. Appropriate protective clothing required for any welding operation will vary with the size, nature and location of the work to be performed.

(2) Specified protective clothing. Protective means which may be employed are as follows:

(a) Except when engaged in light work, all welders should wear flameproof gauntlet gloves.

(b) Flameproof aprons made of leather, or other suitable material may also be desirable as protection against radiated heat and sparks.

(c) Woolen clothing preferable to cotton because it is not so readily ignited and helps protect the welder from changes in temperature. Cotton clothing, if used, should be chemically treated to reduce its combustibility. All outer clothing such as jumpers or overalls should be reasonably free from oil or grease.

(d) Sparks may lodge in rolled-up sleeves or pockets of clothing, or cuffs of overalls or trousers. It is therefore recommended that sleeves and collars be kept buttoned and pockets be eliminated from the front of overalls and aprons. Trousers or overalls should not be turned up on the outside.

Note: For heavy work, fire-resistant leggings, high boots, or other equivalent means should be used.

(e) In production work a sheet metal screen in front of the worker's legs can provide further protection against sparks and molten metal in cutting operations.

(f) Capes or shoulder covers made of leather or other suitable materials should be worn during overhead welding or cutting operations. Leather skull caps may be worn under helmets to prevent head burns.

(g) ~~((For overhead welding and cutting, or welding and cutting in extremely confined spaces, ear protection is sometimes desirable.~~

~~((h)))~~ Where there is exposure to sharp or heavy falling objects, or a hazard of bumping in confined spaces, hard hats or head protectors shall be used.

AMENDATORY SECTION (Amending Order 91-01, filed 5/20/91, effective 6/20/91)

**WAC 296-155-730 Tunnels and shafts.** (1) Scope and application.

(a) This section applies to the construction of underground tunnels, shafts, chambers, and passageways. This section also applies to cut-and-cover excavations which are both physically connected to ongoing underground construction operations within the scope of this section, and covered in such a manner as to create conditions characteristic of underground construction.

(b) This section does not apply to excavation and trenching operations covered by Part N of this chapter, such as foundation operations for above-ground structures that are not physically connected to underground construction operations, and surface excavation.

(c) The employer shall comply with the requirements of this part and chapter in addition to applicable requirements of chapter 296-36 WAC, Safety standards—Compressed air work.

(2) Access and egress.

(a) Each operation shall have a check-in/check-out system that will provide positive identification of every employee underground. An accurate record of identification and location of the employees shall be kept on the surface. This procedure is not required when the construction of underground facilities designed for human occupancy has been sufficiently completed so that the permanent environmental controls are effective, and when the remaining construction activity will not cause any environmental hazard, or structural failure within the facilities.

(b) The employer shall provide and maintain safe means of access and egress to all work stations.

(c) The employer shall provide access and egress in such a manner that employees are protected from being struck by excavators, haulage machines, trains, and other mobile equipment.

(d) The employer shall control access to all openings to prevent unauthorized entry underground. Unused chutes, manways, or other openings shall be tightly covered, bulkheaded, or fenced off, and shall be posted with warning signs indicating "keep out" or similar language. Completed or unused sections of the underground facility shall be barricaded.

(3) Safety instruction. All employees shall be instructed in the recognition and avoidance of hazards associated with underground construction activities including, where appropriate, the following subjects:

(a) Air monitoring;

(b) Ventilation;

(c) Confined space entry procedures;

(d) Permit-required confined space entry procedures;

(e) Illumination;

~~((e)))~~ (f) Communications;

~~((f)))~~ (g) Flood control;

~~((g)))~~ (h) Mechanical equipment;

~~((h)))~~ (i) Personal protective equipment;

~~((i)))~~ (j) Explosives;

~~((j)))~~ (k) Fire prevention and protection; and

~~((k)))~~ (l) Emergency procedures, including evacuation plans and check-in/check-out systems.

**(4) Notification.**

(a) Oncoming shifts shall be informed of any hazardous occurrences or conditions that have affected, or might affect employee safety, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fire(s), or explosions.

(b) Information specified in (a) of this subsection shall be recorded in a shift journal which shall be current prior to the end of each shift, and shall be located aboveground.

(c) Oncoming supervisory personnel shall read the notification prior to going underground, and shall signify their understanding of the contents by affixing their respective initials to the log.

(d) The hazard notification log shall be retained on the site until the completion of the project.

(e) The employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees underground.

**(5) Communications.**

(a) When natural unassisted voice communication is ineffective, a power-assisted means of voice communication shall be used to provide communication between the work face, the bottom of the shaft, and the surface.

(b) Two effective means of communication, at least one of which shall be voice communication, shall be provided in all shafts which are being developed or used either for personnel access or for hoisting. Additional requirements for hoist operator communication are contained in subsection (22)(c)(xv) of this section.

(c) Powered communication systems shall operate on an independent power supply, and shall be installed so that the use of or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(d) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary at later times, to ensure that they are in working order.

(e) Any employee working alone underground in a hazardous location, who is both out of the range of natural unassisted voice communication and not under observation by other persons, shall be provided with an effective means of obtaining assistance in an emergency.

(6) Emergency provisions. Hoisting capability. When a shaft is used as a means of egress, the employer shall make advance arrangements for power-assisted hoisting capability to be readily available in an emergency, unless the regular hoisting means can continue to function in the event of an electrical power failure at the jobsite. Such hoisting means shall be designed so that the load hoist drum is powered in both directions of rotation and so that the brake is automatically applied upon power release or failure.

(7) Self-rescuers. The employer shall provide self-rescuers having current approval from the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration to be immediately available to all employees at work stations in underground areas where employees might be trapped by smoke or gas. The selection, issuance, use, and care of respirators shall be in accordance with the requirements of chapter 296-62 WAC ((296-62-071 through 296-62-07121)), Part E.

(8) Designated person. At least one designated person shall be on duty aboveground whenever any employee is working underground. This designated person shall be responsible for securing immediate aid and keeping an accurate record of the number, identification, and location of employees who are underground in case of emergency. The designated person must not be so busy with other responsibilities that the personnel counting and identification function is encumbered.

(9) Emergency lighting. Each employee underground shall have an acceptable portable hand lamp or cap lamp in his or her work area for emergency use, unless natural light or an emergency lighting system provides adequate illumination for escape.

**(10) Rescue teams.**

(a) On jobsites where 25 or more employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least two 5-person rescue teams, one on the jobsite or within one-half hour travel time from the entry point, and the other within 2 hours travel time.

(b) On jobsites where less than 25 employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least one 5-person rescue team to be either on the jobsite or within one-half hour travel time from the entry point.

(c) Rescue team members shall be qualified in rescue procedures, the use and limitations of breathing apparatus, and the use of fire fighting equipment. Qualifications shall be reviewed not less than annually.

(d) On jobsites where flammable or noxious gases are encountered or anticipated in hazardous quantities, rescue team members shall practice donning and using pressure demand mode, self-contained breathing apparatuses monthly.

(e) The employer shall ensure that rescue teams are familiar with conditions at the jobsite.

**(11) Hazardous classifications.**

(a) Potentially gassy operations. Underground construction operations shall be classified as potentially gassy if either:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) +/-0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for more than a 24-hour period; or

(ii) The history of the geographical area or geological formation indicates that 10 percent or more of the lower explosive limit for methane or other flammable gases is likely to be encountered in such underground operations.

(b) Gassy operations. Underground construction operations shall be classified as gassy if:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) +/-0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for three consecutive days; or

(ii) There has been an ignition of methane or of other flammable gases emanating from the strata that indicates the presence of such gases; or

(iii) The underground construction operation is both connected to an underground work area which is currently

classified as gassy and is also subject to a continuous course of air containing the flammable gas concentration.

(c) Declassification to potentially gassy operations. Underground construction gassy operations may be declassified to potentially gassy when air monitoring results remain under 10 percent of the lower explosive limit for methane or other flammable gases for three consecutive days.

(12) Gassy operations—Additional requirements. Only acceptable equipment, maintained in suitable condition, shall be used in gassy operations.

(a) Mobile diesel-powered equipment used in gassy operations shall be either approved in accordance with the requirements of 30 CFR Part 36 (formerly Schedule 31) by MSHA, or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that part.

(b) Each entrance to a gassy operation shall be prominently posted with signs notifying all entrants of the gassy classification.

(c) Smoking shall be prohibited in all gassy operations and the employer shall be responsible for collecting all personal sources of ignition, such as matches and lighters, from all persons entering a gassy operation.

(d) A fire watch as described in chapter 296-155 WAC ((296-155-410(5))), Part H, shall be maintained when hot work is performed.

(e) Once an operation has met the criteria in subsection (11)(a)(i) of this section, warranting classification as gassy, all operations in the affected area, except the following, shall be discontinued until the operation either is in compliance with all of the gassy operation requirements or has been declassified in accordance with (c) of this subsection:

- (i) Operations related to the control of the gas concentration;
- (ii) Installation of new equipment, or conversion of existing equipment, to comply with this subsection; and
- (iii) Installation of above-ground controls for reversing the air flow.

(13) Air quality and monitoring.

(a) General. Air quality limits and control requirements specified in chapter 296-62 WAC, Part H, shall apply except as modified by this subsection.

(b) The employer shall assign a competent person who shall perform all air monitoring required by this section.

(c) Where this paragraph requires monitoring of airborne contaminants "as often as necessary," the competent person shall make a reasonable determination as to which substances to monitor and how frequently to monitor, considering at least the following factors:

- (i) Location of jobsite: Proximity to fuel tanks, sewers, gas lines, old landfills, coal deposits, and swamps;
- (ii) Geology: Geological studies of the jobsite, particularly involving the soil type and its permeability;
- (iii) History: Presence of air contaminants in nearby jobsites, changes in levels of substances monitored on the prior shift; and

(iv) Work practices and jobsite conditions: The use of diesel engines, use of explosives, use of fuel gas, volume and flow of ventilation, visible atmospheric conditions, decompression of the atmosphere, welding, cutting and hot work, and employees' physical reactions to working underground.

(d) The employer shall provide testing and monitoring instruments which are capable of achieving compliance with the provisions of this subsection, and:

(i) Shall maintain the testing and monitoring instruments in good condition;

(ii) Shall calibrate the instruments on a frequency not to exceed 6 months.

(e) Exposure to airborne contaminants shall not exceed the levels established by chapter 296-62 WAC, Part H.

(f) Respirators shall not be substituted for environmental control measures. However, where environmental controls have not yet been developed, or when necessary by the nature of the work involved (for example, welding, sand blasting, lead burning), an employee may work for short periods of time in concentrations of airborne contaminants which exceed the limit of permissible exposure referred to in (d) of this subsection, if the employee wears a respiratory protective device approved by MSHA-NIOSH as protection against the particular hazards involved, and the selection and use of respirators complies with the provisions of chapter 296-62 WAC ((296-62-071 through 296-62-07124)), Part E.

(g) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant which exceeds the permissible exposure limit listed for that contaminant, except as modified in (t)(i) and (ii) of this subsection.

(h) The atmosphere in all underground work areas shall be tested as often as necessary to assure that the atmosphere at normal atmospheric pressure contains at least 19.5 percent oxygen and no more than 22 percent oxygen.

(i) Tests for oxygen content shall be made before tests for air contaminants.

(j) Field-type oxygen analyzers, or other suitable devices, shall be used to test for oxygen deficiency.

(k) The atmosphere in all underground work areas shall be tested quantitatively for carbon monoxide, nitrogen dioxide, hydrogen sulfide, and other toxic gases, dust, vapors, mists, and fumes as often as necessary to ensure that the permissible exposure limits prescribed in chapter 296-62 WAC, Part H, are not exceeded.

(l) The atmosphere in all underground work areas shall be tested quantitatively for methane and other flammable gases as often as necessary to determine:

(i) Whether action is to be taken under (q), (r), and (s) of this subsection; and

(ii) Whether an operation is to be classified potentially gassy or gassy under subsection (11) of this section.

(m) If diesel-engine or gasoline-engine driven ventilating fans or compressors are used, an initial test shall be made of the inlet air of the fan or compressor, with the engines operating, to ensure that the air supply is not contaminated by engine exhaust.

(n) Testing shall be performed as often as necessary to ensure that the ventilation requirements of subsection (15) of this section are met.

(o) When rapid excavation machines are used, a continuous flammable gas monitor shall be operated at the face with the sensor(s) placed as high and close to the front of the machine's cutter head as practicable.

(p) Whenever air monitoring indicates the presence of 5 ppm or more of hydrogen sulfide, a test shall be conducted in the affected underground work area(s), at least at the

beginning and midpoint of each shift, until the concentration of hydrogen sulfide has been less than 5 ppm for 3 consecutive days.

(i) Whenever hydrogen sulfide is detected in an amount exceeding 10 ppm, a continuous sampling and indicating hydrogen sulfide monitor shall be used to monitor the affected work area.

(ii) Employees shall be informed when a concentration of 10 ppm hydrogen sulfide is exceeded.

(iii) The continuous sampling and indicating hydrogen sulfide monitor shall be designed, installed, and maintained to provide a visual and aural alarm when the hydrogen sulfide concentration reaches 20 ppm to signal that additional measures, such as respirator use, increased ventilation, or evacuation, might be necessary to maintain hydrogen sulfide exposure below the permissible exposure limit.

(q) When the competent person determines, on the basis of air monitoring results or other information, that air contaminants may be present in sufficient quantity to be dangerous to life, the employer shall:

(i) Prominently post a notice at all entrances to the underground jobsite to inform all entrants of the hazardous condition; and

(ii) Immediately increase sampling frequency levels to insure workers are not exposed to identified contaminants in excess of the permissible exposure limit(s); and

(iii) Ensure that all necessary precautions are taken to comply with pertinent requirements of this section, and chapter 296-62 WAC.

(r) Whenever five percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return, steps shall be taken to increase ventilation air volume or otherwise control the gas concentration, unless the employer is operating in accordance with the potentially gassy or gassy operation requirements. Such additional ventilation controls may be discontinued when gas concentrations are reduced below five percent of the lower explosive limit, but shall be reinstated whenever the five percent level is exceeded.

(s) Whenever 10 percent or more of the lower explosive limit for methane or other flammable gases is detected in the vicinity of welding, cutting, or other hot work, such work shall be suspended until the concentration of such flammable gas is reduced to less than 10 percent of the lower explosive limit.

(t) Whenever 20 percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return:

(i) All employees, except those necessary to eliminate the hazard, shall be immediately withdrawn to a safe location above ground; and

(ii) Employees who remain underground to correct or eliminate the hazard described in (t) above shall be equipped with approved, pressure demand mode, self-contained breathing apparatus, and shall have received adequate training in the proper use of that equipment.

(iii) Electrical power, except for acceptable pumping and ventilation equipment, shall be cut off to the area endangered by the flammable gas until the concentration of such gas is reduced to less than 20 percent of the lower explosive limit.

(14) Additional monitoring for potentially gassy and gassy operations. Operations which meet the criteria for

potentially gassy and gassy operations set forth in subsection (13) of this section shall be subject to the additional monitoring requirements of this subsection.

(a) A test for oxygen content shall be conducted in the affected underground work areas and work areas immediately adjacent to such areas at least at the beginning and midpoint of each shift.

(b) When using rapid excavation machines, continuous automatic flammable gas monitoring equipment shall be used to monitor the air at the heading, on the rib, and in the return air duct. The continuous monitor shall signal the heading, and shut down electric power in the affected underground work area, except for acceptable pumping and ventilation equipment, when 20 percent or more of the lower explosive limit for methane or other flammable gases is encountered.

(i) A manual flammable gas monitor shall be used as needed, but at least at the beginning and midpoint of each shift, to ensure that the limits prescribed in subsections (11) and (13) of this section are not exceeded. In addition, a manual electrical shut down control shall be provided near the heading.

(ii) Local gas tests shall be made prior to and continuously during any welding, cutting, or other hot work.

(iii) In underground operations driven by drill-and-blast methods, the air in the affected area shall be tested for flammable gas prior to re-entry after blasting, and continuously when employees are working underground.

(c) Recordkeeping. A record of all air quality tests shall be maintained above ground at the worksite and be made available to the director or his representatives upon request. The record shall include the location, date, time, substance and amount monitored. Records of exposures to toxic substances shall be retained in accordance with Part B, chapter 296-62 WAC. All other air quality test records shall be retained until completion of the project.

#### (15) Ventilation.

(a)(i) Fresh air shall be supplied to all underground work areas in sufficient quantities to prevent dangerous or harmful accumulation of dust, fumes, mists, vapors, or gases.

(ii) Mechanical ventilation shall be provided in all underground work areas except when the employer can demonstrate that natural ventilation provides the necessary air quality through sufficient air volume and air flow.

(b) A minimum of 200 cubic feet (5.7 m<sup>3</sup>) of fresh air per minute shall be supplied for each employee underground.

(c) The linear velocity of air flow in the tunnel bore, in shafts, and in all other underground work areas shall be at least 30 feet (9.15 m) per minute where blasting or rock drilling is conducted, or where other conditions likely to produce dust, fumes, mists, vapors, or gases in harmful or explosive quantities are present.

(d) The direction of mechanical air flow shall be reversible.

(e) Air that has passed through underground oil or fuel-storage areas shall not be used to ventilate working areas.

(f) Following blasting, ventilation systems shall exhaust smoke and fumes to the outside atmosphere before work is resumed in affected areas.

(g) Ventilation doors shall be designed and installed so that they remain closed when in use, regardless of the direction of the air flow.

(h) When ventilation has been reduced to the extent that hazardous levels of methane or flammable gas may have accumulated, a competent person shall test all affected areas after ventilation has been restored and shall determine whether the atmosphere is within flammable limits before any power, other than for acceptable equipment, is restored or work is resumed.

(i) Whenever the ventilation system has been shut down with all employees out of the underground area, only competent persons authorized to test for air contaminants shall be allowed underground until the ventilation has been restored and all affected areas have been tested for air contaminants and declared safe.

(j) When drilling rock or concrete, appropriate dust control measures shall be taken to maintain dust levels within limits set in chapter 296-155 WAC ((296-155-160)), Part B-1. Such measures may include, but are not limited to, wet drilling, the use of vacuum collectors, and water mix spray systems.

(k)(i) Internal combustion engines, except diesel-powered engines on mobile equipment, are prohibited underground.

(ii) Mobile diesel-powered equipment used underground in atmospheres other than gassy operations shall be either approved by MSHA in accordance with the provisions of 30 CFR Part 32 (formerly Schedule 24), or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that Part. (Each brake horsepower of a diesel engine requires at least 100 cubic feet (28.32 m<sup>3</sup>) of air per minute for suitable operation in addition to the air requirements for personnel. Some engines may require a greater amount of air to ensure that the allowable levels of carbon monoxide, nitric oxide, and nitrogen dioxide are not exceeded.)

(iii) Application shall be made to the mining section, division of industrial safety and health, department of labor and industries, for permission to use specified diesel equipment in a specified underground area and shall include the following:

(A) The type of construction and complete identification data and specifications including analysis of the undiluted exhaust gases of the diesel equipment.

(B) The location where the diesel equipment is to be used.

(C) Before the diesel equipment is taken underground, written permission shall be obtained from the division of industrial safety and health or its duly authorized representative. A satisfactory test on surface, to show that the exhaust gases do not exceed the maximum percentage of carbon monoxide permitted, shall be required.

(D) Diesel equipment shall only be used underground where the ventilation is controlled by mechanical means and shall not be operated if the ventilating current is less than 100 CFM per horsepower based on the maximum brake horsepower of the engines.

(E) Air measurements shall be made at least once daily in the diesel engine working area and the measurements entered in the Underground Diesel Engine Record Book. Permissible maximum amounts of noxious gases are as follows:

At engine exhaust ports	Carbon Monoxide	.10%	1,000 ppm <sup>3</sup>
Next to equipment	Carbon Monoxide	.005%	50 ppm
General atmosphere	Carbon Monoxide	.005%	50 ppm
General atmosphere	Nitrogen Dioxide	.0003%	3 ppm
General atmosphere	Aldehydes	.0002%	2 ppm

<sup>3</sup> Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm Hg. pressure.

(l) Potentially gassy or gassy operations shall have ventilation systems installed which shall:

(i) Be constructed of fire-resistant materials; and

(ii) Have acceptable electrical systems, including fan motors.

(m) Gassy operations shall be provided with controls located aboveground for reversing the air flow of ventilation systems.

(n) In potentially gassy or gassy operations, wherever mine-type ventilation systems using an offset main fan installed on the surface are used, they shall be equipped with explosion-doors or a weak-wall having an area at least equivalent to the cross-sectional area of the airway.

(16) Illumination.

(a) Sufficient lighting shall be provided, in accordance with the requirements of chapter 296-155 WAC ((296-155-165 (1) through (4))), Part B-1, to permit safe operations at the face as well as in the general tunnel or shaft area and at the employees' workplace.

(b) Only acceptable portable lighting shall be used within 50 feet (15.24 m) of any underground heading during explosive handling.

(17) Fire prevention and control. Fire prevention and protection requirements applicable to underground construction operations are found in Part D of this chapter except as modified by the following additional standards.

(a) Open flames and fires are prohibited in all underground construction operations except as permitted for welding, cutting, and other hot work operations.

(i) Smoking may be allowed only in areas free of fire and explosion hazards.

(ii) Readily visible signs prohibiting smoking and open flames shall be posted in areas having fire or explosion hazards.

(iii) The carrying of matches, lighters, or other flame-producing smoking materials shall be prohibited in all underground operations where fire or explosion hazards exist.

(b) The employer may store underground no more than a 24-hour supply of diesel fuel for the underground equipment used at the worksite.

(c) The piping of diesel fuel from the surface to an underground location is permitted only if:

(i) Diesel fuel is contained at the surface in a tank whose maximum capacity is no more than the amount of fuel required to supply for a 24-hour period the equipment serviced by the underground fueling station; and

(ii) The surface tank is connected to the underground fueling station by an acceptable pipe or hose system that is controlled at the surface by a valve, and at the shaft bottom by a hose nozzle; and

(iii) The pipe is empty at all times except when transferring diesel fuel from the surface tank to a piece of equipment in use underground; and

(iv) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.

(d)(i) Gasoline shall not be carried, stored, or used underground.

(ii) Acetylene, liquefied petroleum gas, and methylacetylene propadiene stabilized gas may be used underground only for welding, cutting and other hot work, and only in accordance with Part H of this chapter and subsections (13), (15), (17), and (18) of this section.

(e) Oil, grease, and diesel fuel stored underground shall be kept in tightly sealed containers in fire-resistant areas at least 300 feet (91.44 m) from underground explosive magazines, and at least 100 feet (30.48 m) from shaft stations and steeply inclined passageways. Storage areas shall be positioned or diked so that the contents of ruptured or overturned containers will not flow from the storage area.

(f) Flammable or combustible materials shall not be stored above ground within 100 feet (30.48 m) of any access opening to any underground operation. Where this is not feasible because of space limitations at the jobsite, such materials may be located within the 100-foot limit, provided that:

(i) They are located as far as practicable from the opening; and

(ii) Either a fire-resistant barrier of not less than one-hour rating is placed between the stored material and the opening, or additional precautions are taken which will protect the materials from ignition sources.

(g) Fire-resistant hydraulic fluids shall be used in hydraulically-actuated underground machinery and equipment unless such equipment is protected by a fire suppression system or by multipurpose fire extinguisher(s) rated at a sufficient capacity for the type and size of hydraulic equipment involved, but rated at least 4A:4OB:C.

(h)(i) Electrical installations in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures.

(ii) Lighting fixtures in storage areas, or within 25 feet (7.62 m) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for Class I, Division 2 locations, in accordance with Part I of this chapter.

(i) Leaks and spills of flammable or combustible fluids shall be cleaned up immediately.

(j) A fire extinguisher of at least 4A:4OB:C rating or other equivalent extinguishing means shall be provided at the head pulley and at the tail pulley of underground belt conveyors, and at 300-foot intervals along the belt.

(k) Any structure located underground or within 100 feet (30.48 m) of an opening to the underground shall be constructed of material having a fire-resistance rating of at least one hour.

(18) Welding, cutting, and other hot work. In addition to the requirements of Part H of this chapter, the following requirements shall apply to underground welding, cutting, and other hot work.

(a) No more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(b) Noncombustible barriers shall be installed below welding, cutting, or other hot work being done in or over a shaft or raise.

(19) Ground support.

(a) In tunnels (other than hard rock) timber sets, steel rings, steel frames, concrete liners, or other engineered tunnel support systems shall be used. Every tunnel support system shall be designed by a licensed professional engineer. Design specifications shall be available at the worksite.

(b) Portal areas. Portal openings and access areas shall be guarded by shoring, fencing, head walls, shotcreting, or other equivalent protection to ensure safe access of employees and equipment. Adjacent areas shall be scaled or otherwise secured to prevent loose soil, rock, or fractured materials from endangering the portal and access area.

(c) Subsidence areas. The employer shall ensure ground stability in hazardous subsidence areas by shoring, by filling in, or by erecting barricades and posting warning signs to prevent entry.

(d) Underground areas.

(i)(A) A competent person shall inspect the roof, face, and walls of the work area at the start of each shift and as often as necessary to determine ground stability.

(B) Competent persons conducting such inspections shall be protected from loose ground by location, ground support, or equivalent means.

(ii) Ground conditions along haulageways and travelways shall be inspected as frequently as necessary to ensure safe passage.

(iii) Loose ground that might be hazardous to employees shall be taken down, scaled, or supported.

(iv) Torque wrenches shall be used wherever bolts that depend on torsionally applied force are used for ground support.

(v) A competent person shall determine whether rock bolts meet the necessary torque, and shall determine the testing frequency in light of the bolt system, ground conditions, and the distance from vibration sources.

(vi) Suitable protection shall be provided for employees exposed to the hazard of loose ground while installing ground support systems.

(vii) Support sets shall be installed so that the bottoms have sufficient anchorage to prevent ground pressures from dislodging the support base of the sets. Lateral bracing (collar bracing, tie rods, or spreaders) shall be provided between immediately adjacent sets to ensure added stability.

(viii) Damaged or dislodged ground supports that create a hazardous condition shall be promptly repaired or replaced. When replacing supports, the new supports shall be installed before the damaged supports are removed.

(ix) A shield or other type of support shall be used to maintain a safe travelway for employees working in dead-end areas ahead of any support replacement operation.

(e) Shafts.

(i) Shafts and wells over 4 feet (1.219 m) in depth that employees must enter shall be supported by a steel casing, concrete pipe, timber, solid rock, or other suitable material.

(ii)(A) The full depth of the shaft shall be supported by casing or bracing except where the shaft penetrates into solid rock having characteristics that will not change as a result of exposure. Where the shaft passes through earth into solid rock, or through solid rock into earth, and where there is

potential for shear, the casing or bracing shall extend at least 5 feet (1.53 m) into the solid rock. When the shaft terminates in solid rock, the casing or bracing shall extend to the end of the shaft or 5 feet (1.53 m) into the solid rock, whichever is less.

(B) The casing or bracing shall extend 42 inches (1.07 m) plus or minus 3 inches (8 cm) above ground level, except that the minimum casing height may be reduced to 12 inches (0.3 m), provided that a standard railing is installed; that the ground adjacent to the top of the shaft is sloped away from the shaft collar to prevent entry of liquids; and that effective barriers are used to prevent mobile equipment operating near the shaft from jumping over the 12-inch (0.3 m) barrier.

(iii) After blasting operations in shafts, a competent person shall determine if the walls, ladders, timbers, blocking, or wedges have loosened. If so, necessary repairs shall be made before employees other than those assigned to make the repairs are allowed in or below the affected areas.

(f) Blasting. This subsection applies in addition to the requirements for blasting and explosives operations, including handling of misfires, which are found in chapter 296-52 WAC.

(i) Blasting wires shall be kept clear of electrical lines, pipes, rails, and other conductive material, excluding earth, to prevent explosives initiation or employee exposure to electric current.

(ii) Following blasting, an employee shall not enter a work area until the air quality meets the requirements of subsection (13) of this section.

(g) Drilling.

(i) A competent person shall inspect all drilling and associated equipment prior to each use. Equipment defects affecting safety shall be corrected before the equipment is used.

(ii) The drilling area shall be inspected for hazards before the drilling operation is started.

(iii) Employees shall not be allowed on a drill mast while the drill bit is in operation or the drill machine is being moved.

(iv) When a drill machine is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast shall be placed in a safe position.

(v) Receptacles or racks shall be provided for storing drill steel located on jumbos.

(vi) Employees working below jumbo decks shall be warned whenever drilling is about to begin.

(vii) Drills on columns shall be anchored firmly before starting drilling, and shall be retightened as necessary thereafter.

(viii) The employer shall provide mechanical means on the top deck of a jumbo for lifting unwieldy or heavy material.

(ix) When jumbo decks are over 10 feet (3.05 m) in height, the employer shall install stairs wide enough for two persons.

(x) Jumbo decks more than 10 feet (3.05 m) in height shall be equipped with guardrails on all open sides, excluding access openings of platforms, unless an adjacent surface provides equivalent fall protection.

(xi) Only employees assisting the operator shall be allowed to ride on jumbos, unless the jumbo meets the requirements of subsection (20)(e) of this section.

(xii) Jumbos shall be chocked to prevent movement while employees are working on them.

(xiii) Walking and working surfaces of jumbos shall be maintained to prevent the hazards of slipping, tripping, and falling.

(xiv) Jumbo decks and stair treads shall be designed to be slip-resistant and secured to prevent accidental displacement.

(xv) Scaling bars shall be available at scaling operations and shall be maintained in good condition at all times. Blunted or severely worn bars shall not be used.

(xvi) Before commencing the drill cycle, the face and lifters shall be examined for misfires (residual explosives) and, if found, they shall be removed before drilling commences at the face. Blasting holes shall not be drilled through blasted rock (muck) or water.

(xvii) Employees in a shaft shall be protected either by location or by suitable barrier(s) if powered mechanical loading equipment is used to remove muck containing unfired explosives.

(xviii) A caution sign reading "buried line," or similar wording shall be posted where air lines are buried or otherwise hidden by water or debris.

(20) Haulage.

(a) A competent person shall inspect haulage equipment before each shift.

(i) Equipment defects affecting safety and health shall be corrected before the equipment is used.

(ii) Powered mobile haulage equipment shall be provided with adequate brakes.

(iii) Power mobile haulage equipment, including trains, shall have audible warning devices to warn employees to stay clear. The operator shall sound the warning device before moving the equipment and whenever necessary during travel.

(iv) The operator shall assure that lights which are visible to employees at both ends of any mobile equipment, including a train, are turned on whenever the equipment is operating.

(v) In those cabs where glazing is used, the glass shall be safety glass, or its equivalent, and shall be maintained and cleaned so that vision is not obstructed.

(b) Antirollback devices or brakes shall be installed on inclined conveyor drive units to prevent conveyors from inadvertently running in reverse. Employees shall not be permitted to ride a power-driven chain, belt, or bucket conveyor unless the conveyor is specifically designed for the transportation of persons.

(c) Endless belt-type manlifts are prohibited in underground construction.

(d) General requirements also applicable to underground construction for use of conveyors in construction are found in chapter 296-155 WAC (~~((296-155-545 (1) through (17)))~~) **Part L**.

(e) No employee shall ride haulage equipment unless it is equipped with seating for each passenger and protects passengers from being struck, crushed, or caught between other equipment or surfaces. Members of train crews may ride on a locomotive if it is equipped with handholds and

nonslip steps or footboards. Requirements applicable to underground construction for motor vehicle transportation of employees are found in chapter 296-155 WAC ((296-155-610)), Part M.

(f) Conveyor lockout.

(i) Conveyors shall be de-energized and locked out with a padlock, and tagged out with a "Do Not Operate" tag at any time repair, maintenance, or clean-up work is being performed on the conveyor.

(ii) Tags or push button stops are not acceptable.

(iii) Persons shall not be allowed to walk on conveyors except for emergency purposes and then only after the conveyor has been deenergized and locked out in accordance with (f) above, and persons can do so safely.

(g) Powered mobile haulage equipment, including trains, shall not be left unattended unless the master switch or motor is turned off; operating controls are in neutral or park position; and the brakes are set, or equivalent precautions are taken to prevent rolling.

(h) Whenever rails serve as a return for a trolley circuit, both rails shall be bonded at every joint and crossbonded every 200 feet (60.96 m).

(i) When dumping cars by hand, the car dumps shall have tiedown chains, bumper blocks, or other locking or holding devices to prevent the cars from overturning.

(j) Rocker-bottom or bottom-dump cars shall be equipped with positive locking devices to prevent unintended dumping.

(k) Equipment to be hauled shall be loaded and secured to prevent sliding or dislodgement.

(l)(i) Mobile equipment, including rail-mounted equipment, shall be stopped for manual connecting or service work, and;

(ii) Employees shall not reach between moving cars during coupling operations.

(iii) Couplings shall not be aligned, shifted, or cleaned on moving cars or locomotives.

(iv) Safety chains or other connections shall be used in addition to couplers to connect man cars or powder cars whenever the locomotive is uphill of the cars.

(v) When the grade exceeds one percent and there is a potential for runaway cars, safety chains or other connections shall be used in addition to couplers to connect haulage cars or, as an alternative, the locomotive must be downhill of the train.

(vi) Such safety chains or other connections shall be capable of maintaining connection between cars in the event of either coupler disconnect, failure or breakage.

(m) Parked rail equipment shall be chocked, blocked, or have brakes set to prevent inadvertent movement.

(n) Berms, bumper blocks, safety hooks, or equivalent means shall be provided to prevent overtravel and overturning of haulage equipment at dumping locations.

(o) Bumper blocks or equivalent stopping devices shall be provided at all track dead ends.

(p)(i) Only small handtools, lunch pails, or similar small items may be transported with employees in man cars, or on top of a locomotive.

(ii) When small hand tools or other small items are carried on top of a locomotive, the top shall be designed or modified to retain them while traveling.

(q)(i) Where switching facilities are available, occupied personnel cars shall be pulled, not pushed. If personnel cars must be pushed and visibility of the track ahead is hampered, then a qualified person shall be stationed in the lead car to give signals to the locomotive operator.

(ii) Crew trips shall consist of personnel loads only.

(21) Electrical safety. This paragraph applies in addition to the general requirements for electrical safety which are found in Part I of this chapter.

(a) Electric power lines shall be insulated or located away from water lines, telephone lines, air lines, or other conductive materials so that a damaged circuit will not energize the other systems.

(b) Lighting circuits shall be located so that movement of personnel or equipment will not damage the circuits or disrupt service.

(c) Oil-filled transformers shall not be used underground unless they are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformers in the event of rupture.

(22) Hoisting unique to underground construction except as modified by this section, the following provisions of chapter 296-155 WAC, Part L apply: Requirements for cranes are found in WAC 296-155-525. WAC 296-155-48533 contains rules applicable to crane hoisting of personnel, except, that the limitations imposed by WAC 296-155-48533(2) do not apply to the routine access of employees to the underground via a shaft. Requirements for personnel hoists, material hoists, and elevators are found in WAC 296-155-530 and in this subsection.

(a) General requirements for cranes and hoists.

(i) Materials, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging, or falling into the shaft.

(ii) A warning light suitably located to warn employees at the shaft bottom and subsurface shaft entrances shall flash whenever a load is above the shaft bottom or subsurface entrances, or the load is being moved in the shaft. This paragraph does not apply to fully enclosed hoistways.

(iii) Whenever a hoistway is not fully enclosed and employees are at the shaft bottom, conveyances or equipment shall be stopped at least 15 feet (4.57 m) above the bottom of the shaft and held there until the signalman at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the load or conveyance is within full view of a bottom signalman who is in constant voice communication with the operator.

(iv)(A) Before maintenance, repairs, or other work is commenced in the shaft served by a cage, skip, or bucket, the operator and other employees in the area shall be informed and given suitable instructions.

(B) A sign warning that work is being done in the shaft shall be installed at the shaft collar, at the operator's station, and at each underground landing.

(v) Any connection between the hoisting rope and the cage or skip shall be compatible with the type of wire rope used for hoisting.

(vi) Spin-type connections, where used, shall be maintained in a clean condition and protected from foreign matter that could affect their operation.

(vii) Cage, skip, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Only closed shackles shall be used for cage and skip rigging.

(viii) When using wire rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(b) Additional requirements for cranes. Cranes shall be equipped with a limit switch to prevent overtravel at the boom tip. Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(c) Additional requirements for hoists.

(i) Hoists shall be designed so that the load hoist drum is powered in both directions of rotation, and so that brakes are automatically applied upon power release or failure.

(ii) Control levers shall be of the "deadman type" which return automatically to their center (neutral) position upon release.

(iii) When a hoist is used for both personnel hoisting and material hoisting, load and speed ratings for personnel and for materials shall be assigned to the equipment.

(iv) Hoist machines with cast metal parts shall not be used.

(v) Material hoisting may be performed at speeds higher than the rated speed for personnel hoisting if the hoist and components have been designed for such higher speeds and if shaft conditions permit.

(vi) Employees shall not ride on top of any cage, skip, or bucket except when necessary to perform inspection or maintenance of the hoisting system, in which case they shall be protected by a body belt/harness system to prevent falling.

(vii) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) shall not be hoisted together in the same conveyance. However, if the operator is protected from the shifting of materials, then the operator may ride with materials in cages or skips which are designed to be controlled by an operator within the cage or skip.

(viii) Line speed shall not exceed the design limitations of the systems.

(ix) Hoists shall be equipped with landing level indicators at the operator's station. Marking of the hoist rope does not satisfy this requirement.

(x) Whenever glazing is used in the hoist house, it shall be safety glass, or its equivalent, and be free of distortions and obstructions.

(xi) A fire extinguisher that is rated at least 2A:10B:C (multipurpose, dry chemical) shall be mounted in each hoist house.

(xii) Hoist controls shall be arranged so that the operator can perform all operating cycle functions and reach the emergency power cutoff without having to reach beyond the operator's normal operating position.

(xiii) Hoists shall be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(xiv) Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(xv) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station,

with speaker-microphones so located that the operator can communicate with individual landing stations during hoist use.

(xvi) When sinking shafts 75 feet (22.86 m) or less in depth, cages, skips, and buckets that may swing, bump, or snag against shaft sides or other structural protrusions shall be guided by fenders, rails, ropes, or a combination of those means.

(xvii) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets shall be rope or rail-guided to within a rail length from the sinking operation.

(xviii) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, shall be rope or rail-guided for the full length of their travel.

(xix) Wire rope used in load lines of material hoists shall be capable of supporting, without failure, at least five times the maximum intended load or the factor recommended by the rope manufacturer, whichever is greater. Refer to chapter 296-155 WAC (~~(296-155-530 (3)(r)(i), (ii), and (iii))~~), Part L, for design factors for wire rope used in personnel hoists. The design factors shall be calculated by dividing the breaking strength of wire rope, as reported in the manufacturer's rating tables, by the total static load, including the weight of the wire rope in the shaft when fully extended.

(xx) A competent person shall visually check all hoisting machinery, equipment, anchorages, and hoisting rope at the beginning of each shift and during hoist use, as necessary.

(xxi) Each safety device shall be checked by a competent person at least weekly during hoist use to ensure suitable operation and safe condition.

(xxii) In order to ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly shall be inspected and load-tested to 100 percent of its rated capacity: At the time of installation; after any repairs or alterations affecting its structural integrity; after the operation of any safety device; and annually when in use. The employer shall prepare a certification record which includes the date each inspection and load-test was performed; the signature of the person who performed the inspection and test; and a serial number or other identifier for the hoist that was inspected and tested. The most recent certification record shall be maintained on file until completion of the project.

(xxiii) Before hoisting personnel or material, the operator shall perform a test run of any cage or skip whenever it has been out of service for one complete shift, and whenever the assembly or components have been repaired or adjusted.

(xiv) Unsafe conditions shall be corrected before using the equipment.

(d) Additional requirements for personnel hoists.

(i) Hoist drum systems shall be equipped with at least two means of stopping the load, each of which shall be capable of stopping and holding 150 percent of the hoist's rated line pull. A broken-rope safety, safety catch, or arrestment device is not a permissible means of stopping under this subsection.

(ii) The operator shall remain within sight and sound of the signals at the operator's station.

(iii) All sides of personnel cages shall be enclosed by one-half inch (12.70 mm) wire mesh (not less than No. 14 gauge or equivalent) to a height of not less than 6 feet (1.83 m). However, when the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion.

(iv) All personnel cages shall be provided with a protective locking door that does not open outward.

(v) All personnel cages shall be provided with a protective canopy. The canopy shall be made of steel plate, at least 3/16 -inch (4.763 mm) in thickness, or material of equivalent strength and impact resistance. The canopy shall be sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress. The canopy shall cover the top in such a manner as to protect those inside from objects falling in the shaft.

(vi) Personnel platforms operating on guide rails or guide ropes shall be equipped with broken-rope safety devices, safety catches, or arrestment devices that will stop and hold 150 percent of the weight of the personnel platform and its maximum rated load.

(vii) During sinking operations in shafts where guides and safeties are not yet used, the travel speed of the personnel platform shall not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.

(viii) The personnel platform may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(ix) The personnel platform may travel at rated speeds greater than 600 feet (182.88 m) per minute in complete shafts.

**WSR 94-17-166**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**COORDINATING BOARD**  
 [Filed August 24, 1994, 9:28 a.m.]

Original Notice.

Title of Rule: Degree Authorization Act.

Purpose: Rules to administer Degree Authorization Act for certain degree-granting institutions which are required to be authorized by the Higher Education Coordinating Board in order to operate in Washington state.

Statutory Authority for Adoption: RCW 28B.80.370.

Statute Being Implemented: Chapter 28B.85 RCW.

Summary: Rules provide a basis for administrative implementation of the Degree Authorization Act and are intended to supplement the act, focusing on provisions that require elaboration.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Elaine Jones, 917 Lakeridge Way, Olympia, WA, (206) 586-4595.

Name of Proponent: Higher Education Coordinating Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Degree Authorization Act requires certain degree-granting institutions to be authorized by the Higher Education Coordinating Board; pay authorization application fees; post a surety bond or make a cash deposit in the Board's tuition recovery trust fund account; and comply with consumer protection and educational standards. In the event of a student complaint or other evidence of a violation of these requirements, the institution is liable to fines, criminal sanctions, orders to cease and desist, judgments against their bond or cash deposits, and court injunctions. The rules provide a basis for administrative implementation of the act and elaborate its provisions. The rules will strengthen exemption eligibility criteria; improve consumer protection and enhance educational standards; clarify the scope of the act; and streamline the application and review process.

Proposal Changes the Following Existing Rules: WAC 250-61-010 through 250-61-180 amended and new sections added.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Rule will impact less than ten percent of any one industry.

Hearing Location: Higher Education Coordinating Board, 917 Lakeridge Way, Olympia, WA 98504-3430, on September 28, 1994, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Karen Moton-Tate by September 26, 1994, TDD (206) 753-2212, or (206) 586-8782.

Submit Written Comments to: Elaine Jones, Higher Education Coordinating Board, FAX (206) 753-1784, by September 28, 1994.

Date of Intended Adoption: November 17, 1994.

August 24, 1994

Elson S. Floyd

Executive Director

AMENDATORY SECTION (Amending WSR 93-01-103, filed 12/17/92, effective 1/17/93)

**WAC 250-61-010 Scope and purpose.** The Degree Authorization Act, chapter 28B.85 RCW ((established)) establishes a requirement that degree-granting institutions operating in Washington obtain authorization from the higher education coordinating board, unless specifically exempted from the authorization requirement by the act. This chapter is promulgated by the board as a supplement to the act in order to establish necessary regulations for the authorization of degree-granting institutions. The standards set forth in this chapter also supplement the federal regulations governing institutions seeking approval from the appropriate Washington state approving agency (Washington higher education coordinating board or Washington work force training and education coordinating board) to offer degrees to persons eligible to receive benefits from the United States Department of Veterans Affairs.

The purpose of the act is to insure fair business practices and adequate quality among degree-granting institutions operating in the state of Washington and to protect citizens against substandard, fraudulent, and deceptive practices.

~~((Institutions seeking approval to offer academic degrees to persons eligible to receive benefits from the United States Department of Veterans' Affairs first must be authorized by~~

~~the board and/or accredited by a recognized institutional accrediting association.)~~ The act applies to degree programs and academic credit courses offered within the state. The act does not apply to degree programs and academic credit courses offered exclusively from outside the state through individual and private interstate communication.

A degree-granting institution shall not operate, conduct business, grant or offer to grant any courses or degree programs unless the institution has obtained authorization from the board or has been determined by the board to be exempt.

Institutions accredited by any association recognized by the federal government seeking approval to offer degrees to persons eligible to receive benefits from the United States Department of Veterans Affairs shall first be authorized by the board or exempted under WAC 250-61-060 and shall meet the requirements of the appropriate Washington state approving agency.

Nonaccredited institutions seeking approval to offer degrees to persons eligible to receive benefits from the United States Department of Veterans Affairs shall first be authorized by the board and shall meet the requirements of the appropriate Washington state approving agency.

Institutions seeking approval for their professional education programs from the state board of education first must be accredited by an accrediting association recognized by the federal government and authorized or exempted by the board.

**AMENDATORY SECTION** (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

**WAC 250-61-020 Previous regulations repealed.**

Regulations previously adopted by this agency pursuant to chapter 28B.05 are repealed and superseded by this chapter. Degree-granting institutions (~~registered~~) authorized under the previous regulations will be governed by the previous rules and are not required to apply for authorization until the expiration date of such (~~registration~~) authorization. Degree-granting private vocational schools exempted under the previous regulations shall be required to apply for authorization within six months of the effective date of these regulations. Such degree-granting private vocational schools shall also be required to make their proportional initial capitalization contribution into the board's tuition recovery trust fund account at the time of application. Religious institutions exempted under the previous regulations shall be required to apply for religious exemption under these regulations within six months of the effective date of these regulations.

**AMENDATORY SECTION** (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

**WAC 250-61-030 Delegation and board supervision.**

(See RCW 28B.80.430.)

(1) Unless otherwise indicated, the board delegates authority for administering the act and these rules to the executive director.

(2) Any action taken pursuant to these rules by the executive director or (~~his~~) designee shall be subject to supervision by the board.

(3) All actions taken by the executive director pursuant to these rules shall be reported periodically to the board for its review (~~and approval~~).

**AMENDATORY SECTION** (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

**WAC 250-61-040 Duties of executive director.** In addition to other administrative responsibilities vested in the executive director of the higher education coordinating board under the act and this chapter, the executive director shall carry out the following administrative responsibilities:

(1) Process authorization applications, fee payments, (~~and~~) bonds or security deposits, to include the denial and issuance of authorization, signed by the executive director.

(2) Cause the payment of any unsatisfied final judgment against an authorized institution, from the resources available through the institution's surety bond or other security deposit.

(3) Upon written notice from an authorized institution, release the surety on the institution's bond or return the institution's security deposit.

(4) (~~Upon written notice from an authorized institution, return the institution's security deposit.~~

(~~5~~) In the event of impaired liability of the surety upon a bond, notify the institution of suspension until the bond liability in the required amount, unimpaired by unsatisfied judgment claims, shall have been furnished.

(~~6~~) (5) To the extent that there is a payment by a surety, release the bond to the extent of the payment.

(~~7~~) (6) Maintain and administer a separate account for authorized degree-granting private vocational schools in the tuition recovery trust fund established under RCW 43.84.092.

(7) Establish and maintain all records called for under the provisions of the act and this chapter.

(8) Maintain a current inventory of degree-granting institutions authorized or exempted under this chapter, including student complaints against such institutions.

(9) The executive director may waive or modify the authorization requirements contained in this chapter for a particular institution if the executive director finds that such waiver or modification will not frustrate the purposes of this chapter and that literal application of this chapter creates a manifestly unreasonable hardship on the institution.

**AMENDATORY SECTION** (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

**WAC 250-61-050 Definitions.** The definitions set forth in this section are intended to supplement the definitions in chapter 28B.85 RCW and shall apply throughout this chapter.

(1) "Act" means the Degree Authorization Act, chapter 28B.85 RCW.

(2) "Board" means the Washington higher education coordinating board.

(~~2~~) (3) "Executive director" means the executive director of the board or the executive director's designee.

(~~3~~) (4) "Accrediting association" means a national or regional accrediting association that is recognized by the federal government.

(5) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of a degree.

(6) "College" means an institution which offers two-year and/or four-year programs culminating with associate and/or baccalaureate degrees. In some instances, a college may also offer first professional degree programs and/or graduate programs culminating with master's degrees.

(7) "University" means a multi-unit institution with varied educational roles including instruction, promotion of scholarship, preservation and discovery of knowledge, research and public service. Such institutions provide a wide range of undergraduate and graduate studies, programs in professional fields, and may also provide programs leading to the doctorate.

(8) "Private vocational school" means a nonpublic entity that offers postsecondary programs designed to prepare individuals with the skills and training required for employment in a specific trade, occupation, or profession related to the educational program.

(9) "Seminary" means an institution which offers one or more professional programs to candidates for the ministry, rabbinate, or priesthood.

(10) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level.

~~((a))~~ (11) "Associate degree" means a lower division undergraduate degree that requires no fewer than 60 semester hours or 90 quarter hours.

~~((b))~~ (12) "Bachelor's degree" or "baccalaureate degree" means an undergraduate degree that requires no fewer than 120 semester hours or 180 quarter hours.

~~((c))~~ (13) "Master's degree" means a graduate degree that requires no fewer than 24 semester hours or 36 quarter hours beyond the baccalaureate degree.

~~((d))~~ (14) "Doctor's degree" or "doctorate" means a postgraduate degree that requires no fewer than 60 semester hours or 90 quarter hours beyond the baccalaureate degree.

~~((4))~~ (15) "Program of study" means any course or grouping of courses prerequisite to or indicative of a degree.

~~((5))~~ "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree beyond the secondary level.

~~((6))~~ "Recognized institutional accrediting agency" means an agency or association, of regional or national scope, recognized by the council on postsecondary accreditation and the board for purposes of this chapter and published by the board as recognized accrediting agencies under this chapter.

~~((7))~~ (16) "Resident-based instruction" means a course or series of courses or degree programs which are taught by faculty at a specific location where students physically attend the course or program.

(17) "Telecommunication instruction" means a course or series of courses or degree programs which have as their primary mode of delivery television, video, computer, film, or other electronic communications.

(18) "Credit hour" means the unit by which an institution measures its course work. The number of credit hours

assigned to a course is defined by the number of hours per week in class and preparation and the number of weeks in a term. One credit hour is usually assigned for three hours of student work per week or its equivalent. The three hours of student work per week is usually comprised of a combination of one hour of lecture and two of homework or three hours of laboratory. Semester and quarter credit hours are the most common systems of measuring course work. A semester credit hour is based on at least a fifteen week calendar or its equivalent. A quarter credit hour is based on at least a ten week calendar or its equivalent.

(19) "Full-time faculty" means personnel who are appointed as such and have an employment agreement related to teaching, research, and/or other aspects of the instructional programs of the institution. These personnel participate in faculty meetings, staff development activities, and in the design of the curriculum.

(20) "Permanent part-time faculty" means personnel who are appointed as such and have an employment agreement for teaching less than full time. These personnel participate in faculty meetings, staff development activities, and in the design of the curriculum.

(21) "Part-time faculty" means personnel usually assigned to teach one or more specific classes and perform class-related activities.

(22) "To operate" means but is not limited to the following:

(a) Offering courses in person, by correspondence, or electronic media, at any Washington location for degree credit, including electronic courses transmitted into the state of Washington.

(b) Granting or offering to grant degrees in Washington for credit obtained within or outside the state.

(c) Maintaining or advertising a Washington location, mailing address, or telephone number for any purpose or any other function of a degree-granting institution, other than contact with the institution's former students for any legitimate purpose related to their having attended.

~~((8))~~ (23) "To offer" includes, in addition to its usual meanings, to advertise or publicize. "To offer" shall also mean to solicit or encourage any person, directly or indirectly, to perform the act described.

~~((9))~~ The "act" means the Degree Authorization Act, chapter 28B.85 RCW. (24) "Suspend" means that because of deficiencies, the board interrupts the institution's authority to recruit and enroll new students, but it may continue serving currently enrolled students for the remainder of the term.

(25) "Recognized accrediting association" means an association recognized by the higher education coordinating board for purposes of this chapter and recognized by the federal government for purposes of financial aid program eligibility.

**AMENDATORY SECTION** (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

**WAC 250-61-060 Exemptions.** The provisions of this chapter do not apply to:

(1) Honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by

institutions offering other educational credentials in compliance with state law.

(2) Any public college, public university, public community college (~~or other entity~~), or public technical college or institute operating as part of the public (~~educational~~) higher education system of this state.

(3) Institutions that have received institutional accreditation from an agency recognized by the board, *Provided*:

(a) ~~((That any nondegree programs offered by the institution have been determined by the commission for vocational education or its successor agency to be in substantial compliance with operational criteria established under chapter 299, Laws of 1986 and chapter 490-861, Washington administrative code; such determinations being effected and reported to the executive director via an interagency agreement executed between the respective agencies.~~

~~(b) That a branch campus, extension center, or off-campus facility operating within the state of Washington, which is affiliated with an institution domiciled outside this state, must have separate institutional accreditation as a free-standing institution from a recognized accrediting agency to qualify for this exemption.)~~ The institution has been continuously offering degree program(s) in Washington for fifteen years or more, provided:

~~(b) The institution was established originally within the state of Washington and has operated as the same organization continuously from that date until the present. An institution is considered to have operated as the same organization continuously if it has no significant alteration of primary location, ownership, or incorporation and no closure involving cessation of substantially all organized instructional and administrative activity.~~

~~(c) The institution has been accredited as a degree-granting institution for ten years or more by an accrediting association recognized by the federal government, and maintains such accreditation status.~~

~~(d) The institution maintains eligibility to participate in Title IV financial aid programs.~~

~~(e) A branch campus, extension center, or off-campus facility operating within the state of Washington, which is affiliated with an institution domiciled outside this state, has continuously offered degree programs in Washington for fifteen years or more; has held separate institutional accreditation as a free-standing institution for ten years or more by a recognized accrediting association, and maintains such accreditation status; maintains eligibility to participate in Title IV financial aid programs.~~

~~(4) Institutions offering instruction on a federal enclave solely to federal employees and their dependents. If the institution offers instruction for other persons, the institution shall be subject to authorization.~~

~~(5) Tribally controlled Native American colleges.~~

~~(6) Institutions which offer program(s) of study whose sole stated objective is training in the religious beliefs of the controlling religious organization and/or preparation of students for occupations that are primarily church-related and are represented in an accurate manner in institutional catalogs and other official publications: *Provided*, That an institution's degree programs in title (e.g., bachelor of religious studies, master of divinity, doctorate of ministry), curriculum content, and objectives reflect the strictly reli-~~

~~gious nature of the institution. The following procedures shall be employed in the implementation of this subsection:~~

~~(a) ((The executive director shall ask the chief administrative officer of any institution that may qualify for an exemption on religious grounds to)) The chief academic officer shall contact board staff and arrange for a preliminary conference to discuss the religious exemption standards and the application/review procedures.~~

~~(b) The chief academic officer shall forward to the board office a copy of the institution's catalog and/or any other official publications that describe the nature of the institution and its programs. This information shall be used by the executive director to verify the religious exempt status of the institution.~~

~~((b)) (c) A religious institution which is granted an exemption under this regulation shall place the following statement in a prominent position on the front page of any catalog, general bulletins, and course schedules: "The Washington Higher Education Coordinating Board has determined that (name of institution) qualifies for religious exempt status from the Degree Authorization Act for the following programs: (List). Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the board at P.O. Box 43430, Olympia, WA 98504-3430."~~

~~(d) A religious institution which is granted a religious exemption is subject to biennial reporting, and maintenance of the conditions under which exemption is granted. Such institutions are prohibited from publicizing that they are accredited, unless they are accredited by an accrediting association recognized by the federal government.~~

~~(e) In the case of a religious institution that offers both religious and secular programs of instruction, the requirements of chapter 28B.85 RCW and this chapter shall pertain only to the secular programs of the institution.~~

~~((e) If the executive director has reasonable cause to believe that certain religious or theological programs offered by a religious institution are not represented in a materially accurate manner in the institution's catalog and other official publications, the executive director shall proceed according to the provisions of this chapter.~~

~~(5)) (f) The executive director shall suspend or revoke an institution's religious exemption if it is found that:~~

~~(i) Any statement contained in the application for exemption is untrue.~~

~~(ii) The institution has failed to maintain the conditions under which the exemption was granted.~~

~~(iii) Advertising or representations made on behalf of and sanctioned by the institution are deceptive or misleading.~~

~~(iv) The institution has violated any provision of the religious exemption regulations.~~

~~(v) Suspension or revocation shall be made only after the institution has been informed in writing of its deficiencies and has been given a reasonable time to regain compliance.~~

~~(7) Institutions not otherwise exempt which offer only workshops and seminars lasting no longer than three calendar days and for which academic credit is not awarded.~~

AMENDATORY SECTION (Amending WSR 93-01-103, filed 12/17/92, effective 1/17/93)

**WAC 250-61-070 Interagency agreement for degree-granting private vocational schools.** Degree-granting private vocational schools' (~~nondegree~~) programs shall be regulated pursuant to the terms of an interagency agreement between the higher education coordinating board and the work force training and education coordinating board. As stipulated in the interagency agreement, degree programs shall be regulated by the higher education coordinating board and nondegree programs shall be regulated by the work force training and education coordinating board. Copies of the agreement are available from either agency upon request.

AMENDATORY SECTION (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

**WAC 250-61-080 Authorization standards.** These standards form the basis for the review of an institution by the board staff and guide the decisions of the executive director and the board. To receive authorization, the institution shall meet (~~all of these standards~~) each of the following requirements for administration, academic programs, and instructional resource and support services in addition to the specific requirements of this chapter.

~~((1) Name: The official name of the institution shall be consistent with and appropriate to the program(s) of study offered.~~

~~(2) Purpose:~~

~~(a) The institution shall clearly define its purpose or mission in an official statement which describes its role in higher education.~~

~~(b) The statement of purpose shall be concise and reflect the official philosophy and practice of the institution.~~

~~(3) Administration and governance:~~

~~(a) The institution shall establish and maintain a responsible management strategy and structure for developing policy and oversight of the institution, consistent with its stated purposes.~~

~~(b) The institution shall have bylaws or policies defining a chain of authority and responsibility.~~

~~(c) The institution shall follow management practices and controls to maintain standards appropriate to its purpose.~~

~~(d) Administrators shall normally be graduates of recognized accredited institutions and possess academic and experiential qualifications for their area of responsibility. In unusual circumstances, comparable credentials and extensive work experience shall be considered in lieu of graduation from a recognized accredited institution.~~

~~(4) Educational programs and curricula:~~

~~(a) The educational program and curricula shall be related to the purpose of the institution and accurately described in all published materials which refer to such offerings.~~

~~(b) Admission, retention and degree requirements shall be based on the institution's objectives and consistently applied to each program of study.~~

~~(i) Admission to an undergraduate program of study by those under age 18 shall normally require a high school diploma or the equivalent.~~

~~(ii) Admission to a graduate program of study shall normally require a baccalaureate degree or the equivalent,~~

unless the institution can demonstrate, upon request from the board, that these are not the normally accepted practices in a particular field of study.

~~(iii) This subsection is not intended to prohibit early admissions and dual degree programs for which systematic procedures have been established and published in the institution's catalog.~~

~~(e) Undergraduate degree programs shall require, as a minimum, 20 percent of the program in general education curricula.~~

~~(d) Graduate degree programs shall provide for advanced levels of scholarship, research, and competence in the area of specialization.~~

~~(e) Doctoral degree programs shall provide a broad range of advanced course offerings, faculty in ancillary and supporting fields, access to adequate laboratory and research facilities and, a wide range of current reference materials in the subject field.~~

~~(f) Home study, correspondence, and electronic media program(s) of study must be comparable in content, faculty, and resources to those offered in residency.~~

~~(g) Each curriculum shall provide a sequence of appropriate courses leading to the attainment of competence and educational credentials in the respective area or field of study.~~

~~(5) Faculty:~~

~~(a) Faculty shall be professionally prepared, with background, degree levels, and experience demonstrably higher than the instructional activities for which they are responsible. As a minimum:~~

~~(i) Faculty teaching at the undergraduate degree level shall possess a master's degree or comparable credentials in their assigned program area, unless the institution can demonstrate that these are not the normally accepted practices in a particular field of study.~~

~~(ii) Faculty teaching at the graduate degree level shall possess a doctorate degree or comparable credentials and be experienced in directing independent study and research, unless the institution can demonstrate that these are not the normally accepted practices in a particular field of study.~~

~~(b) Faculty shall be sufficient in number and kind and in the proportion of full-time and part-time positions to sustain rigorous courses, programs, and services. As a minimum, 20 percent of the curriculum, defined in terms of the number of courses or credit hours necessary for program completion, shall be taught by full-time faculty, unless the institution can demonstrate that these are not the normally accepted practices of the institution given its mission and special characteristics.~~

~~(6) Student services:~~

~~(a) The institution shall provide student services that support institutional policies and assist students in achieving their educational objectives. As a minimum, the institution shall provide students with programs of counseling, testing, advisement, and orientation.~~

~~(b) The institution shall have an orderly system of admission which evaluates the prospective student's intellectual and personal qualifications in relation to the purposes and objectives of the institution.~~

~~(c) The institution shall maintain student records in a manner consistent with *A Guide to Adequate Permanent Records and Transcript* of the American Association of~~

Collegiate Registrars and Admission Officers, and right to privacy legislation shall be observed.

~~(7) Instructional resources.~~

~~(a) Instructional support personnel, facilities, equipment, and other learning resources shall be sufficient in size, number, and location to support courses, programs, and services.~~

~~(b) The institution's library shall be accessible and contain a collection of books, periodicals and other resource materials sufficient for the educational needs of students and faculty. If the institution does not maintain its own library, there shall be a written agreement with another institution or organization to provide for faculty and student access to a collection sufficient for the needs of the program(s) of study.~~

~~(c) The institution shall be operated in compliance with all applicable ordinances, laws, codes, and rules concerning the safety, health, and access of all persons on its premises.~~

~~(8) Finances.~~

~~(a) The resources of the institution shall be sufficient to adequately support its programs, activities, and personnel now and in the future.~~

~~(b) Financial management and fiscal practices shall be consistent with those set forth in the *College and University Business Administration*, third edition, or such later editions as published.~~

~~(9) Evaluation.~~

~~(a) Provision shall be made for the continual reassessment of the educational program and the evaluation and improvement of instruction.~~

~~(b) All areas of the institution and personnel shall be evaluated periodically to determine their effectiveness in fulfilling institutional objectives.~~

~~(10) Publications.~~

~~(a) All publications relating to the institution, including catalogs, advertisements, and other communications shall be accurate and not misleading.~~

~~(b) Authorized institutions shall provide in a conspicuous place in its catalogs disclosure statements regarding their institutional and specialized accreditation status.~~

~~(c) Authorized institutions shall not advertise or publicize that they are approved, recommended, accredited or endorsed in any way by the board.)~~

**AMENDATORY SECTION** (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

**WAC 250-61-090 ((Agency exemption)) Administrative requirements.** ((The executive director may suspend or modify the authorization requirements contained in this chapter for a particular institution if the executive director finds:

(1) That such suspension or modification will not frustrate the purposes of this chapter.

(2) That the educational services to be offered address a substantial, demonstrated need among residents of the state of Washington or that literal application of this chapter works a manifestly unreasonable hardship on the educational institution.

(3) An application for an agency exemption shall be submitted on a form developed by the executive director.))

**(1) Name.** The official name of the institution shall be

consistent with and appropriate to the program(s) of study offered.

**(2) Purpose.** The institution shall clearly define its purpose or mission in an official statement which describes its role in higher education. The statement shall reflect the practice of the institution.

**(3) Administration and governance.** The institution shall be governed by bylaws or policies defining a chain of authority and responsibility.

**(a) Administrators** shall normally be graduates of recognized accredited institutions and possess academic credentials and prior higher education administrative experience for their area of responsibility.

**(b) The main campus of the institution shall have, as a minimum, a chief executive officer, an academic officer, a registrar, a business officer, a student services officer, a library director, and, if financial aid services are offered, a financial aid officer.** These officers shall be accessible to students, faculty, and other personnel located at the main campus and at educational sites or centers in Washington.

**(i) The chief executive and academic officers shall possess at least the master's degree and experience in college-level management, teaching, and academic administration, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.**

**(ii) The registrar, business, and student services officers shall possess at least the baccalaureate degree and college-level experience in admissions/student records, accounting/managerial services, and student services respectively, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.**

**(iii) The financial aid officer and library director shall possess at least the baccalaureate degree and experience in their assigned areas, unless the institution can demonstrate that these are not the normally accepted standards for an institution offering the same level of instruction.**

**(c) The institution shall specify an individual who will serve as the principal contact person for each educational site or academic center in Washington. This institutional representative shall be responsible for instructional program coordination and student services.**

**(d) The institution shall have policies and provisions for the involvement of faculty in the academic affairs, curriculum development, and governance of the institution. The institution also shall have policies and provisions for faculty selection, orientation, teaching load, supervision, evaluation, and professional development.**

**AMENDATORY SECTION** (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

**WAC 250-61-100 ((Catalog)) Academic program requirements.** ((1) An institution shall publish a catalog supplemented as necessary by other published materials (a draft copy may be provided for initial application) which shall include at least the following information:

**(a) Official name, address, and telephone number of institution.**

**(b) Identifying data, such as volume number, date of publication, and year(s) for which the catalog is effective.**

PROPOSED

(e) A statement of purpose, objectives, and educational program of the institution.

(d) A listing of the names of all faculty, showing earned degrees and the institution conferring them; names of administrative officers, owner(s) and/or board.

(e) Specific programs of study, listing the degrees and majors offered, a brief description of each course offering, and the requirements for successful completion of each program.

(f) Admission, retention, and degree completion requirements.

(g) A detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, deposits, and all other student charges necessary for the completion of each program of study.

(h) Cancellation and refund policies.

(i) Policies and procedures relative to the granting of credit for experience, along with the maximum amount of credit which can be obtained in this manner.

(j) A statement of the institution's policy on acceptance of transfer credits and credit by examination.

(k) A statement explaining the transferability of the institution's credits to other institutions and the process by which a student may determine whether the institution's credits are transferable to another institution.

(l) Policies and procedures for the development of individualized courses and programs.

(m) A description of the types of financial aid assistance available to students enrolled in the institution.

(n) A description of the auxiliary services available to students enrolled in the institution.

(o) A description of the institution's facilities and equipment.

(p) A table of contents.

(q) An institutional calendar showing legal holidays, beginning and ending dates of each term, and other important dates.

(r) An authorization statement on the cover or front page of the catalog which reads: The (name of institution) is authorized by the Washington higher education coordinating board and meets the requirements and minimum educational standards established for degree-granting institutions under the Degree Authorization Act. Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the board office.

(2) An institutional catalog shall be published at least once every two years and be provided to students at the time of their enrollment.)) (1) Educational programs. Each program shall require the completion of a prescribed program of study leading to the attainment of competence in an interdisciplinary area or specific field of study. Programs shall generally meet the guidelines or standards of the accrediting association(s) to which the institution would apply for institutional or program accreditation.

(a) An associate degree shall require at least ninety quarter credits or sixty semester credits. An associate degree intended for occupational preparation shall require, as a minimum, general education requirements consistent with the standards established by the Washington state board for community and technical colleges. The general education requirements of all other associate degrees shall be consistent

with the current guidelines of the Washington inter-college relations commission.

(b) The following associate degree designations shall be acceptable:

(i) The associate in arts (A.A.), associate in sciences (A.S.) and associate in arts and sciences (A.A.S.) for programs which emphasize the liberal arts and sciences. These programs generally satisfy the general education requirements for a baccalaureate degree and are transfer oriented.

(ii) The associate in applied technology (A.A.T.), associate in technical arts (A.T.A.), associate in technology (A.T.) and other such applied or technology related degree designations for programs which emphasize preparation for occupations at the technical level. These programs generally do not satisfy the general education requirements for a baccalaureate degree and are not transfer oriented.

(c) The baccalaureate degree shall require at least one hundred eighty quarter credits, one hundred twenty semester credits, or four full academic years of postsecondary study. The degree shall require approximately two academic years of study in a distinct major and related subjects and, as a minimum, twenty-five percent of the program shall be in general education curricula.

(d) Master's degree programs shall require at least thirty-six quarter credits, twenty-four semester credits, or one full academic year of postgraduate study, specialization in an academic or professional area, and a demonstration of mastery.

(e) The following master's degree designations shall be acceptable:

(i) The master of arts (M.A.) and master of science (M.S.) for programs which advance study and exploration in the discipline. The majority of credit for M.A. and M.S. degrees shall be at the graduate level in the major field.

(ii) The master of business administration (M.B.A.), master of fine arts (M.F.A.), master of education (M.Ed.), etc., for programs which emphasize professional preparation. For students with disparate academic backgrounds, it may be appropriate to require a limited number of introductory courses in the field.

(f) Doctoral degree programs shall provide a broad range of advanced course offerings, faculty in ancillary and supporting fields, access to adequate laboratory and research facilities, and a wide range of current reference materials in the subject field. A doctoral degree shall require at least three full academic years of specialized postbaccalaureate study. To obtain a doctoral degree a student shall be required to demonstrate, through comprehensive examination, the ability to perform research at the level of the professional scholar or perform the work of a professional that involves the highest levels of knowledge and expertise.

(g) The following doctoral degree designations shall be acceptable:

(i) The doctor of philosophy (Ph.D.) degree for programs which are oriented toward original research and require a dissertation.

(ii) A professional doctoral degree (Ed.D., etc.) for programs which emphasize technical knowledge and professional competence and require either a research thesis or a project involving the solution of a substantial problem of professional interest.

(h) Home study, correspondence, and electronic media program(s) of study must be comparable in content, faculty, and resources to those offered in residency, and include regular student-faculty interaction by computer, telephone, mail, and face-to-face meetings.

(i) Undergraduate credit for noncollegiate learning may be awarded when validated through a portfolio or similar procedure. The institution shall maintain copies of examinations, portfolios, and evaluations used in this process. Noncollegiate learning credit shall constitute no more than twenty-five percent of an undergraduate degree program.

(j) No credit shall be awarded for noncollegiate learning at the graduate level.

(5) Faculty. Faculty shall be professionally prepared, with background, degree levels, and college-level teaching experience demonstrably higher than the instructional activities for which they are responsible. Faculty shall be graduates of accredited institutions and, as a group, the institutions from which they earned their degrees shall be diverse. The composition and qualifications of faculty shall generally meet the standards of the accrediting association(s) to which the institution would apply for institutional or program accreditation.

(a) Faculty teaching at the undergraduate degree level shall possess a master's degree in the assigned or related program area. Faculty assigned to teach in vocational-technical program areas shall possess educational credentials and experience compatible with their teaching assignment.

(b) Faculty teaching at the master's degree level in programs which emphasize advanced study and exploration in a discipline shall possess an earned doctorate in a related field and experience in directing independent study and research. Faculty teaching in master's programs which emphasize professional preparation shall possess, as a minimum, a master's degree and documented achievement in a related field.

(c) Faculty teaching at the doctoral level shall possess an earned doctorate in a related field and experience in teaching and directing independent study and research.

(d) Faculty shall be sufficient in number and kind and in the proportion of full-time and part-time positions to sustain rigorous courses, programs, and services. As a minimum, 20 percent of the curriculum, defined in terms of the number of courses or credit hours necessary for program completion, shall be taught by full-time faculty.

(6) Admissions. Admission requirements shall be based on the institution's objectives and consistently applied to each program of study. Through preenrollment assessments, testing and advising (based on the characteristics of the institution) the institution shall determine the readiness and ability of each student to succeed in his/her degree program. Institutions shall use only those tests reviewed and approved by the United States Department of Education.

High school graduation or the equivalent shall be required for freshman admission. A baccalaureate degree or the equivalent shall be required for admission into graduate programs. Special freshman admission may be granted, based on the applicant's general educational development.

(7) Enrollment contract. The institution shall discuss all terms and provisions of the enrollment contract with the student prior to the student's execution of the enrollment contract. The enrollment contract shall contain an acknowl-

edgement section directly above the student's signature blank for the student to acknowledge that the institution discussed all terms and provisions of the contract with the student and that the student understands all financial obligations and responsibilities.

(8) Evaluation. The institution shall provide provisions for continual evaluation of educational programs, improvement of instruction, and overall operations of the institution.

(a) Student, alumni, and employer evaluations of the effectiveness of the curricula shall be considered in these evaluations.

(b) All areas of the institution and its employees and authorized programs shall be evaluated periodically by the institution's chief academic officer or designee to determine their effectiveness in fulfilling institutional objectives and meeting the standards set forth in these regulations or implied in the statute. At a minimum, every four years the results of those evaluations shall be submitted to board staff.

AMENDATORY SECTION (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

WAC 250-61-110 ((~~Cancellation and refund~~)  
Instructional resources and support services requirements. ((1) Each institution shall publish its cancellation and refund policies in clear language that can be easily understood by prospective students. These policies apply to all terminations for any reason, by either party.

(2) The refund policy for resident institutions, as a minimum, shall comply with the following requirements:

(a) An applicant rejected by an institution shall be entitled to a refund of all money paid, less an application fee, not to exceed \$100.00. Said application fee is not refundable and may be retained by the institution in all calculations of refunds required elsewhere in this section.

(b) All money paid by a successful applicant shall be refunded to the applicant if requested in writing within six business days after signing an enrollment agreement or making initial payment, whichever comes later.

(c) If a successful applicant chooses to withdraw after the initial six day period but before the first day of instruction, the applicant shall be entitled to a refund of all money paid, less 10 percent of tuition and fee charges, for the current term.

(d) Starting on the first day of classes and continuing through the first calendar week, the tuition and fee charges retained by the institution shall not exceed 25 percent of the tuition and fees paid for the current term.

(e) Starting on the eighth calendar day and continuing through the fourteenth day, the tuition and fee charges retained by the institution shall not exceed 50 percent of the tuition and fees paid for the current term.

(f) Following completion of the first fourteen days, the institution may retain 100 percent of tuition and fees paid for the current term but shall refund any tuition and fees paid in advance for subsequent terms.

(g) The termination date for refund computation shall be the date on which the student initially requests cancellation or the date on which the institution withdraws a student.

(h) If a student, without written notice to the institution, fails to attend classes for 30 calendar days, the institution shall notify the student in writing that enrollment has been

~~terminated, effective the 30th calendar day, and shall refund tuition and fees according to its published refund policy.~~

~~(i) The institution shall provide an exact pro rata refund to the student for any arbitrary and unilateral change by the institution of scheduled times of instruction, reduction in length of instruction, reduction of course content, or other actions that reduce the ratio of instruction to course costs.~~

~~(j) All money due the applicant shall be refunded within 30 days after written notice of cancellation or termination.~~

~~(3) Correspondence and home study schools must comply with the refund and cancellation policy of the National Home Study Council accrediting association.)~~ (1) Student services. The institution shall provide adequate services for students in addition to formal instruction. These services normally shall include admissions, advising and guidance, financial assistance, student records, and job placement.

(a) Student records shall be maintained in accordance with the guidelines established by the United States Department of Education.

(b) Students with disabilities shall have access to and reasonable accommodations in all programs for which they are qualified consistent with the provisions of the Americans with Disabilities Act.

(c) Placement services and employment opportunities shall be accurately described.

(d) Financial aid administration and distribution shall be performed according to institutional, state, and federal policies.

(e) Advising and guidance services shall be readily available to students to assist them in program planning, course selection, and other academic activities.

(2) Facilities and academic support resources. The institution shall have space, facilities and equipment, instructional materials, and staff to support quality education and services.

(a) The institution shall comply with all applicable ordinances, laws, codes, and regulations concerning the safety, health, and access of all persons on its premises.

(b) The institution shall provide reasonable accommodations for students and employees with disabilities. The institution shall inform students and employees of local, state, and federal laws regarding discrimination against people with disabilities.

(3) Library. The institution shall provide accessible library resources and facilities to support the educational needs of students and faculty.

(a) If the institution, educational site, or academic center does not maintain its own library on site, it must demonstrate that it can provide sufficient library resources to meet the needs of the program(s) through a written agreement with another institution or organization, or through other mechanisms.

(b) The institution shall provide a biennial library operating budget which appropriates sufficient financial support to sustain library holdings, facilities, and services for the needs of the program(s) of study.

(4) Finances. The institution shall possess and maintain adequate financial resources necessary to sustain its purpose and commitment to students.

(a) The institution shall maintain financial records in conformity to generally accepted accounting principles.

(b) The institution shall be audited annually by an independent certified public accountant according to generally accepted auditing standards.

(5) Recruitment and publications. All publications relating to the institution, including advertisements, catalogs, and other communications shall be accurate and not misleading.

(a) The institution shall provide disclosure statements in its catalog regarding its authorization and accreditation status.

(b) Authorized institutions shall not advertise or publicize that they are approved, recommended, accredited, or otherwise endorsed by the board. Such institutions may only state that they are authorized by the board.

(6) Educational credentials. The institution shall provide accurate and appropriate transcripts of credit for enrolled students and diplomas for graduates.

(a) For each student, the institution shall maintain and make available a transcript that specifies the name of the institution, the name of the student, all courses completed, and an explanation of the institution's evaluation system. Each course entry shall include a title, the number of credits awarded, and a grade or written evaluation. The transcript shall distinguish credits awarded by transfer, for prior learning experience, correspondence, and credit by examination.

(b) The institution shall not be required to make copies of transcripts available unless all tuition and fees and other expenses owed by the student to the institution have been paid.

(c) In addition to transcripts, the institution shall maintain records to document the performance and progress of each student, including, but not limited to: Financial transactions, admissions records, and records of interruption for unsatisfactory progress or conduct. Transcripts, records, and accounts shall be kept permanently after a student has discontinued enrollment.

AMENDATORY SECTION (Amending WSR 93-01-103, filed 12/17/92, effective 1/17/93)

~~WAC 250-61-120 ((Surety bond requirement.))~~ Catalog requirements. ~~((1) The amount of the surety bond or other security acceptable to the executive director shall be ten percent of the preceding year's total tuition and fee charges received for educational services in Washington, but not less than twenty five thousand dollars nor more than two hundred fifty thousand dollars.~~

~~(2) In the case of new institutions, the bond or security amount for the first year shall be twenty five thousand dollars.~~

~~(3) Release of surety bonds and other securities shall be made in compliance with chapter 28B.85 RCW.)~~ (1) An institution shall publish a catalog supplemented as necessary by other published materials (a draft copy may be provided for initial application) which shall include at least the following information:

(a) Official name, address, and telephone number of institution.

(b) Identifying data, such as volume number, date of publication, and year(s) for which the catalog is effective.

(c) A statement of purpose, objectives, and educational program of the institution.

(d) A listing of the names of all faculty, showing earned degrees and the institution conferring them; names of administrative officers, owner(s) and/or board.

(e) Specific programs of study, listing the degrees and majors offered, a brief description of each course offering, and the requirements for successful completion of each program.

(f) Admission, retention, and degree completion requirements.

(g) A detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, deposits, and all other student charges necessary for the completion of each program of study.

(h) Cancellation and refund policies.

(i) Policies and procedures relative to the granting of credit for experience, along with the maximum amount of credit which can be obtained in this manner.

(j) A statement of the institution's policy on acceptance of transfer credits and credit by examination.

(k) A statement explaining the transferability of the institution's credits to other institutions and the process by which a student may determine whether the institution's credits are transferable to another institution.

(l) Policies and procedures for the development of individualized courses and programs.

(m) A description of the types of financial aid assistance available to students enrolled in the institution.

(n) A description of student support services and auxiliary services available to students enrolled in the institution.

(o) A description of the institution's library facilities, and equipment.

(p) A table of contents.

(q) An institutional calendar showing legal holidays, beginning and ending dates of each term, and other important dates.

(r) Policies outlining students' academic responsibilities, standards of academic progress, grading, grievance and appeal process, and reentrance after dismissal for unsatisfactory progress.

(s) Regulations of conduct and disciplinary procedures.

(t) Name, title, and address/office location of personnel responsible for handling student complaints.

(u) An authorization statement on the cover or front page of the catalog which reads: The (name of institution) is authorized by the Washington higher education coordinating board and meets the requirements and minimum educational standards established for degree-granting institutions under the Degree Authorization Act. This authorization is valid until (expiration date) and authorizes (name of institution) to offer the following degree programs: (List). Any person desiring information about the requirements of the act or the applicability of those requirements to the institution may contact the board office at P.O. Box 43430, Olympia, WA 98504-3430.

(2) An institutional catalog and other official publications shall not include accreditation statements unless the institution is accredited by an association recognized by the federal government.

(3) An institutional catalog shall be published at least once every two years and be provided to students at the time of their enrollment.

AMENDATORY SECTION (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

WAC 250-61-130 ((~~Closure~~) Cancellation and refund requirements. ((~~1~~) In the event an institution proposes to discontinue its operation, the chief administrative officer of the institution shall:

(a) Notify the executive director immediately by certified mail.

(b) Furnish enrolled students with a written notice explaining the reasons for closure and what procedures they are to follow to secure refunds and their official records.

(2) In the event it appears to the executive director that the official records of an institution discontinuing its operation are in danger of being destroyed, secreted, mislead, or otherwise made unavailable to the students and the board, the executive director may seek a court order to take possession of the records and provide for their permanent maintenance.) (1) Each institution shall publish its cancellation and refund policies in clear language that can be easily understood by prospective students. No student shall be enrolled without having received the explanatory materials. These policies shall apply to all terminations for any reason, by either party.

(2) The refund policy for nonaccredited institutions shall comply with the federal guidelines established by the United States Department of Education.

(3) The refund policy for accredited institutions shall comply with the federal guidelines established by the United States Department of Education and the standards established by the institution's accrediting association.

AMENDATORY SECTION (Amending WSR 93-01-103, filed 12/17/92, effective 1/17/93)

WAC 250-61-140 ((~~Application requirements~~.) Surety bond requirement. ((~~1~~) Initial application requirements:

(a) No institution is eligible to apply for authorization if the institution is based outside of Washington and is not authorized to do business in the state in which it is primarily located.

(b) At least six months prior to operation, an institution shall apply to the board for authorization by completing application forms provided by the executive director. As a minimum, the application must include:

(i) Name and address of institution.

(ii) Purpose of institution.

(iii) Names and addresses of the owner(s) of the institution and shareholders holding more than a ten percent interest, and, if applicable, members of the institution's board.

(iv) Name and address of the chief administrative officer and representatives of the institution in Washington.

(v) Bylaws and regulations established for the governance and operation of the institution.

(vi) Bank or other financial institution that may be consulted as a financial reference.

(vii) Qualifications of administrators and faculty.

~~(viii) A description of the degrees and programs of study offered.~~

~~(ix) A description of the facilities and equipment utilized.~~

~~(x) A signed written statement from the chief administrative officer attesting to the truth and accuracy of the information provided and pledging that the institution will comply with the requirements of the act and this chapter.~~

~~(c) Each application shall be accompanied by the following:~~

~~(i) An initial application fee payable to the Washington state treasurer for two thousand dollars.~~

~~(ii) A surety bond or other form of security as specified in chapter 28B.85 RCW and this chapter.~~

~~(iii) An audited financial statement consistent with the general accounting principles established by the *College and University Business Administration*, third edition, or such later editions as published.~~

~~(iv) A copy of enrollment agreements or student contracts utilized by the institution.~~

~~(v) A copy of the institution's articles of incorporation on record with the Washington state office of the secretary of state.~~

~~(vi) A copy of the institution's catalog.~~

~~(vii) Documentation verifying the institution's accreditation status and authorization status in primary location.~~

~~(viii) Documentation that fire, safety, and health codes are met by the institutional facility.~~

~~(d) If additional program(s) of study are proposed during the current authorization year, the institution must submit to the board a supplemental application at least sixty days before the program is to be offered. The program(s) of study shall be authorized prior to operation, which includes advertising and recruitment.~~

~~(2) Biennial renewal application for authorization.~~

~~(a) At least three months prior to the expiration date of the institution's current authorization, the institution shall:~~

~~(i) Submit a renewal application fee payable to the Washington state treasurer for one thousand dollars.~~

~~(ii) Provide evidence of continued compliance with the surety bond or security requirement.~~

~~(iii) Submit an audited financial statement consistent with the general accounting principles established by the *College and University Business Administration*, third edition, or such later editions as published.~~

~~(iv) File a renewal application on a form developed by the executive director, together with a signed, written statement from the chief administrative officer, attesting to the truth and accuracy of the information provided in the renewal application and pledging continued compliance with all the requirements of the act and this chapter.~~

~~(b) A change of ownership or control of an institution shall nullify any previous authorization, and the chief administrator, representing the new owner(s) shall comply with all the application requirements applicable to the initial application for authorization outlined in this section. If the chief administrator furnishes a written statement asserting that all conditions set forth in the act and these rules are being met or will be met before offering instruction, the executive director may issue a temporary certificate of authorization for a maximum of sixty days.) (1) The amount of the surety bond or other security shall be ten percent of~~

the preceding year's total tuition and fee charges received for educational services in Washington, but not less than twenty-five thousand dollars nor more than two hundred fifty thousand dollars.

(2) In the case of new institutions, the bond or security amount for the first year shall be twenty-five thousand dollars.

(3) Release of surety bonds and other securities shall be made in compliance with chapter 28B.85 RCW.

AMENDATORY SECTION (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

WAC 250-61-150 ((Application review procedures.))

Tuition recovery trust fund account requirement. ((+) Staff analysis. Following receipt of the application, board staff shall review and analyze the application and documentation submitted.

(2) Site visit and additional documentation. In the case of an application where the board staff determines it is necessary to verify or supplement the information provided in the application, the staff may require additional written documentation and arrange for a site visit.

(3) Outside consultants. The executive director and the executive director's designee, at their discretion, may utilize the expertise of other higher education experts to assist in a site visit and in the evaluation of the documentation submitted.

(4) Staff report. Following the staff analysis, board staff shall summarize its findings and develop a recommendation to the executive director regarding the application. This recommendation shall be shared with the applicant as follows:

(a) That the institution be granted authorization, subject to annual reporting and maintenance of the conditions under which authorization has been granted; or

(b) That the institution be denied authorization.

(5) Authorization notification. Following the executive director's decision to authorize or deny the institution's request, a letter signifying the action shall be sent from the executive director to the chief administrative officer of the institution. The letter of authorization will serve as official authorization for the institution to operate in Washington and offer the stated program(s) of study at stated location(s).

(6) An institution denied authorization shall file a new application in order to be given reconsideration for authorization.) (1) Purpose. The board shall require any degree-granting private vocational school subject to this chapter to make cash deposits into the board's account in the tuition recovery trust fund. Deposits collected are payable to the state for the benefit and protection of any enrollee of a degree-granting private vocational school's degree program authorized under this chapter, or in the case of a minor, his or her parent or guardian for purposes including but not limited to the settlement of claims related to school closures and complaints filed under RCW 28B.85.090(1).

(2) Establishment of account liability limits. The amount of liability that can be satisfied by this account on behalf of each degree-granting private vocational school shall be based on the following scale.

TOTAL ANNUAL TUITION INCOME

FROM DEGREE PROGRAMS:	LIABILITY LIMIT:
\$0.00 to \$100,000	\$10,000
\$100,001 to \$250,000	\$25,000
\$250,001 to \$500,000	\$50,000
\$500,001 to \$1,000,000	\$100,000
\$1,000,001 to \$3,000,000	\$300,000
\$3,000,001 to \$5,000,000	\$500,000
\$5,000,001 to \$7,500,000	\$750,000
\$7,500,001 to \$10,000,000	\$1,000,000
\$10,000,001 to \$15,000,000	\$1,500,000
Over \$15,000,000	10% OF GROSS

(a) The calculation of total annual tuition for a school based outside of Washington shall include only that income derived from residents of this state during the school's preceding fiscal year of operation.

(b) Institutions not yet in operation shall have a liability limit calculated on the basis of projected income derived from residents of this state during the school's initial fiscal year of operation.

(c) No liability established shall be less than ten thousand dollars.

(3) Initial capitalization requirement. The initial capitalization requirement is one hundred twenty-five thousand dollars, calculated in accordance with each degree-granting private vocational school's proportionate share of the account's liability.

(4) Matrices for calculating initial deposits and assessments.

LEVEL OF LIABILITY:	PRO-RATA PARTICIPATORY SHARES FOR FIVE YEARS:
\$10,000	0.31%
\$25,000	0.77%
\$50,000	1.52%
\$100,000	3.10%
\$300,000	9.29%
\$500,000	13.40%
\$750,000	23.22%
\$1,000,000	23.64%
\$1,500,000	46.44%
Over \$1,500,000	DETERMINED BY LIABILITY LEVEL

(5) Initial deposit. Each degree-granting private vocational school applying for authorization shall submit to the board in cash, or by check or money order, the following amounts for deposit in the tuition recovery trust fund account, those being calculated by application of the matrix displayed under subsection (4) of this section.

LEVEL OF LIABILITY:	INITIAL DEPOSIT:
\$10,000	\$388
\$25,000	\$968
\$50,000	\$1,900
\$100,000	\$3,875
\$300,000	\$11,776
\$500,000	\$16,750
\$750,000	\$29,025
\$1,000,000	\$29,550
\$1,500,000	\$58,000
Over \$1,500,000	DETERMINED BY LIABILITY LEVEL

(6) Five-year contribution schedule. Commencing six months after the due date of its initial deposit and thereafter, each school shall remit to the board for deposit into the tuition recovery trust fund account semiannual payments in accordance with the following schedule to an amount totaling five hundred thousand dollars. The calculation of the final payment may be adjusted to cover total remittances to equal the total amount of deposit due.

LEVEL OF LIABILITY:	FIVE-YEAR SEMIANNUAL PAYMENT:
\$10,000	\$116
\$25,000	\$289
\$50,000	\$570
\$100,000	\$1,163
\$300,000	\$3,484
\$500,000	\$5,025
\$750,000	\$8,707
\$1,000,000	\$8,865
\$1,500,000	\$17,415
Over \$1,500,000	DETERMINED BY LIABILITY LEVEL

(7) Within thirty days after disbursements made to settle claims reduce the operating balance below one hundred twenty-five thousand dollars until June 30, 2000, or below five hundred thousand dollars thereafter, the board shall assess each school a pro rata share of an amount required to restore the deficiency created by such disbursements. In making calculations of each respective share the board shall employ the same percentages of liability established under subsection (4) of this section. In the event that the amount of any single such assessment equals or is less than the semiannual amount of deposit required, the assessment shall be paid within thirty calendar days of notice. In the event that any single assessment exceeds the amount of its semiannual deposit required, the school may apply to the board for a schedule of deferred payments, not to exceed one year beyond the date of an assessment.

(8) When the aggregated deposits total five hundred thousand dollars and the history of disbursements justifies such modifications, the executive director or designee may reduce the schedule of deposits.

(9) Funds disbursed to settle claims against an authorized degree-granting private vocational school shall be recovered by the board under a negotiated schedule, not to exceed one year beyond the date of the initial demand notice.

(10) Any award due to claimants with an outstanding balance on federal student loans under Title IV of the Higher Education Act will be disbursed by the board to the particular federal financial aid program in accordance with federal law.

AMENDATORY SECTION (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

WAC 250-61-160 ((Revocation of authorization.)) Closure requirements. (((1) The executive director may revoke an institution's authorization if it finds that:

(a) Any statement contained in the application for authorization is untrue.

PROPOSED

~~(b) The institution has failed to maintain faculty, facilities, equipment, and programs of study on the basis of which the authorization was granted.~~

~~(c) Advertising or representations made on behalf of and sanctioned by the institution is deceptive or misleading.~~

~~(d) The institution has violated any provision of this chapter.~~

~~(2) The executive director's and board's actions are subject to due process hearing procedures of the Washington Administrative Procedure Act.)) (1) In the event an institution proposes to discontinue its operation, the chief administrative officer of the institution shall:~~

~~(a) Notify the executive director immediately by certified mail.~~

~~(b) Furnish enrolled students with a written notice explaining the reasons for closure and what procedures they are to follow to secure refunds and their official records, and what arrangements have been made for providing continuing instruction at other institutions.~~

~~(2) Provide for the permanent maintenance of official records acceptable to the executive director.~~

~~(3) In the event it appears to the executive director that the official records of an institution discontinuing its operation are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the students and the board, the executive director may seek a court order to take possession of the records and provide for their permanent maintenance.~~

AMENDATORY SECTION (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

WAC 250-61-170 ((Complaints-)) Application requirements. (((1) Upon written receipt of a complaint that an institution has failed or is failing to comply with the provisions of the act or this chapter, the executive director shall notify the institution by mail of the nature of the complaint and shall conduct an investigation.

~~(2) If preliminary findings indicate that a violation(s) may have occurred or are occurring, the executive director shall attempt, through mediation and conciliation, to effect compliance and bring about a settlement.~~

~~(3) If no agreement is reached, the executive director shall file a formal complaint with the board and notify the institution of the conduct which warrants the complaint. Final resolution of the complaint shall be subject to hearing procedures provided for in this chapter and the institution may be subject to a summary suspension of its authorization, pending further proceedings for revocation, suspension or other actions deemed proper after the hearing.)) (1) Initial application requirements:~~

~~(a) To apply for authorization an institution based outside of Washington shall be authorized to do business in the state in which it is primarily located, and shall furnish evidence that the institution is in good standing with its accrediting association and that the association has either approved or been notified of the proposed Washington operation(s). An institution based in Washington shall also furnish evidence that it is in good standing with its accrediting association.~~

~~(b) Institutions seeking initial authorization shall contact the board staff and arrange for a preliminary conference to~~

discuss the authorization standards and application/review procedures.

(c) At least one year prior to operation, an institution shall apply to the board for authorization by completing application forms provided by the executive director.

(d) Within six months of the effective date of these regulations, degree-granting private vocational schools exempted under the previous regulations shall apply to the board for authorization by completing an application form and making their proportional initial capitalization contribution into the board's tuition recovery trust fund account at the time of application.

(e) As a minimum, the application shall include:

(i) Name and address of institution.

(ii) Purpose of institution.

(iii) Names and addresses of the owner(s) of the institution and shareholders holding more than a ten percent interest, and, if applicable, members of the institution's board.

(iv) Name and address of the chief administrative officer and representatives of the institution in Washington.

(v) Bylaws and regulations established for the governance and operation of the institution.

(vi) Bank or other financial institution that may be consulted as a financial reference.

(vii) Resumes for administrators and faculty and their respective duties, course assignments, and full-time/part-time employment status.

(viii) A description of the degrees and programs of study offered, including course syllabi as requested that specify course title and description, required text(s) sequence of instruction, instructional methodology, method of evaluation, and expected student learning outcomes.

(ix) A description of the facilities and equipment utilized.

(x) A signed written statement from the chief administrative officer attesting to the truth and accuracy of the information provided and pledging that the institution will comply with the requirements of the act and this chapter.

(xi) Projected enrollments.

(f) Each application shall be accompanied by the following:

(i) An initial application fee payable to the Washington state treasurer for two thousand dollars.

(ii) A surety bond or other form of security as specified in chapter 28B.85 RCW and this chapter.

(iii) A financial statement, prepared by an independent certified public accountant, conforming to Generally Accepted Accounting Principles, and a two-year budget for the proposed Washington operation.

(iv) A copy of enrollment agreements or student contracts utilized by the institution.

(v) A copy of the institution's articles of incorporation on record with the Washington state office of the secretary of state.

(vi) A copy of the institution's catalog.

(vii) Documentation verifying the institution's accreditation status and authorization status in primary location.

(viii) Documentation that fire, safety, and health codes are met by the institutional facility in Washington.

(g) If additional program(s) of study or new locations for existing programs are proposed during the current

authorization period, the institution shall submit to the board a supplemental application at least ninety days before the program is to be offered. The program(s) of study and location(s) shall be authorized prior to operation, which includes advertising and recruitment.

(2) Biennial renewal application for authorization.

(a) At least six months prior to the expiration date of the institution's current authorization, an institution based outside of Washington shall provide evidence that it continues to be authorized to do business in the state in which it is primarily located and it continues to be in good standing with its accrediting association and that association continues to approve the Washington operation(s). An institution based in Washington shall also furnish evidence that it continues to be in good standing with its accrediting association. Additionally, such institutions shall:

(i) Submit a renewal application fee payable to the Washington state treasurer for one thousand dollars.

(ii) Provide evidence of continued compliance with the surety bond or security requirement.

(iii) Submit financial statement, prepared by an independent certified public accountant, conforming to Generally Accepted Accounting Principles, and a two-year budget for the continuing Washington operation.

(iv) File a renewal application on a form developed by the executive director, together with a signed, written statement from the chief administrative officer, attesting to the truth and accuracy of the information provided in the renewal application and pledging continued compliance with all the requirements of the act and this chapter.

(b) A change of ownership or control of an institution shall nullify any previous authorization, and the chief administrator, representing the new owner(s) shall comply with all the application requirements applicable to the initial application for authorization outlined in this section. If the chief administrator furnishes a written statement asserting that all conditions set forth in the act and these rules are being met or will be met before offering instruction, the executive director may issue a temporary certificate of authorization for a maximum of ninety days.

AMENDATORY SECTION (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

WAC 250-61-180 ((~~Appeal~~)) Application review procedures. ((Any dispute arising from the following actions shall require a hearing pursuant to this chapter:

(1) A denial of an exemption.

(2) A denial of authorization.

(3) A cease and desist order issued under the provisions of chapter 28B.85 RCW.

(4) Any action taken by the executive director which is alleged to adversely affect an institution or a student and which is allegedly not in keeping with the intent and purpose of the act or this chapter.)) (1) Staff analysis. Following receipt of a complete application, board staff shall review and analyze the application and documentation submitted.

(2) Site visit and additional documentation. In the case of an application where the board staff determines it is necessary to verify or supplement the information provided in the application, the staff may require additional written documentation and arrange for a site visit.

(3) Outside consultants. The executive director and the executive director's designee, at their discretion, may utilize the expertise of other higher education experts to assist in the evaluation of the documentation submitted. The institution applying for authorization shall reimburse a maximum of three outside consultants five hundred dollars each for their external reviews.

(4) Staff report. Following the staff analysis, board staff shall summarize its findings and develop a recommendation to the executive director regarding the application. This recommendation shall be shared with the applicant as follows:

(a) That the institution be granted authorization, subject to biennial reporting and maintenance of the conditions under which authorization has been granted.

(b) That the institution be granted conditional authorization, subject to annual reporting and maintenance of the conditions under which authorization has been granted.

(c) That the institution be denied authorization.

(5) Notification. Following the executive director's decision to authorize or deny the institution's request, a letter signifying the action shall be sent from the executive director to the chief administrative officer of the institution. The letter of authorization will serve as official authorization for the institution to operate in Washington and offer the stated program(s) of study at stated location(s).

(6) An institution denied authorization shall file a new application and pay a one thousand dollar reapplication fee in order to be given reconsideration for authorization.

AMENDATORY SECTION (Amending Order 7/86, Resolution No. 87-34, filed 11/20/86)

WAC 250-61-190 ((~~Hearings~~)) Complaints. ((Any hearing called for under the act shall be conducted in the following manner:

(1) The executive director or a designated hearing officer shall conduct a hearing and make findings and conclusions in accordance with the Administrative Procedure Act, chapter 34.04 RCW. The findings, conclusions, and any recommendations for action shall be submitted to the board for final action pursuant to RCW 34.04.110.

(2) The board may accept or reject, in whole or in part, any recommendations made by the hearing officer, may remand for further findings and/or take any other action the board deems appropriate under the circumstances, pursuant to the provisions of the act and this chapter.)) A student with a complaint against an authorized institution shall make a reasonable effort to resolve the complaint directly with the institution. If a mutually satisfactory solution cannot be reached, the following procedure shall be pursued:

(1) Upon written receipt of a complaint that an institution has failed or is failing to comply with the provisions of the act or this chapter, and documentation that a reasonable effort was made to resolve the complaint directly with the institution, the executive director shall notify the institution by mail of the nature of the complaint and shall conduct an investigation.

(2) If preliminary findings indicate that a violation(s) may have occurred or are occurring, the executive director shall attempt, through mediation and conciliation, to effect compliance and bring about a settlement.

(3) If no agreement is reached, the executive director shall file a formal complaint with the board and notify the institution of the conduct which warrants the complaint. Final resolution of the complaint shall be subject to hearing procedures provided for in this chapter and the institution may be subject to a summary suspension of its authorization, pending further proceedings for revocation, suspension or other actions deemed proper after the hearing.

(4) To be considered by the board, a complaint shall be filed within one year after the student's last recorded date of attendance.

#### NEW SECTION

**WAC 250-61-200 Suspension and revocation of authorization.** (1) The executive director may suspend or revoke an institution's authorization if it finds that:

(a) Any statement contained in the application for authorization is untrue.

(b) The institution has failed to maintain faculty, facilities, equipment, and programs of study on the basis of which the authorization was granted.

(c) Advertising or representations made on behalf of and sanctioned by the institution is deceptive or misleading.

(d) The institution has violated any provision of this chapter.

(2) Suspension or revocation shall be made only after the institution has been informed in writing of its deficiencies and has been given reasonable time to restore itself to the level of the required standards.

(3) The executive director's and board's actions are subject to due process hearing procedures of the Washington Administrative Procedure Act.

#### NEW SECTION

**WAC 250-61-210 Appeal.** Any dispute arising from the following actions shall require a hearing pursuant to this chapter:

(1) A denial of exemption.

(2) A denial of authorization.

(3) A cease and desist order issued under the provisions of chapter 28B.85 RCW.

(4) Any action taken by the executive director which is alleged to adversely affect an institution or a student and which is allegedly not in keeping with the intent and purpose of the act or this chapter.

#### NEW SECTION

**WAC 250-61-220 Hearings.** Any hearing called for under the act shall be conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW.

(1) The presiding officer, who shall be the executive director or the hearing officer designated by the executive director, shall conduct the hearing under the provisions of chapter 34.05 RCW and shall enter an initial order under RCW 34.05.461 (2) through (9).

(2) The board shall review the initial order under RCW 34.05.464 and either enter a final order or remand the matter for further proceedings under RCW 34.05.464(7).

(3) If the challenged agency action is upheld, the party that initiated the hearing process shall pay the costs of the administrative hearing within sixty days following final disposition of the matter.

(4) Any further review of final action must be taken in accordance with RCW 34.05.510 et seq.

**WSR 94-17-168  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Filed August 24, 1994, 9:39 a.m.]

Original Notice.

Title of Rule: Seattle shoreline master program.

Purpose: Amending WAC 173-19-2521.

Statutory Authority for Adoption: Chapter 90.58 RCW.

Statute Being Implemented: Chapter 90.58 RCW.

Summary: Amends the existing Seattle shoreline master program to allow limited nonwater-dependent commercial use of historic vessels moored in the urban maritime shoreline environment.

Reasons Supporting Proposal: This amendment was requested by the city of Seattle.

Name of Agency Personnel Responsible for Drafting: Wayne Turnberg, NWRO, Ecology, 3190 160th Avenue S.E., Bellevue, WA, (206) 649-7030; Implementation and Enforcement: Jay A. Shepard, HQ, Ecology, 300 Desmond Drive, Lacey, WA, (206) 407-7280.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment will revise the Seattle shoreline master program 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.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Chapter 19.85 RCW, the Regulatory Fairness Act, requires mitigating action and filing of a small business economic impact statement when rule adoption will have an economic impact on more than twenty percent of all industries or more than ten percent of any one industry. This amendment proposed by the city of Seattle does not meet the criteria requiring the preparation of a small business economic impact statement.

Hearing Location: City Council Chambers, Seattle Municipal Building, 600 4th Avenue, 11th Floor, Seattle, WA, on September 29, 1994, at 6:30 p.m.

Assistance for Persons with Disabilities: Contact Kris Jessett by September 22, 1994, TDD (206) 649-4259, or (206) 649-7011.

Submit Written Comments to: Wayne Turnberg, FAX (206) 649-7098, by October 6, 1994.

Date of Intended Adoption: October 14, 1994.

August 23, 1994

Mary Riveland

Director

**AMENDATORY SECTION** (Amending WSR 93-12-011, filed 5/20/93, effective 6/20/93)

**WAC 173-19-2521 Seattle, city of.** City of Seattle master program approved June 30, 1976. Revision approved March 11, 1977. Revision approved September 10, 1980. Revision approved February 24, 1981. Revision approved May 14, 1981. Revision approved October 1, 1981. Revision approved January 5, 1982. Revision approved February 24, 1983. Revision approved June 7, 1983. Revision approved July 12, 1983. Revision approved October 13, 1983. Revision approved October 1, 1985. Revision approved October 20, 1986. Revision approved February 11, 1987. Revision approved November 10, 1987. Revision approved October 2, 1990. Revision approved September 16, 1992. Revision approved February 2, 1993. Revision approved May 18, 1993. Revision approved October 14, 1994.

**WSR 94-17-169**

**PROPOSED RULES**

**OFFICE OF MARINE SAFETY**

[Filed August 24, 1994, 10:22 a.m.]

Original Notice.

Title of Rule: Chapter 317-21 WAC, Oil spill prevention plans.

Purpose: The proposed rules will establish best achievable protection standards for approval of tank vessel oil spill prevention plans required under RCW 88.46.040.

Other Identifying Information: These rules replace chapter 317-20 WAC, Oil spill prevention plans.

Statutory Authority for Adoption: RCW 43.12I.030 and 88.46.040.

Statute Being Implemented: RCW 88.46.040.

Summary: The proposed rules establish operational, personnel, management, and technological standards for approving tanker and tank barge oil spill prevention plans. The rules are effective one hundred eighty days after the filing date of the order of adoption.

Reasons Supporting Proposal: The rules are necessary to approve prevention plans as providing the best achievable protection of Washington waters required under RCW 88.46.040.

Name of Agency Personnel Responsible for Drafting: Stan Norman, Olympia, 664-9110; Implementation: Bruce Sutherland, Olympia, 664-9110; and Enforcement: Nina Carter, Olympia, 664-9110.

Name of Proponent: Office of Marine Safety, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Tank vessel owners or operators must amend existing plans or submit new plans to comply with these rules six months after adoption.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule is the third phase of a three-phase process to establish an oil spill prevention program for tank vessels to provide the best achievable protection of Washington waters. Tank vessel owners and operators must submit prevention plans which will be reviewed under the standards established by this rule. The rules require a prevention plan to describe policies, procedures, and practices that meet best achievable protection standards for vessel operation, personnel training and performance, shore-based management, and technology employed on covered vessels.

Proposal Changes the Following Existing Rules: The proposed rules repeal chapter 317-20 WAC, Oil spill prevention plans adopted March 4, 1993, and effective April 5, 1993.

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: Stan Norman, Office of Marine Safety, P.O. Box 42407, Olympia, WA 98504-2407, phone (206) 664-9110, or FAX (206) 664-9127.

Hearing Location: On October 18, 1994, at 7 p.m., at the Clark Public Utilities Operation Center, 8600 N.E. 117th Avenue, Vancouver, WA; and on October 20, 1994, at 7 p.m., at the SeaTac Airport, Theater Room (behind Mark Air Ticket Counter), Seattle, Washington.

Assistance for Persons with Disabilities: Contact Michelle Nicholls by October 17, 1994, (206) 664-9110.

Submit Written Comments to: Stan Norman, Office of Marine Safety, P.O. Box 42407, Olympia, WA 98504-2407, FAX (206) 664-9127, by October 21, 1994.

Date of Intended Adoption: November 14, 1994.

August 23, 1994

Barbara Herman

Director

**Reviser's note:** The material contained in this filing will appear in the 94-18 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 94-17-170**

**PROPOSED RULES**

**BOARD OF BOILER RULES**

[Filed August 24, 1994, 9:50 a.m.]

Original Notice.

Title of Rule: Chapter 296-104 WAC.

Purpose: To comply with actions taken by the Board of Boiler Rules.

Statutory Authority for Adoption: RCW 70.79.040.

Statute Being Implemented: Rules and regulations—Scope.

Summary: WAC 296-104-010 Definitions, alphabetizes, adds new definitions, deletes those defined elsewhere and amends wording for conformance to national codes and standards; WAC 296-104-050 Administration—Examination for inspector, deletes unnecessary wording and adds requirement for state examination; WAC 296-104-060 Commissions as inspectors, allows owner/user inspection agencies to

request state commission; WAC 296-104-065 Administration—Reciprocal commissions, authorizes owner/user companies to request commission and recognizes API certification; WAC 296-104-102 Inspection—Standards for inservice inspection, new WAC defines recognized national standards and codes and scope of inspection; WAC 296-104-100 Inspection—Frequency of inspections, adds ability of owner/user inspection agencies to extend internal inspection frequency of unfired pressure vessels in accordance with NBIC or API-510 standards; WAC 296-104-411 Existing installations—Nonnuclear repairs and alterations to boilers and pressure vessels, new WAC defines authorized repair and alteration organizations, limitations and code to be followed; and the following WACs deleted, now covered in new WAC 296-104-401: WAC 296-104-500 Nonnuclear repairs, 296-104-501 Nonnuclear alterations and 296-104-505 Repairs by fusion welding.

Reasons Supporting Proposal: To comply with actions taken by the Board of Boiler Rules and requests from western states petroleum industry.

Name of Agency Personnel Responsible for Drafting: Dick Barkdoll, 7273 Linderson Way S.W., Tumwater, (206) 956-5270.

Name of Proponent: Board of Boiler Rules, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 296-104-010 Definitions, alphabetized, adds new definitions, deletes those defined elsewhere and amends wording for conformance to national codes and standards; WAC 296-104-050 Administration—Examination for inspector, deletes unnecessary wording and adds the requirement of a written exam on state laws in chapter 70.79 RCW and 296-104 WAC. Clarification of state requirement; WAC 296-104-060 Commissions as inspectors, adds owner/user inspection agencies to those entities who can request a state commission to inspect unfired pressure vessels. Recognizes API-510 certified inspectors; WAC 296-104-065 Administration—Reciprocal commissions, authorizes API-510 owner/user companies to request commission and recognizes API certification. Extends commission parameters; WAC 296-104-102 Inspection—Standards for inservice inspection, new, defines recognized national standards and codes and scope of inspection. Clarification; WAC 296-104-100 Inspection—Frequency of inspections, adds ability of owner/user inspection agencies to extend internal inspection frequency of unfired pressure vessels in accordance with NBIC or API-510 standards. Effect would be time and cost savings to owner/user companies without jeopardizing safety; WAC 296-104-411 Existing installations—Nonnuclear repairs and alterations to boilers and pressure vessels, new, defines authorized repair and alteration organizations, limitations of owner/user inspectors and codes to be followed. Replaces WAC 296-104-500, 296-104-501, and 296-104-505.

Proposal Changes the Following Existing Rules: See summary and Explanation of Rule above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Board of Boiler Rules and the department have considered whether these rules are subject to the Regulatory Fairness Act and

have determined that they are not for the following reasons: The changes made in the above rules are for clarification to existing rules and addition or deletion to chapter 296-104 WAC for the purpose of clarification and to be consistent with national codes and standards. There is no financial impact on businesses to be considered.

Hearing Location: Labor and Industries, 616 120th Avenue N.E., Suite "C"-201, Bellevue, WA 98005, on September 28, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Dick Barkdoll by September 27, 1994.

Submit Written Comments to: Dick Barkdoll, Labor and Industries, Boiler Section, P.O. Box 44410, Olympia, WA 98504-4410, FAX (206) 956-5292.

Date of Intended Adoption: September 28, 1994.

August 5, 1994

Robert Reid

Chairman

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-104-500	Nonnuclear repairs.
WAC 296-104-501	Nonnucleaerations.
WAC 296-104-505	Repairs—Repairs by fusion welding.

AMENDATORY SECTION (Amending WSR 93-12-014, filed 5/21/93, effective 6/21/93)

**WAC 296-104-010 Definitions.** ~~((1) "Director" shall mean the director of the department of labor and industries.~~

~~(2) "Board of boiler rules" shall mean the board created by law and empowered to make, alter, amend, and interpret rules and regulations for the safe and proper construction, installation, repair, and use of boilers and for the proper construction, installation, and repair of unfired pressure vessels in this state.~~

~~(3) "Chief inspector" shall mean the chief boiler inspector appointed under RCW 70.79.100.~~

~~(4) "Deputy inspector" shall mean a deputy inspector of boilers and unfired pressure vessels appointed by the chief boiler inspector of Washington under the provisions of RCW 70.79.120.~~

~~(5) "Special inspector" shall mean an inspector holding a Washington commission, who is regularly employed by an insurance company authorized to insure against loss from explosion of boilers and unfired pressure vessels in this state, or who is continuously employed by any company operating unfired pressure vessels in this state for the purpose of making inspections of unfired pressure vessels used or to be used by such company.~~

~~(6) "Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.~~

~~(7) "Certificate of competency" shall mean a certificate issued to a person who has passed an examination prescribed by the board of boiler rules.~~

~~(8) "Department" as used herein shall mean the department of labor and industries of the state of Washington.~~

(9) "Owner" or "user" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

(10) "ASME Code" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with amendments and interpretations thereto made and approved by the council of the society which have been regularly adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

(11) "Existing installations" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

(12) "Approved" shall mean approved by the chief boiler inspector as evidenced by his issuance of an inspection certificate.

(13) "Standard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel which bears the ASME stamp.

(14) "Nonstandard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that does not bear the ASME stamp.

(15) "Boiler" shall mean a closed vessel used for heating water or liquid or for generating steam or vapor by the direct application of heat.

(16) "Direct application of heat" shall mean the firing of any fuel, solid, liquid, or gaseous, including electrical elements of any description.

(17) "Power boiler" shall mean a boiler used to produce steam or vapor at a pressure exceeding 15 lbs. per square inch gage, or a boiler used for heating water or liquid to a pressure exceeding 160 psi. or to a temperature exceeding 250°F.

(18) "Low pressure heating boiler" shall mean a boiler operated at a pressure not exceeding 15 lbs. per square inch gage steam, or at a pressure not exceeding 160 lbs. per square inch and a temperature not exceeding 250°F. for water.

(19) "Hot water supply boiler" shall mean a low pressure boiler used to heat water to a temperature not exceeding 200°F.

(20) "Unfired steam boiler" shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

(21) "Unfired pressure vessel" shall mean a closed vessel in which pressure is obtained from an external source, or from an indirect application of heat, including steam or hot water coils, converters or heat exchangers.

(22) "Reinstalled boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel removed from its original setting and reerected at the same location or at a new location without change of ownership.

(23) "Second hand boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.

(24) "Condemned boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified by legal

requirements by an inspector who has applied a stamping or marking designating its condemnation.

(25) "Internal inspection" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for inspection of the interior. An ultrasonic examination of unfired pressure vessels 36" diameter and under, shall constitute an internal inspection.

(26) "External inspection" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices.

(27) "Place of public assembly" or "assembly hall" shall mean a building or portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing and boarding homes.

(28) "Fusion welding" shall mean a process of welding metals in a molten, or molten and vaporous state, without the application of mechanical pressure or blows. Such welding may be accomplished by the oxy-acetylene or oxy-hydrogen flame or by the electric arc. Thermit welding shall be classified as fusion welding.

(29) "Major repair" shall mean one upon which the strength of a boiler or unfired pressure vessel depends.

(30) "Agriculture purposes" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

(31) "Attendant" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

(32) "Automatic operation of a boiler" shall mean full control of feed water and fuel in order to maintain the pressure and temperature constant within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, or power failure.

(33) "Alteration" is a structural modification of, or a departure from an original design or existing construction.

(34) "Repair" is a restoration of any damaged or impaired part to an effective and safe condition.

(35) "Domestic and/or residential purposes" shall mean serving a private residence or an apartment house of less than six families.)) "Agriculture purposes" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

"API-510" shall mean the Pressure Vessel Inspection Code of the American Petroleum Institute with addenda and revisions, thereto made and approved by the institute which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"ASME Code" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with amendments thereto made and approved by the council of

the society which have been regularly adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Attendant" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

"Automatic operation of a boiler" shall mean unattended control of feed water and fuel in order to maintain the pressure and temperature within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, power failure, high temperatures or pressures.

"Board of boiler rules" shall mean the board created by law and empowered under RCW 70.79.010.

"Certificate of competency" shall mean a certificate issued by the state board of boiler rules to a person who has passed an examination prescribed by the board of boiler rules.

"Chief inspector" shall mean the inspector appointed under RCW 70.79.100.

"Commission" shall mean an annual state commission/commission card issued to a person in the employ of the state, an insurance company or a company owner/user inspection agency holding a certificate of competency which authorizes them to perform inspections of boilers and/or unfired pressure vessels.

"Condemned boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by an inspector who has applied a stamping or marking designating its condemnation.

"Department" as used herein shall mean the department of labor and industries of the state of Washington.

"Deputy inspector" shall mean an inspector appointed under RCW 70.79.120.

"Director" shall mean the director of the department of labor and industries.

"Domestic and/or residential purposes" shall mean serving a private residence or an apartment house of less than six families.

"Existing installations" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

"External inspection" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices required by these rules.

"Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

"Internal inspection" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for examination of the interior. An external ultrasonic examination of unfired pressure vessels 36" diameter and under, shall constitute an internal inspection.

"Low pressure heating boiler" shall mean a boiler constructed to Section IV ASME Code and includes lined potable water heaters.

"NBIC" shall mean the National Board Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors with addenda and revisions, thereto made and approved by the National Board of Boiler and Pressure Vessel Inspec-

tors and adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Nonstandard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.

"Owner" or "user" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

"Owner/user inspection agency" shall mean an owner or use of pressure vessels that maintains an established inspection department, whose organization and inspection procedures meet the requirements of a nationally recognized standard acceptable to the department.

"Place of public assembly" or "assembly hall" shall mean a building or portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing and boarding homes.

"Power boiler" shall mean a boiler constructed to Section I of the ASME Code and includes high pressure, high temperature water boilers.

"Reinstalled boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.

"Second hand boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.

"Special inspector" shall mean an inspector holding a Washington commission identified under RCW 70.79.130.

"Standard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.

"Unfired pressure vessel" shall mean a closed vessel constructed to Section VIII ASME Code.

AMENDATORY SECTION (Amending Order 89-05, filed 7/13/89, effective 8/13/89)

**WAC 296-104-050 Administration—Examination for inspector.** Examination for certificate of competency ((as inspector of boilers)) shall be held at ((the office of the chief boiler inspector for the state of Washington, or at any)) locations ((to be)) selected by the board, four times each year, namely, the first Wednesday of the months of March, June, September and December. Special examinations will be held when considered necessary by the board.

Applicants for examination shall have had at least three years practical experience in the construction, maintenance, repair or operation of high pressure boilers or unfired pressure vessels as a mechanical engineer, steam engineer or boiler maker, or shall have had at least three years experience as an inspector of high pressure boilers. A credit of two years of the required experience will be given to applicants holding an engineering degree from a recognized college of engineering.

Application for examination for certificate of competency shall be in writing upon a form to be furnished by the

director stating the school education of the applicant, a list of his employers, his period of employment and position held with each employer. Applications containing willful falsification or untruthful statements shall be rejected. If the applicant's history and experience meet with the approval of the board of boiler rules, he shall be given a written examination dealing with Washington state boilers and unfired pressure law as well as the construction, installation, operation, maintenance and repair of boilers and unfired pressure vessels and their appurtenance, and the applicant shall be accepted or rejected on the merits of this examination. If the applicant is successful in meeting the requirements of the examining board, a certificate of competency will be issued ~~((by the chief inspector. After the expiration of ninety days, an applicant who fails to pass the examination will be permitted to take another written examination, and his acceptance or rejection will be determined by the board on the basis of this examination)).~~

AMENDATORY SECTION (Amending Order 82-36, filed 11/23/82, effective 1/1/83)

**WAC 296-104-060 Commissions as inspectors.** Upon the request of any company authorized to insure and insuring against loss from explosion of boilers and pressure vessels in this state, or upon the request of any company with an owner/user inspection agency operating pressure vessels in this state, the chief inspector shall issue a commission as a special inspector and an identifying commission card to any inspector actively engaged in boiler or pressure vessel inspection in this state if the inspector is employed by the requesting company and if the inspector has passed the written examination and holds a certificate of competency as set forth in WAC 296-104-050. The fee for the commission is twenty-five dollars. The commission shall be held at the home office of the employing company. Inspectors shall carry identifying commission cards while they are inspecting. A commission shall be valid for one year and may be renewed annually at the request of the employing company for a fee of ten dollars. The employing company shall return the commission and the identifying commission card at once to the chief inspector when the inspector to whom the commission was issued is no longer in its employ, or at the request of the chief inspector. The department may suspend or revoke a certificate of competency and commission issued to an inspector upon ten days notice to the inspector and to the inspector's employer for incompetency or untrustworthiness; for ~~((willful))~~ willful falsification of any matter or statement contained in his application, or in the report of any inspection, or in any other application, or in the report of any inspection; or for other sufficient reason. The holder of a certificate of competency is entitled to a hearing before the board before the revocation or suspension of the certificate of competency. A person whose commission has been suspended, except for untrustworthiness, may apply to the board for reinstatement. A person whose commission has been revoked, except for untrustworthiness, may apply to the board to take a new examination for a commission after ninety days from the date of the revocation.

AMENDATORY SECTION (Amending Order 78-3, filed 2/22/78)

**WAC 296-104-065 Administration—Reciprocal commissions.** Upon the request of a boiler insurance company authorized to insure and insuring against loss from explosion of boilers and pressure vessels in this state, or a company with an owner/user inspection agency, a commission as a special inspector of boilers and/or unfired pressure vessels shall be issued by the chief inspector to an inspector in the employ of such company provided the inspector has had the experience prescribed in RCW 70.79.130 and:

(1) Holds a certificate of competency or commission issued by a state which has adopted one or more sections of the ASME Code and which holds a written examination equivalent to that required by the state of Washington and a national board commission; or

(2) Is certified by the American Petroleum Institute in accordance with API-510, having taken and passed a written examination equivalent to that required by the state of Washington.

Application for a reciprocal commission shall be made on a form to be furnished by the chief inspector, and shall be accompanied by a ~~((photostat))~~ copy of the applicant's ~~((commission and))~~ certificate of competency and either a National Board Commission or an API Certification.

#### NEW SECTION

**WAC 296-104-102 Inspection—Standards for in-service inspection.** The standard for nonnuclear inspection of boilers, unfired pressure vessels, and safety devices is the 1992 edition, with addenda, of the NBIC. This code may be used on or after the date of issue and becomes mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2).

The standard for nuclear inspection is the ASME section XI code. The ASME section XI code year and addenda shall be as specified in the owner in-service inspection program plan.

Where a petroleum or chemical process industry owner/user inspection agency so chooses, the standard for inspection of unfired pressure vessels used by the owner shall be the March 1992 seventh edition with supplement 1 September 1993, with addenda, of API-510. This code may be used on or after the date of issue.

Where a conflict exists between the requirements of the above standards and this chapter, this chapter shall prevail.

#### NEW SECTION

**WAC 296-104-411 Existing installations—Nonnuclear repairs and alterations to boilers and pressure vessels.** Repairs and alterations to boilers and pressure vessels shall be made in accordance with the rules of the National Board Inspection Code (NBIC).

Repairs/alterations may be made by:

(1) An organization in possession of a valid Certificate of Authorization for use of the "R" symbol stamp, issued by the National Board provided such repairs/alterations are within the scope of the authorization.

(2) An organization in possession of a valid ASME Certificate of Authorization provided such repairs/alterations

are within the scope of the organization's Quality Control System. The chief inspector may limit or restrict repairs/alterations for cause.

Owner/user special inspectors may only accept repairs/alterations to unfired pressure vessels operated by their respective companies per RCW 70.79.130.

Where required, reports of welded repairs/alterations, signed by the organization and a commissioned inspector shall be submitted to the department.

**AMENDATORY SECTION** (Amending Part III, filed 3/23/60)

**WAC 296-104-100 Inspection—Frequency of inspections.** Power boilers shall be inspected annually both internally and externally while not under pressure, and annually externally while under pressure.

Low pressure heating boilers shall be inspected externally biennially. Where construction permits, they shall in addition be inspected internally at the same time.

Unfired pressure vessels shall be inspected externally biennially. Where subject to corrosion and construction permits they shall in addition be inspected internally biennially or at intervals established in accordance with the NBIC or API-510 when utilized by an owner/user inspection agency.

When internal intervals are extended by an owner/user inspection agency, based on the NBIC or API-510, ultrasonic examination is required at the biennial external certificate inspection.

Unfired pressure vessels not subject to internal corrosion shall be inspected externally biennially.

**WSR 94-17-176**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER**  
[Filed August 24, 1994, 10:37 a.m.]

Original Notice.

Title of Rule: Elimination of the fifteen-month filing rule for certain filings.

Purpose: To repeal WAC 284-24-055 and amend WAC 284-24-060 in order to complete the repeal of RCW 48.19.040(5) by the 1994 legislature (section 8, chapter 131, Laws of 1994).

Other Identifying Information: Insurance Commissioner Matter No. 94-22.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.19.040.

Summary: Prior to July 1994, RCW 48.19.040(5) required insurance companies to file information regarding lines of business every fifteen months. The repeal of RCW 48.19.040(5) requires the elimination of related rules.

Reasons Supporting Proposal: Consistency with the repeal of the statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pat Musick, (206) 664-2093.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: As stated, the rule is no longer needed because of the repeal of RCW 48.19.040(5).

Proposal Changes the Following Existing Rules: This amendment and repealer eliminate the requirement that insurance companies submit filings every fifteen months.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This revision represents the elimination of a duty imposed by statute, and now repealed. It will reduce paperwork requirements of the regulated insurance businesses dealing with the Office of Insurance Commissioner. It does not impose any costs on any business.

Hearing Location: Insurance Commissioner's Office, Insurance Building, Room 200, 2nd Floor, Olympia, Washington 98504-0255, on September 29, 1994, at 10:30.

Assistance for Persons with Disabilities: Contact Kacy Brandeberry by September 20, 1994, TDD (206) 586-0691.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 0255, Olympia, WA 98504-0255, FAX (206) 586-3535, by September 28, 1994.

Date of Intended Adoption: September 30, 1994.

August 23, 1994  
Krishna Fells  
Chief of Staff

**AMENDATORY SECTION** (Amending Order R 90-5, filed 6/14/90, effective 7/15/90)

**WAC 284-24-060 Modification of filing requirements.** (1) Pursuant to RCW 48.19.080, the commissioner rules and hereby orders that the rate filing requirements set forth in chapter 48.19 RCW are modified so that:

(a) No filings with respect to rates pertaining to surplus line coverages placed in this state pursuant to chapter 48.15 RCW need be made, hereby confirming the longstanding practice in this state; and

(b) Rating organizations may make reference filings of prospective loss costs. Such filings shall contain the statistical data and supporting information for all calculations and assumptions underlying the prospective loss costs, but need not provide the information required by RCW 48.19.040 (2)(b) and (c). Filings of prospective loss costs must be approved by the commissioner prior to use by any insurer as a reference document. A member or subscribing insurer must file a loss cost adjustment and obtain the commissioner's approval prior to use of rates based on prospective loss costs.

~~((c) With respect to coverages not subject to RCW 48.19.040(5),)~~ A member or subscribing insurer of a rating organization may use rates based on prospective loss costs filed by such an organization and approved by the commissioner as a reference document without complying with the requirements of RCW 48.19.040 if:

(i) The insurer has an approved loss cost adjustment on file with the commissioner and proposes no changes to it; and

(ii) The insurer will begin using the prospective loss costs on the date proposed by the rating organization and approved by the commissioner.

~~((d) The requirements of RCW 48.19.040(5) are waived:~~

~~(i) With respect to filings of supplementary rating information;~~

~~(ii) With respect to filings of rates for umbrella and excess liability policies; and~~

~~(iii) With respect to filings of rates or prospective loss costs for minor optional or miscellaneous coverages. For any minor optional or miscellaneous coverage not listed specifically in subsection (2)(g) of this section, the requirements of RCW 48.19.040(5) may be waived by the commissioner upon the prior written request of the insurer or rating organization making the filing.))~~

(2) For purposes of this section, the following definitions apply:

(a) "Rating organization" means an organization licensed pursuant to RCW 48.19.180.

(b) "Member or subscribing insurer" means an insurer that has granted filing authority to a rating organization pursuant to RCW 48.19.050.

(c) "Prospective loss cost" means that portion of a rate that provides only for losses and loss adjustment expense and does not include provisions for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

(d) "Loss cost adjustment" means a factor by which prospective loss costs are multiplied to obtain final rates. It takes into account:

(i) Operating expenses;

(ii) Underwriting profit (or loss) and contingencies;

(iii) Investment income;

(iv) Dividends, savings, or unabsorbed premium deposits allowed or returned to policyholders, members, or subscribers;

(v) Variations in loss experience unique to the insurer making the filing;

(vi) The effect of the timing difference on the prospective loss costs in those instances in which an insurer elects to begin using prospective loss costs on a date other than that proposed by the rating organization and approved by the commissioner; and

(vii) Other relevant factors, if any.

(e) "Rate" means the cost of insurance per exposure unit, whether expressed as a single number or separately as prospective loss cost and loss cost adjustment, prior to any application of individual risk variations as permitted by WAC 284-24-100, and does not include minimum premiums or supplementary rating information.

(f) "Supplementary rating information" means any manual or plan of policy writing rules, rating rules, classification system, territory codes and descriptions, rating plans, and any other similar information needed to determine the applicable premium for an insured. It includes factors and relativities, such as increased limits factors, package modification factors, classification relativities, and deductible relativities.

~~((g) "Minor optional and miscellaneous coverages" include but are not limited to:~~

~~(i) Towing and labor coverage.~~

~~(ii) Auto dealers pickup or delivery coverage.~~

~~(iii) Auto dealers false pretense coverage.~~

~~(iv) Antique auto physical damage coverage.~~

~~(v) Golfmobile coverage.~~

~~(vi) Drive other car coverage.~~

~~(vii) Nonownership liability coverage.~~

~~(viii) Hired auto coverage.~~

~~(ix) Rental reimbursement coverage.~~

~~(x) Sound receiving and transmitting equipment coverage.~~

~~(xi) Tapes and records coverage.~~

~~(xii) Additional interests coverage.~~

~~(xiii) Owners and contractors protective coverage.~~

~~(xiv) Principals protective coverage.~~

~~(xv) Railroad protective coverage.~~

~~(xvi) Elevator or escalator inspection charge.))~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-24-055

Fifteen-month refiling requirement.

#### WSR 94-17-177

#### PROPOSED RULES

#### OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed August 24, 1994, 11:01 a.m.]

Original Notice.

Title of Rule: WAC 326-02-030 Definitions.

Purpose: To define and explain certain terms and phrases used throughout Title 326 WAC.

Statutory Authority for Adoption: RCW 39.19.030(7). Statute Being Implemented: Chapter 39.19 RCW.

Summary: If a firm is owned by a combination of minorities and women, but neither own the requisite fifty-one percent, the firm is not certifiable.

Reasons Supporting Proposal: The rule is to promote equitable treatment of all businesses that are owned and controlled by minorities, women and a combination thereof.

Name of Agency Personnel Responsible for Drafting: Juan Huey-Ray, 406 South Water, 586-1228; Implementation and Enforcement: James A. Medina, 406 South Water, 753-9679.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Presently, if a business is owned by a combination of minorities and women, but neither owns the requisite fifty-one percent, the firm is not certifiable. This rule is to promote equitable treatment of all businesses that are owned and controlled by minorities, women or a combination thereof.

Proposal Changes the Following Existing Rules: This rule change would make a business certifiable if a combination of minorities and women own the requisite fifty-one percent of the interest in a business.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This rule does not affect either twenty percent of all businesses in the state or ten percent of businesses in any one industry.

Hearing Location: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504, on September 19, 1994, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Tammi Hazlitt/Jean Wheat by September 12, 1994, (206) 753-9691.

Submit Written Comments to: Juan Huey-Ray, FAX (206) 586-7079, by September 12, 1994.

Date of Intended Adoption: September 23, 1994.

August 24, 1993 [1994]

James A. Medina

Director

**AMENDATORY SECTION** (Amending WSR 92-24-107 [94-11-116], filed 12/2/92 [5/18/94], effective 1/3/93 [6/18/94])

**WAC 326-02-030 Definitions.** Words and terms used in this title shall have the same meaning as each has under chapter 120, Laws of 1983, unless otherwise specifically provided in this title, or the context in which they are used clearly indicates that they should be given some other meaning.

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Certified business" or "certified" means a business or the status of a business that has been examined by the Washington state office of minority and women's business enterprises and deemed to be a minority business enterprise (MBE), a women's business enterprise (WBE), a minority woman's business enterprise (MWBE), or a combination business enterprise (CBE).

(3) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.

(4) "Combination business enterprise" or "CBE" means a small business concern organized for profit, performing a commercially useful function, that is ~~((fifty percent))~~ legitimately-owned and controlled by ((one or more minority men)) any combination of individual minorities and/or women, ((or MBEs certified by the office and fifty percent owned and controlled by one or more nonminority women)) or firms ((WBEs)) certified by the office which do not otherwise qualify as an MBE, WBE, or MWBE. ((The)) Individual owners must be United States citizens or lawful permanent residents. The combined ownership interests of minorities and/or women must be at least fifty-one percent.

(5) "Commercially useful function" means the performance of real and actual services which are integral and necessary in the discharge of any contractual endeavor, and not solely for the purpose of obtaining certification or obtaining credit for participation goal attainment.

(6) "Common industry practices" means those usages, customs, or practices which are ordinary, normal, or prevalent among businesses, trades, or industries of similar types

engaged in similar work in similar situations in the community.

(7) "Conduit" means a certified business which agrees to be named as a subcontractor on a contract in which such certified business does not perform the work but, rather, the work is performed by the prime contractor, prime consultant, material supplier, purchasing contractor, or any other ~~((noncertified))~~ business.

(8) "Contract" means a mutually binding legal relationship (including a purchase order, lease, or any modification thereof), which obligates the seller to furnish goods or services (including construction), and the buyer to pay for them.

(9) "Contract by contract basis" means a single contract within a specific class of contracts.

(10) "Contractor" means a party who enters into a contract directly with a state agency or educational institution.

(11) "Corporate-sponsored dealership" means a business that does not meet the requirements for certification but is participating in a program specifically developed by a national or regional corporation to address the present-day issue of lack of opportunities for minorities or women in the dealership industry.

(12) "Director" means the director of the office of minority and women's business enterprises.

(13) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(14) "Front" means a business which purports to be eligible for certification but is not in fact legitimately owned and controlled by minorities, women, or a combination thereof.

(15) "Goods and/or services" means all goods and services, including professional services.

(16) "Heavy construction" means construction other than building construction; e.g., highway or street, sewer and pipeline, railroad, communication and power line, flood control, irrigation, marine, etc.

(17) "Joint venture" means a partnership of two or more persons or businesses created to carry out a single business enterprise for profit, for which purpose they combine their capital, efforts, skills, knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(18) "Legitimately owned and controlled" means that minorities, women, or a combination thereof, own at least fifty-one percent interest in the business (unless the business qualifies as a corporate sponsored dealership under the provisions of subsection (11) of this section and WAC 326-20-050(4)); and the minorities, women, or combination thereof, possess and exercise sufficient expertise specifically in the firm's field of operation to make decisions governing the long-term direction and the day-to-day operations of the firm.

(19) "Manufacturer" means a business which owns, operates, or maintains a factory or establishment that produces or creates goods from raw materials or substantially alters goods before reselling them.

(20) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black: Having origins in any of the black racial groups of Africa;

(b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

(d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

(21) "Minority business enterprise," "minority-owned business enterprise," or "MBE" means a small business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority individuals or minority business enterprises certified by the office. The minority owners must be United States citizens or lawful permanent residents.

(22) "Minority women's business enterprise" or "MWBE" means a small-business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority women and is certified by the office. The owners must be United States citizens or lawful permanent residents.

(23) "Office" means the office of minority and women's business enterprises of the state of Washington.

(24) "Pass-through" means a certified business which buys goods (~~from a noncertified business~~) and simply resells those goods to the state, state contractors or other persons doing business with the state for the purpose of allowing those goods to be counted towards fulfillment of WBE or MBE goals.

(25) "Person" means one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(26) "Procurement" means the purchase, lease, or rental of any goods or services.

(27) "Public works" means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(28) "Regular dealer" means a certified business that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business.

(29) "Services," in the context of "goods and/or services," means all services including, but not limited to, client services, personal services, and purchased services as defined in RCW 39.29.006.

(30) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

(31) "Subcontractor" means a party that indirectly provides goods or services, including but not limited to

construction, to a state agency or educational institution through a contractor.

(32) "Supplier" means a manufacturer, regular dealer, broker, or packager that:

(a) provides or furnishes goods or materials;

(b) performs a commercially useful function; and

(c) is not considered a conduit, front, or pass-through.

(33) "Switch business" means a business which was previously owned and controlled by a man, men or nonminorities, which has made technical changes to its business structure so that it is now purportedly owned and controlled by a woman or women or by a minority person or persons, but continues to operate in substantially the same manner as it did prior to the written revisions of the business structure.

(34) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a small business concern, organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more women or women's business enterprises certified by the office. The women owners must be United States citizens or lawful permanent residents.

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

**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 94-17-179

#### WITHDRAWAL OF PROPOSED RULES HEALTH SERVICES COMMISSION

[Filed August 24, 1994, 11:08 a.m.]

The Washington Health Services Commission hereby withdraws the proposed new chapter 245-02 WAC, titled "Antitrust immunity and competitive oversight," including substantive rules (WAC 245-02-010 through 245-02-090) and procedural rules (WAC 245-02-100 through 245-02-180). These proposed rules were originally published for comment on May 31, 1994. They will be replaced with a later submission of proposed rules for the same subject.

We are also cancelling the September 8, 1994 (Yakima) and September 12, 1994 (Seattle) public hearings on the proposed rules.

Randy Revelle, Director  
and Rules Coordinator

#### WSR 94-17-183

#### PROPOSED RULES HEALTH SERVICES COMMISSION

[Filed August 24, 1994, 11:12 a.m.]

Original Notice.

Title of Rule: Health Services Information System Advisory Council and governance structure.

Purpose: The purpose of these proposed rules is to establish an advisory council comprised of consumers, public agency representatives, and representatives from private health care entities for collaborative participation with the commission and the Department of Health in designing, implementing, and overseeing operations of the statewide health services information system.

Statutory Authority for Adoption: RCW 43.72.040(17), 70.170.100(2) and (6), 70.170.110, 70.170.130, and 70.170.140.

Statute Being Implemented: RCW 70.170.100, 70.170.110, 70.170.120, 70.170.130, 70.170.140.

Summary: Creates a new chapter that establishes an advisory council that will oversee data standardization processes, assure data accuracy and compliance with data standards across public and private health care entities, ensure that health data reporting requirements are administratively efficient and nonduplicative across multiple reporting entities, and develop processes for data dissemination and disclosure.

Reasons Supporting Proposal: These rules are necessary to implement sections of chapter 70.170 RCW.

Name of Agency Personnel Responsible for Drafting: Michelle Vest, 605 Woodland Square Loop S.E., Lacey, WA 98504-1187, (206) 407-0153; Implementation and Enforcement: Tom Hilyard, 605 Woodland Square Loop S.E., Lacey, WA 98504-1187, (206) 407-0039.

Name of Proponent: Washington Health Services Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of these regulations is to describe the statewide health services information system, including its governance structure, and to ensure compliance with the provisions of chapter 70.170 RCW. The statewide health services information system shall include data that supports informed decision making by consumers, providers, health plans, and state agencies. The commission is required to oversee the design, implementation, and operation of the statewide health services information system with the ongoing assistance and counsel of consumers, private entities, and public agencies responsible for collecting, reporting, and using health data. To accomplish this, the commission will secure consumer, public, and private participation in the health services information system, guarantee that health entities contribute to decisions about data that are collected and reported, ensure that data capture and reporting are administratively efficient with minimal duplication across reporting entities, achieve balance between competing needs across diverse users of health data, and ensure the burdens of data capture and reporting are justified based on cost and the value of the information.

Proposal does not change existing rules.

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: Randy Revelle, Director, Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, phone (206) 407-0039, or FAX (206) 407-0069.

Hearing Location: The following is the schedule of eight public hearings to be held on the proposed rules:

Day/Date	Location	Starting Times
Tuesday September 27	Spokane Spokane City Hall 808 West Spokane Falls Boulevard	9:00 a.m. 1:00 p.m. 6:00 p.m.
Thursday September 29	Pasco Franklin County P.U.D. 1411 West Clark	1:00 p.m. 6:00 p.m.
Friday September 30	Yakima Cavanaugh's at the Yakima Center 607 East Yakima Avenue	1:00 p.m. 6:00 p.m.
Monday October 3	Tacoma (Fife) Executive Inn 5700 Pacific Avenue East	9:00 a.m. 1:00 p.m. 6:00 p.m.
Wednesday October 5	Longview Montecello Hotel 1405 17th Avenue	1:00 p.m. 6:00 p.m.
Friday October 7	Burlington Burlington Community/Senior Center 1011 Greenleaf Avenue	1:00 p.m. 6:00 p.m.
Tuesday October 11	Lacey Worthington Conference Center Saint Martin's College 5300 Pacific Avenue Southeast	1:00 p.m. 6:00 p.m.
Thursday October 13	Seattle Lopez/Fidalgo Rooms Seattle Center 305 Harrison Street	9:00 a.m. 1:00 p.m. 6:00 p.m.

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

Submit Written Comments to: Randy Revelle, Director, Health Services Commission, P.O. Box 41187, Olympia, WA 98504-1187, by October 7, 1994.

Date of Intended Adoption: October 26, 1994.

August 23, 1994  
Bernadene Dochnahl  
Commission Chair

WASHINGTON HEALTH SERVICES COMMISSION  
Chapter 245-08 WAC  
HEALTH SERVICES INFORMATION SYSTEM

NEW SECTION

**WAC 245-08-010 Definitions.** (1) Unless the context requires otherwise, the definitions contained in WAC 245-08-010 apply to the provisions set forth in WAC 245-08-020 through WAC 245-08-990.

(2) "HSIS" means the statewide health services information system and includes both the central information system and plan based information systems.

(3) "Central Information System" means the statewide centralized data repositories that include consolidations of information captured, reported, and used by multiple public and private entities.

(4) "Plan Based Information Systems" are the decentralized data repositories for information related to on-going operations and management of patient care services through providers and health plans.

PROPOSED

(5) "Council" means the health services information system advisory council.

(6) "Department" means the department of health.

#### NEW SECTION

**WAC 245-08-020 Purpose.** (1) The purpose of this chapter is to describe the statewide health services information system, including its governance structure and to ensure compliance with the provisions of Chapter 70.170 RCW. The statewide health services information system shall include data that supports informed decision making by consumers, providers, health plans, and state agencies. The commission is required to oversee the design, implementation, and operation of the statewide health services information system with the ongoing assistance and counsel of consumers, private entities, and public agencies responsible for collecting, reporting and using health data.

(2) The rules set forth in WAC 245-08-010 through WAC 245-08-990:

(a) secure consumer, public and private participation in the health services information system;

(b) guarantee that health entities contribute to decisions about data that are collected and reported;

(c) ensure that data capture and reporting are administratively efficient with minimal duplication across reporting entities;

(d) achieve balance between competing needs across diverse users of health data; and

(e) ensure that the burdens of data capture and reporting are justified based on cost and the value of information.

#### NEW SECTION

**WAC 245-08-030 Health services information system advisory council.** (1) The statewide health services information system shall be governed by a thirteen member advisory council of representatives of public agencies, private organizations, and consumer groups. This advisory council shall be chaired by a voting member of the commission.

(2) Membership of the advisory council will include individuals selected by and representing each of the following organizations:

(a) department of health;

(b) office of the insurance commissioner;

(c) department of labor and industries;

(d) department of social and health services;

(e) health care authority;

(f) department of information services;

(g) Washington state medical association;

(h) Washington state hospital association;

(i) one certified health plan to be selected by the chair of the advisory council from industry-wide nominees;

(j) one registered employer health plan or health trust to be selected by the chair of the advisory council from industry wide nominees;

(k) one health insurance purchasing cooperative to be appointed by members of the cooperative; and

(l) one consumer representative to be selected by the chair of the Council.

(3) It shall be the responsibility of the organizations listed in WAC 245-08-030(2) to select and appoint a

member to represent it on the advisory council or to nominate candidates from which the chair shall select a representative. Council members will serve at the pleasure of the organization that selected them for a term of three years. The organization may reappoint the member for a second three-year term or appoint a new representative. Each member will be limited to two terms.

(4) The responsibilities of the advisory council are to oversee:

(a) data standardization and compatibility of the central information system and plan based information systems;

(b) confidentiality and security of all patient identifiable data;

(c) finance of the system; and

(d) management and administration of the central information system.

(5) An executive committee, composed of council members from the department of health, the information services board, and the commission will be responsible for carrying forward any rule making processes through their respective agencies which may be necessary to implement data policies and standards recommended by the advisory council.

#### NEW SECTION

**WAC 245-08-040 Advisory council duties.** (1) The advisory council shall establish a dictionary of standardized data definitions, processes and procedures to be adopted by all public and private health entities. Use and application of the data dictionary will conform to the following:

(a) all data elements will have a single, standardized definition that all health care entities shall use in abstracting data elements from or reporting data elements to the central information system and plan based information systems, and

(b) the data dictionary will build upon existing data standards and definitions that are consistent with reform and, whenever feasible, reflect national standards.

(c) If needed, the advisory council shall develop policy recommendations for rule making by the commission to implement the data dictionary.

(2) The advisory council shall establish procedures for, and oversee activities for, auditing data accuracy and measuring compliance with data standards among health care reporting entities. The advisory council may recommend that the commission contract with private vendors to carry out audit and compliance procedures. If needed, the advisory council shall develop policy recommendations for rule making by the commission to enforce audit and compliance procedures across all participants in HSIS.

(3) The advisory council shall establish processes and procedures to assure that data capture and reporting requirements do not overburden providers and health care reporting entities. The purpose of the processes and procedures is to assure that data collection requirements are cost justified and provide value to users. The processes will facilitate discussions between:

(a) entities proposing that new or different data be collected, and

(b) entities responsible for collecting and reporting the data.

(4) The advisory council will mediate the discussions and make decisions about adding, deleting and modifying the data dictionary based on the merits and costs of the proposed data collection effort. If needed, the advisory council shall develop policy recommendations for rule making by the commission to implement the data capture and reporting requirements.

(5) The advisory council shall initiate discussions with local, state, and federal agencies which mandate health data reporting requirements. The purpose of the discussions are to:

- (a) ensure consistency with the data dictionary;
- (b) minimize duplication of data reporting efforts across multiple jurisdictions; and
- (c) facilitate discussions on information requirements mandated by external authorities to align the requirements with the data dictionary and data requirements associated with managed care and health reform.

(6) The advisory council shall develop processes and procedures for accessing, disseminating, and disclosing health data for use by:

- (a) consumers;
- (b) providers;
- (c) state agencies;
- (d) health plans;
- (e) researchers; and
- (f) purchasers.

(7) Procedures will assure confidentiality of patient identifiable information at all times, and provider confidentiality when appropriate. If needed, the advisory council shall develop policy recommendations for rule making by the commission to facilitate implement the processes and procedures.

(8) The advisory council shall develop processes and procedures for authorizing access to and disclosure of patient or provider identifiable data. Processes and procedures shall be guided by:

- (a) the minimum requirements under Title 45 Part 46 of the Code of Federal Regulations related to institutional review boards;
- (b) Chapter 42.48 RCW on release of records for research; and
- (c) the DSHS/DOH Guide to Policy on Protection of Human Subjects, March, 1990.

(9) The purpose is to assure that users of patient identifiable data have met confidentiality standards for protecting individual patients, and when appropriate individual providers, from unauthorized or inappropriate disclosure of personal information. It is also the purpose of these processes and procedures to assure that use and application of the data are technically and methodologically valid. All entities seeking access to patient and/or provider identifiable data will be subject to the data access and disclosure process and procedures. The advisory council shall develop policy recommendations for rule making by the commission to implement processes and procedures authorizing access to and disclosure of patient or provider identifiable data.

(10) The advisory council shall oversee the budgeting process for the central information system, including ongoing monitoring of expenditures and fee collection activities. The advisory council shall be responsible for informing the

commission on a quarterly basis of the financial status of the central information system.

(11) The advisory council shall oversee the department of health's periodic updates of the statewide health services information data plan to assure that the plan reflects the needs of all data users and is consistent with the HSIS vision as modified by the commission. The updates include revised cost estimates for implementing HSIS and will be submitted to the commission for review and approval.

**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 245-08-050 Duties of the chair of the advisory council.** (1) The chair of the advisory council shall:

- (a) preside over all meetings of the advisory council and the executive committee;
- (b) oversee the department of health's administration and management of the central information system;
- (c) report to the commission on advisory council activities and central information system operations; and
- (d) recommend policies for action by the commission.

#### **WSR 94-17-184**

#### **PROPOSED RULES**

#### **HEALTH SERVICES COMMISSION**

[Filed August 24, 1994, 11:13 a.m.]

#### Original Notice.

Title of Rule: Certified health plans and registered employer health plans—Quality assurance and improvement.

Purpose: The purpose of these proposed rules is to assure the quality of services provided by certified health plans, registered health plans, and the providers and facilities in their networks.

Statutory Authority for Adoption: RCW 43.72.040(21), 43.72.100(6), 43.72.120(7), 43.72.070 and 48.43.030 (5)(a).

Statute Being Implemented: RCW 43.72.070 and 48.43.030 (5)(a).

Summary: Creates a new chapter that establishes the principles and process for establishing a total quality improvement approach to assuring the quality of services supplied by providers and facilities through certified health plans and registered employer health plans. The rules require plans to be accredited by an approved quality review organization within four years for being certified to offer the uniform benefits package and supplemental benefits.

Reasons Supporting Proposal: These rules are necessary to implement sections of RCW 43.72.040, 43.72.070, 43.72.100, 43.72.120, and chapter 48.43 RCW.

Name of Agency Personnel Responsible for Drafting: Nancy Long, 605 Woodland Square Loop S.E., Lacey, WA 98504-1185, (206) 407-0154; Implementation and Enforcement: George Schneider, 605 Woodland Square Loop S.E., Lacey, WA 98504-1185, (206) 407-0039.

Name of Proponent: Washington Health Services Commission, governmental.

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

PROPOSED

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of these regulations is to establish standards and guidelines that certified health plans and registered employer health plans wishing to offer uniform benefits package (UBP) products must meet that assure the quality of health services. These rules include principles for the continuous improvement of the health system and define a process whereby certified health plans must attain and maintain accreditation by an approved quality review organization. This approach to the certification of suppliers in the health system insures that plans and providers of services develop compatible quality assurance processes and share responsibility for the quality of services provided by the health system.

Proposal does not change existing rules.

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: Randy Revelle, Director, Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, phone (206) 407-0039, or FAX (206) 407-0069.

Hearing Location: The following is the schedule of eight public hearings to be held on the proposed rules:

Day/Date	Location	Starting Times
Tuesday September 27	Spokane	9:00 a.m.
	Spokane City Hall	1:00 p.m.
	808 West Spokane Falls Boulevard	6:00 p.m.
Thursday September 29	Pasco	1:00 p.m.
	Franklin County P.U.D. 1411 West Clark	6:00 p.m.
Friday September 30	Yakima	1:00 p.m.
	Cavanaugh's at the Yakima Center 607 East Yakima Avenue	6:00 p.m.
Monday October 3	Tacoma (Fife)	9:00 a.m.
	Executive Inn	1:00 p.m.
	5700 Pacific Avenue East	6:00 p.m.
Wednesday October 5	Longview	1:00 p.m.
	Montecello Hotel 1405 17th Avenue	6:00 p.m.
Friday October 7	Burlington	1:00 p.m.
	Burlington Community/Senior Center 1011 Greenleaf Avenue	6:00 p.m.
Tuesday October 11	Lacey	1:00 p.m.
	Worthington Conference Center	6:00 p.m.
	Saint Martin's College 5300 Pacific Avenue Southeast	
Thursday October 13	Seattle	9:00 a.m.
	Lopez/Fidalgo Rooms	1:00 p.m.
	Seattle Center 305 Harrison Street	6:00 p.m.

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

Submit Written Comments to: Randy Revelle, Director, Health Services Commission, P.O. Box 41253, Olympia, WA 98504-1253, by October 7, 1994.

Date of Intended Adoption: October 26, 1994.

August 23, 1994  
Bernadene Dochnahl  
Commission Chair

WASHINGTON HEALTH SERVICES COMMISSION

Chapter 245-04 WAC  
CERTIFIED HEALTH PLANS AND REGISTERED  
EMPLOYER HEALTH PLANS  
QUALITY ASSURANCE AND IMPROVEMENT

NEW SECTION

**WAC 245-04-300 Policy statement.** (1) Continuous improvement of the health system of the state of Washington will allow the system to provide the highest quality health services at the lowest total cost. In order for quality to be maintained and improved, all suppliers of health services, including plans, providers, and facilities must establish a system of total quality management based on the following principles for the continuous improvement of the Washington health system:

(a) Plans, providers, and public and private agencies should work in partnership with customers to define needs and mutual responsibilities for maintaining and improving the health status of individuals and communities;

(b) Systems of care for defined populations can be improved through an integrated, coordinated continuum of services that appropriately responds to the needs of individuals and the community to promote health;

(c) Continuous improvement of health requires ongoing increases in knowledge as a basis for strengthening professional capabilities and understanding, reducing unnecessary variation in all processes, and improving personal health behaviors;

(d) Measurement supports improvement in the outcomes and process of health services delivery; and

(e) The system should provide appropriate incentives for health plans, providers, agencies and individuals to change in response to the needs of individuals, communities and evolution of the health system.

(2) The quality of individual providers and facilities can be further assured by holding plans accountable for the quality of the services that are supplied through them. In order to carry out the intent of RCW 43.72.070, each plan is required to meet the standards of an quality review organization approved pursuant to WAC 245-04-310.

(3) Using the standards of an approved quality review organization rather than creating new standards reduces the burden of state oversight, allows for consistency between the standards of major employers and state government, and uses standards based on the principles of continuous quality improvement that are dynamic and subject to revision as the performance and requirements of plans change. This helps assure that providers and plans share the same goals and the same commitment to quality care.

**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 245-04-310 Supplier certification process.** (1) In order to ensure the quality of the health services provided in Washington state, all plans must meet the standards of the National Committee for Quality Assurance, or its substantial

equivalent, within four years of being certified to offer the uniform benefits package.

(2) Plans are responsible for establishing appropriate requirements for each category of health care provider or facility supplying services through the plan. These requirements may vary by category of provider or facility, but should be consistent with the standards and approach of the quality review organization and, where possible, consistent with standards used by governmental agencies or accreditation organizations.

#### NEW SECTION

**WAC 245-04-320 Description of quality improvement program.** (1) The plan's managed care systems should promote coordination and continuity of care, responsiveness to the member and accountability for the health status of enrollees. In an effort to continuously improve the care being delivered, each plan shall:

(a) File a preliminary description of the plan's quality improvement program with the department of health when it applies for certification to offer the uniform benefits package.

(i) The description of the quality improvement program must be consistent with the standards of the National Committee for Quality Assurance or another approved quality review organization.

(ii) The description of the quality improvement program shall include an assessment of the how the plan meets or does not meet the specific standards of the quality review organization, including procedures and mechanisms for peer review.

(iii) If the description of the quality improvement program is approved by the department of health, it will be considered sufficient for certification.

(b) By July 1, 1996, a plan must submit to the department of health a final description of its quality improvement program and a timetable for meeting accreditation requirements within four years of initial certification.

(c) Thereafter, the plan must demonstrate annually to the department of health appropriate progress in achieving the objectives of the quality improvement program, through a report filed with the department of health, until the plan attains full accreditation from an approved quality review organization.

(d) After the plan has received full accreditation, the plan must file with the department of health a report of all accreditation surveys and a plan for resolving any deficiencies identified through the surveys.

**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 245-04-330 Responsibilities of the quality review organization and the department of health.** (1) The department of health, with the concurrence of the commission, will designate approved quality review organizations. Organizations so designated must demonstrate the following:

(a) The scope of the standards used by the organization include evaluation of the plan's utilization management and quality review programs, performance of credentialing and medical records functions, and the plan's ability to inform enrollees of their rights and responsibilities and the importance of receiving appropriate preventive health services.

(b) They are capable of reviewing and analyzing the quality assurance and quality improvement programs of all Washington certified health plans and registered employer health plans in a timely manner;

(c) They have experience in reviewing plans with similar responsibilities as those of certified health plans and registered employer health plans;

(d) The organization is willing to include appropriate personnel from the department of health in all survey and accreditation processes; and

(e) The organization is capable of preparing a timely report for the plan and the department of health that summarizes the scope of the survey, the findings, and the recommendations for improvement, if any.

(2) Approved quality review organizations will be subject to periodic review by the department of health. The department will assess the continued appropriateness of the standards, the timeliness of reviews and reports, and the adequacy of the organization's review processes.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 245-04-340 Use of other quality review organizations.** Plans must be accredited by a quality review organization approved by the department of health and the commission. If the plan wishes to use a quality review organization other than the National Committee for Quality Assurance, they must demonstrate that the other organization's standards are substantially equivalent to those of the National Committee for Quality Assurance and request that the department of health and the commission approve the use of the organization.

#### NEW SECTION

**WAC 245-04-350 Failure to attain or maintain accreditation.** (1) If the plan is given accreditation less than full accreditation, it will be subject to greater oversight from the department of health. If the plan does not attain either full accreditation or provisional accreditation within four years of initial certification to offer the uniform benefits package, the plan will be subject to a review by the health services commission and the department of health. The commission or the department of health may recommend to the insurance commissioner that the plan be prohibited from accepting additional enrollment or that the plan's certification be removed.

(2) If at any time after receiving full accreditation, a plan receives less than full accreditation by the approved quality review organization, the plan will have two years to regain full accreditation. If the plan has not regained accreditation after two years, the plan will be subject to a review by the commission and the department of health.

The commission or the department of health may recommend to the insurance commissioner that the plan be prohibited from accepting additional enrollment or that the plan's certification be removed.

**WSR 94-17-185**  
**PROPOSED RULES**  
**HEALTH SERVICES COMMISSION**

[Filed August 24, 1994, 11:14 a.m.]

**Original Notice.**

**Title of Rule:** Certified health plans and registered employer health plans—Requirements to assure availability and accessibility of services.

**Purpose:** The purpose of these proposed rules is to assure the availability and accessibility of services provided by certified health plans and registered health plans through service standards and guidelines, certification requirements, services for special populations and other requirements.

**Statutory Authority for Adoption:** RCW 43.72.040(21), 43.72.100(6) 43.72.120(7) and 48.43.030(2).

**Statute Being Implemented:** RCW 43.72.040(21), 43.72.100(6)(13), 43.72.120 (7)(12), and 48.43.030(2).

**Summary:** Creates a new chapter that establishes standards for determining whether an applicant should be certified to offer uniform benefits package (UBP) and supplemental benefits products, establishes ongoing requirements to be met by plans, including providing linguistically and culturally appropriate services, offering health promotion programs and coordinating with public health efforts.

**Reasons Supporting Proposal:** These rules are necessary to implement sections of RCW 43.72.040, 43.72.100, 43.72.120, and chapter 48.43 RCW.

**Name of Agency Personnel Responsible for Drafting:** Nancy Long, 605 Woodland Square Loop S.E., Lacey, WA 98504-1185, (206) 407-0154; Implementation and Enforcement: George Schneider, 605 Woodland Square Loop S.E., Lacey, WA 98504-1185, (206) 407-0039.

**Name of Proponent:** Washington Health Services Commission, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The purpose of these regulations is to establish standards and guidelines that certified health plans and registered employer health plans (plans) wishing to offer uniform benefits package (UBP) products must meet that assure the availability, accessibility and quality of health services. These rules define the requirements for certifying plans to offer the UBP and supplemental benefits as well as other requirements applied to plans on an ongoing basis, such as provision of culturally appropriate health promotion programs, compliance with service standards and guidelines, language interpretation services and cooperation between plans and public health officials.

Proposal does not change existing rules.

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: Randy Revelle, Director, Health Services Commission, P.O. Box 41185,

Olympia, WA 98504-1185, phone (206) 407-0039, or FAX (206) 407-0069.

**Hearing Location:** The following is the schedule of eight public hearings to be held on the proposed rules:

Day/Date	Location	Starting Times
Tuesday September 27	Spokane Spokane City Hall 808 West Spokane Falls Boulevard	9:00 a.m. 1:00 p.m. 6:00 p.m.
Thursday September 29	Pasco Franklin County P.U.D. 1411 West Clark	1:00 p.m. 6:00 p.m.
Friday September 30	Yakima Cavanaugh's at the Yakima Center 607 East Yakima Avenue	1:00 p.m. 6:00 p.m.
Monday October 3	Tacoma (Fife) Executive Inn 5700 Pacific Avenue East	9:00 a.m. 1:00 p.m. 6:00 p.m.
Wednesday October 5	Longview Montecello Hotel 1405 17th Avenue	1:00 p.m. 6:00 p.m.
Friday October 7	Burlington Burlington Community/Senior Center 1011 Greenleaf Avenue	1:00 p.m. 6:00 p.m.
Tuesday October 11	Lacey Worthington Conference Center Saint Martin's College 5300 Pacific Avenue Southeast	1:00 p.m. 6:00 p.m.
Thursday October 13	Seattle Lopez/Fidalgo Rooms Seattle Center 305 Harrison Street	9:00 a.m. 1:00 p.m. 6:00 p.m.

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

Submit Written Comments to: Randy Revelle, Director, Health Services Commission, P.O. Box 41253, Olympia, WA 98504-1253, by October 7, 1994.

Date of Intended Adoption: October 26, 1994.

August 23, 1994  
Bernadene Dochnahl  
Commission Chair

**WASHINGTON HEALTH SERVICES COMMISSION**  
**Chapter 245-04 WAC**  
**CERTIFIED HEALTH PLANS AND REGISTERED**  
**EMPLOYER HEALTH PLANS**  
**REQUIREMENTS TO ASSURE**  
**AVAILABILITY AND ACCESSIBILITY OF SERVICES**

**NEW SECTION**

**WAC 245-04-200 Standards for availability and accessibility of plan services.** (1) Each plan must provide services that are available and accessible to enrollees. Plans are encouraged to provide enrollees with convenient services and as broad a choice of providers as is possible. The commission views the need to offer consumer choice of providers and effective management of care as compatible goals because of the important role that trust, communication and continuity of care play in health promotion and treatment of illness.

PROPOSED

(2) Each plan must demonstrate, as a part of the certification process and on an ongoing basis, its intent and ability to assure that health services will be available and accessible to all enrollees. Specifically, the plan must demonstrate:

(a) That the providers and facilities included in each uniform benefits package product offered by the plan are adequate to provide the benefits in the uniform benefits package and supplemental benefits to enrollees in conformance with the service standards for emergent, urgent, and after-hours care and the guidelines for travel time and distance and appointment wait times described in WAC 245-04-200 (3) and (4) below;

(b) That the plan's contractual arrangements with health care providers and facilities ensure that it is financially capable of providing enrollees with such benefits;

(c) That all services included in the uniform benefits package products and supplemental benefits offered by the plan are accessible to all enrollees; and

(d) That the network for each product includes every category of health care provider.

(i) The plan may exclude a category of provider if none in the plan's service area is available or willing to participate. However, if exclusion of the provider category would eliminate an enrollee's access to a service included in the uniform benefits package, the plan must contract with providers outside of the plan's service area to assure timely provision of the service.

(ii) The plan may provide differential access to services based on the plan's utilization management program or determinations of cost-effectiveness and clinical efficacy of service alternatives, but may not provide differential access solely on the basis of the category of provider.

(3) Services are considered accessible if they reflect usual practice and travel arrangements in the local area. The plan must assure that timely and convenient services are available which meet, at a minimum, the following services standards:

(a) Life threatening emergency services, as defined by WAC 245-03-010(4) should be provided at the nearest available facility unless the injury or condition requires the enrollee to be transported to a specialized facility, for example, emergency care for children, trauma, or burns;

(b) The plan must provide coverage for urgent and emergent care worldwide for an enrollee who is out of the service area for less than ninety days. Standards established for urgent and emergent care must take into consideration presenting symptoms in addition to discharge diagnosis. Special standards must exist for evaluation of urgent or emergent services for infants and children and individuals with chronic conditions.

(c) Urgent care, as defined by WAC 245-03-010(7) should be provided within twenty-four hours; and

(d) All providers must provide after hours and emergency care that assures enrollees access to medically necessary emergent and urgent care twenty-four hours a day, seven days a week.

(4) The network for each product must be adequate to allow the plan to generally comply with the following service guidelines:

(a) Routine care for a health problem should be provided within 72 hours;

(b) Travel distance from the enrollee's home to a primary care provider or hospital should not exceed 25 miles or a 30 minute drive, unless no primary care providers or hospitals are available within that distance; and

(c) Laboratory and imaging services should be available within a 25 mile or an 30 minute drive, unless a facility is not available within that distance.

(5) In order to assure that enrollees have access to appropriate services, the following information must be included in marketing materials and must be available to enrollees:

(a) How an enrollee obtains services during regular office hours;

(b) How an enrollee obtains urgent and emergency services;

(c) How an enrollee obtains after-hours care;

(d) How an enrollee obtains out-of-area care;

(e) How an enrollee who is concerned about or desires additional confidentiality may receive services from a provider outside of the network, may use community providers or may obtain additional confidentiality protections, for example, suppression of sensitive claims information;

(f) How an enrollee can file a complaint or grievance; and

(g) How an enrollee can select or change a provider within the plan.

(6) The plan must also have a mechanism to inform an enrollee at least 30 days prior to their provider leaving the plan's network.

(7) The plan has in place procedures to disclose to an enrollee, upon request, the general basis for the payment of the provider or facility, including any withhold or bonus provisions and shared-risk arrangements.

(8) In order to maximize competition and consumer choice, it is the intention of the commission that a broad range of uniform benefit package product with different plan designs and networks be offered. However, plans may not design uniform benefits package products or networks that avoid risk, create different delivery systems for particular populations based on characteristics such as race, ethnicity, economic status or eligibility for a premium subsidy, or avoid compliance with other provisions of this rule.

(a) If a plan offers several uniform benefits package products using different plan designs and networks, they must make all products available to all employers and individuals.

(9) A plan may, but is not required to, offer extended network or point of service network options that allow consumers a broader choice of providers, provided that:

(a) The plan's core network(s), which include all providers and facilities available at the minimum cost-sharing levels defined in WAC 245-03-650, include every category of providers as required by WAC 245-04-110(3); and

(b) The plan's core network(s) include all services, including specialized or tertiary services, needed to provide the benefits included in the uniform benefits package and supplemental benefits.

(c) Extended networks must be established by contracts with providers and facilities, including contracts with an independent network, through a related entity, such as a

parent, subsidiary, sister corporation or wholly owned affiliate, or through a combination thereof.

(d) Extended network products must be designed to encourage individuals to use core network providers and facilities whenever appropriate. For example, the plan's design may include higher enrollee cost-sharing for extended network providers than is specified in WAC 245-03-650 or requirements that enrollees receive particular services from core network providers. The differential cost-sharing used for extended networks must be consistent with commission rules.

(e) Extended network products may not be designed to avoid risk, to create different delivery systems for particular populations based on characteristics such as race, ethnicity, economic status or eligibility for a premium subsidy, or to avoid compliance with other provisions of this chapter.

#### NEW SECTION

##### **WAC 245-04-210 Development of an access plan.**

(1) At the time of applying for certification to offer the uniform benefits package and supplemental benefits and annually thereafter, each certified health plan shall prepare and file, pursuant to RCW 48.43.010, an access plan for each uniform benefits package product.

(2) The access plan must include:

(a) Current enrollment, projected annual enrollment for three years, and maximum capacity enrollment for the next year;

(b) A description of the network, including a list of all providers and facilities, indicating those providers who are not accepting new patients;

(i) Any limitations on service provision for reason of conscience or religion;

(ii) A map of the plan's service area by county, indicating major providers and facilities and including travel time and distance to the boundaries of the county;

(c) The plan's referral policies;

(d) A description of the plan's basis for determining that the core network is sufficient to meet the needs of enrollees at the maximum capacity level;

(e) A description of how consumers and providers are involved in advisory or decision-making bodies, through surveys or interviews, or other methods of incorporating the views of consumers and providers in the plan's decision-making;

(f) A description of how the following barriers to accessing needed services are addressed:

(i) Language,

(ii) Race, culture and ethnicity,

(iii) Gender and sexual orientation,

(iv) Transportation needs, and

(v) Disability, including inability to read.

(g) A plan or a report on the plan's progress in assuring that a significant number of their providers participate in training programs that include components designed to facilitate communication with non-English-speaking enrollees, persons with disabilities, and enrollees with diverse health beliefs. Specifically, this provider training must include the following:

(i) Orientation to the effective use of medical interpreters and, where necessary, of friends and family members to assist with communication related to treating the enrollee;

(ii) Strategies for using the belief patterns and family support systems of enrollees to promote adherence to the recommended course of treatment as well as enrollee assumption of personal responsibility for preventive health behaviors; and

(iii) Information on identifying and treating population specific diseases and health conditions.

(h) A summary of the results of annual surveys that assess enrollee's satisfaction with the plan; and

(i) A summary of interviews conducted with low-income, disabled and non-English-speaking enrollees that assess the enrollee's satisfaction with the plan and identifies remaining barriers to access.

#### NEW SECTION

##### **WAC 245-04-220 Health promotion and cooperation with public health system.**

(1) At the time of applying for certification to offer the uniform benefits package and biannually thereafter, the plan must file with the commission a plan for health promotion programs and coordination with public health efforts and community-based organizations providing services included in the uniform set of health services established by the commission pursuant to RCW 43.70.520, including the personnel and resources the plan will commit to this effort. Acceptance of this plan is not required for certification to offer the uniform benefits package.

(2) The plan must describe its provisions for providing all enrollees with instruction and informational materials to:

(a) Increase individual and family awareness of injury and illness prevention;

(b) Encourage assumption of personal responsibility for protecting personal health; and

(c) Stimulate discussion about the use and limits of medical care in improving the health of individuals and communities.

(3) In order to effectively reduce health risks and change behaviors that threaten good health, plans must develop linkages with public health efforts. The goal of this cooperation is to improve the effectiveness of the public health system by reinforcing and encouraging healthy behaviors and appropriate use of health care services.

(4) The plan must also assist local health jurisdictions with assessing community needs and must specify a mechanism to exchange information with local health jurisdictions conducting community needs assessments.

(5) The commission will review and comment on the submitted plans in an effort to create and improve cooperative relationships between the plan and public health officials at the local and state level.

#### NEW SECTION

##### **WAC 245-04-230 Linguistically and culturally appropriate access to services.**

(1) A plan must assure that all enrollees who do not speak English, or whose ability to understand English limits the enrollee's ability to fully consent to or comply with treatment recommendations, have access to an interpreter or a provider who speaks the

enrollee's primary language during a medical visit or procedure and during all aspects of the grievance procedure.

(2) A plan must assure and demonstrate, upon request, the competence of the staff or contractors who are responsible for interpretation and translation services for enrollees, including the ability to translate commonly used primary care medical terms from English to languages used by plan enrollees.

(3) The enrollment system maintained by the plan and participating providers and facilities must include information identifying a non-English-speaking enrollee's primary language.

(4) When five percent of the individuals in a plan's total population of people enrolled in all uniform benefits package products speak a specific language or dialect as their primary language, the following services are required:

(a) Information about membership in the plan, including details about coverage, must be presented in the languages of these enrollees, both verbally and in writing.

(b) The plan's member services department must conduct outreach programs such as going to locations where limited-English-speaking enrollees gather, to ensure that enrollees know how the plan works and how to use it, and to identify and solve individual access problems. A plan shall have the flexibility to decide which outreach arrangements are necessary to meet their enrollees' needs.

(c) Health promotion and outreach programs must be culturally and linguistically appropriate and must include approaches specifically designed for persons of color and accommodating different cultural value systems, genders, and ages. These health education efforts, which must complement local public health activities, must be designed using community based needs assessments and other relevant sources and must make use of health promotion approaches and health information literature that recognizes enrollees' values and health beliefs. A plan that distributes informational literature as part of its outreach or health promotion efforts shall ensure that it is culturally appropriate.

(d) A plan must have interpretation services available to their medical advice and appointment systems. The training of these medical advice and appointment staff persons must enhance their understanding of the difficulties enrollees who speak limited English have in using managed care systems.

(e) Discharge planners must be able to provide linguistically and culturally appropriate information to ensure that enrollees understand and are willing to follow their post-treatment instructions.

**NEW SECTION**

**WAC 245-04-240 Accessibility of services to persons with disabilities.** (1) Plans are required to identify providers and facilities in their networks that are most accessible to persons with disabilities. Plans must identify special needs of disabled enrollees and provide referrals of enrollees with special needs to providers who are most appropriate for those needs.

(2) Plans must develop resources to make enrollee materials and orientations available to individuals with disabilities.

**WSR 94-17-186**

**PROPOSED RULES**

**HEALTH SERVICES COMMISSION**

[Filed August 24, 1994, 11:15 a.m.]

Original Notice.

Title of Rule: Certified health plans and registered employer health plans—Standards for certification and general requirements.

Purpose: The purpose of these proposed rules is to establish the standards for certifying certified health plans and registered health plans and to establish enrollment standards, rules for offering the uniform benefits package and supplemental benefits and other requirements.

Statutory Authority for Adoption: RCW 43.72.040 (3)(14)(21), 43.72.100 (1)(2)(6), 43.72.120 (1)(2)(3)(7) and 48.43.020(3).

Statute Being Implemented: RCW 43.72.040 (3)(14)(21), 43.72.100 (1)(2)(6), 43.72.120 (1)(2)(3)(7), 43.72.200, and 48.43.020(3).

Summary: Creates a new chapter than establishes standards for determining whether an applicant should be certified to offer uniform benefits package (UBP) and supplemental benefits products, and establishes enrollment standards, rules for offering the UBP and ongoing requirements to be met by plans, including providing linguistically and culturally appropriate services, offering health promotion programs and coordinating with public health efforts.

Reasons Supporting Proposal: These rules are necessary to implement sections of RCW 43.72.040, 43.72.100, 43.72.120, and chapter 48.43 RCW.

Name of Agency Personnel Responsible for Drafting: Nancy Long, 605 Woodland Square Loop S.E., Lacey, WA 98504-1185, (206) 407-0154; Implementation and Enforcement: George Schneider, 605 Woodland Square Loop S.E., Lacey, WA 98504-1185, (206) 407-0039.

Name of Proponent: Washington Health Services Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of these regulations is to establish standards and guidelines that certified health plans and registered employer health plans (plans) wishing to offer uniform benefits package (UBP) products must meet that assure the availability, accessibility and quality of health services. These rules define the requirements for certifying plans to offer the UBP and supplemental benefits as well as enrollment standards, rules for offering the UBP and supplemental benefits and other requirements applied to plans on an ongoing basis.

Proposal does not change existing rules.

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: Randy Revelle, Director, Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, phone (206) 407-0039, or FAX (206) 407-0069.

Hearing Location: The following is the schedule of eight public hearings to be held on the proposed rules:

Day/Date	Location	Starting Times
Tuesday	Spokane	9:00 a.m.

PROPOSED

September 27	Spokane City Hall 808 West Spokane Falls Boulevard	1:00 p.m. 6:00 p.m.
Thursday September 29	Pasco Franklin County P.U.D. 1411 West Clark	1:00 p.m. 6:00 p.m.
Friday September 30	Yakima Cavanaugh's at the Yakima Center 607 East Yakima Avenue	1:00 p.m. 6:00 p.m.
Monday October 3	Tacoma (Fife) Executive Inn 5700 Pacific Avenue East	9:00 a.m. 1:00 p.m. 6:00 p.m.
Wednesday October 5	Longview Montecello Hotel 1405 17th Avenue	1:00 p.m. 6:00 p.m.
Friday October 7	Burlington Burlington Community/Senior Center 1011 Greenleaf Avenue	1:00 p.m. 6:00 p.m.
Tuesday October 11	Lacey Worthington Conference Center Saint Martin's College 5300 Pacific Avenue Southeast	1:00 p.m. 6:00 p.m.
Thursday October 13	Seattle Lopez/Fidalgo Rooms Seattle Center 305 Harrison Street	9:00 a.m. 1:00 p.m. 6:00 p.m.

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

Submit Written Comments to: Randy Revelle, Director, Health Services Commission, P.O. Box 41253, Olympia, WA 98504-1253, by October 7, 1994.

Date of Intended Adoption: October 26, 1994.

August 23, 1994  
Bernadene Dochnahl  
Commission Chair

WASHINGTON HEALTH SERVICES COMMISSION  
Chapter 245-04 WAC  
CERTIFIED HEALTH PLANS AND REGISTERED  
EMPLOYER HEALTH PLANS  
STANDARDS FOR CERTIFICATION AND GENERAL  
REQUIREMENTS

NEW SECTION

**WAC 245-04-010 Definitions.** (1) Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(2) "Applicant" means a new entity applying for a certificate of registration as a certified health plan and for certification to offer the uniform benefits package and supplemental benefits or entities currently registered as a disability insurer, health care service contractor, or health maintenance organization applying for certification to offer the uniform benefits package and supplemental benefits.

(3) "Accessible" means the services are provided in a way that is suitable to the individual and the individual's health condition and in conformance with specified plan procedures, including requirements of this chapter.

(4) "Approved quality review organization" means an independent accreditation organization approved by the state of Washington that reviews the policies, procedures, and

processes used by plans to improve and assure the provision of quality care and excellent service.

(5) "Available" means sufficient capacity is provided to insure that the services can be used by enrollees in a manner that is consistent with community standards and the health condition of the enrollee.

(6) "Certification" means the process of approving an entity in accordance with specific standards to offer the uniform benefits package and supplemental benefits.

(7) "Core network" means those providers and facilities contracted with plans to provide services included in the uniform benefits package and supplemental benefits at the cost-sharing levels specified by the commission in WAC 245-03-650.

(8) "Customer" is used to represent all the individual relationships required to accomplish a defined goal. Its meaning includes the enrollee but also extends to the other relationships and processes which must be in place to provide a service to an enrollee.

(9) "Disenroll" means termination of group or individual coverage with a plan.

(10) "Extended network" means those providers and facilities contracted with the plan in addition to the core network providers and facilities and offered under different cost-sharing levels or different plan rules than core network providers.

(11) "Plan" means a certified health plan or a registered employer health plan. Wherever "plan" is used in this chapter, registered employer health plan, as defined in RCW 43.72.010(21), is included in its meaning, unless otherwise stated.

(12) "Point-of-service" means a plan design in which the cost-sharing levels change when the enrollee accesses a provider without a referral from a primary care provider and/or an enrollee uses a provider in the plan's extended network.

(13) "Registration" means the process of gaining approval from the office of the insurance commissioner to sell insured health products in Washington state.

(14) "Supplier" means all health care providers and health care facilities and the plans through which they provide services to enrollees.

(15) "Timely" means available in a manner which is consistent with community standards and generally meets the requirements and expectations of the customer.

(16) "Unnecessary variation" means a variation in a process that does not directly contribute to effective care or other organization purposes, is not a required to meet the customer's needs, and may result in increased costs or reduced quality.

**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 245-04-020 Purpose.** The purpose of these regulations is to implement sections of RCW 43.72.040, RCW 43.72.070, RCW 43.72.100, RCW 43.72.120 and Ch. 48.43 RCW by establishing additional standards for certification of certified health plans and registered employer health plans ("plans") to offer the uniform benefits package and

PROPOSED

supplemental benefits as well as the ongoing requirements plans must meet that assure the availability, accessibility, and quality of health services provided by plans.

#### NEW SECTION

**WAC 245-04-025 Applicability and scope** (1) These regulations shall apply to all new entities required to obtain a certificate of registration from the office of the insurance commissioner under Ch. 48.43 RCW and RCW 43.72.120 and to existing disability insurers registered under Ch. 48.20 or Ch. 48.21 RCW, health care service contractors registered under Ch. 48.44 RCW, and health maintenance organizations registered under Ch. 48.46 RCW wishing to offer the uniform benefits package and supplemental benefits to Washington residents on and after July 1, 1995.

(2) All plans, including certified health plans already registered as a disability insurer, health care service contractor or health maintenance organization, must demonstrate that they meet the requirements of this chapter related to certification, except those provisions of RCW 48.43.020 through 48.43.120 that have been demonstrated through the registration process, before offering the uniform benefits package or supplemental benefits.

(3) New entities applying for a certificate of registration as a certified health plan pursuant to RCW 48.43.020 and RCW 48.43.030 may simultaneously apply for a certificate of registration and certification to offer the uniform benefits package and supplemental benefits.

(4) A certificate authorizing a plan to offer the uniform benefits package and supplemental benefits will be issued to existing plans within ninety days of the receipt of the application unless the plan is notified that the application is not complete and the deficiencies are identified within ninety days of receipt of the application.

(5) In the event of conflict between the provisions of this chapter and any regulation issued by another state agency or department, the provisions of these regulations shall be controlling, pursuant to RCW 43.72.040(30).

#### NEW SECTION

**WAC 245-04-030 Policy statement and statutory framework.** (1) The following are the standards and requirements of the commission as provided for by RCW 43.72.040 (3)(14)(21) - Commission powers and duties, RCW 43.72.070 - Continuous quality improvement and total quality management, RCW 43.72.100 (1)(2)(6) - Certified health plans — Duties, RCW 43.72.120 - Registered employer health plans, RCW 43.72.200 - Conscience or religion, RCW 48.43.030 (5)(a) - Issuance of certificate — Grounds for refusal, and RCW 48.43.170 - Health care providers - Opportunity for inclusion. These standards and requirements define the basis for certifying plans to offer the uniform benefits package and supplemental benefits as well as enrollment standards, rules for offering the uniform benefits package and supplemental benefits, the process for assuring the quality of the care being supplied by plans, and other operational requirements applied to plans on an ongoing basis.

(2) It is the intention of the commission that these requirements assure Washington residents are treated fairly regardless of their actual or perceived health status. The

certification standards establish minimum requirements for plans offering the uniform benefits package and provide opportunities for plans to offer residents of the state of Washington a variety of options for the appropriate and effective delivery of health services. Plans are encouraged to have provider networks that are responsive to consumer preferences and are required to have adequate capacity to provide services that are accessible to diverse populations. Plans are strongly encouraged to integrate community-based providers in order to develop accessible managed care delivery systems focused on improving health status.

#### NEW SECTION

**WAC 245-04-040 Effective date.** This chapter shall be effective on March 1, 1995. After being certified to offer the uniform benefits package and supplemental benefits, all plans must comply with all applicable provisions of Ch. 43.72 RCW and this chapter.

#### NEW SECTION

**WAC 245-04-050 General requirements for certification.** (1) On or after July 1, 1995, no person or entity may provide the uniform benefits package or supplemental benefits without having been issued a certificate of registration pursuant to RCW 48.43.010 and having been certified to offer the uniform benefits package and supplemental benefits. In order to be certified, the plan must complete the application process and file documents in the form approved by the insurance commissioner. The documents that are filed must establish the following:

(a) The applicant has demonstrated through its basic organizational documents its ability to conduct business as a certified health plan or registered employer health plan offering the uniform benefits package and supplemental benefits.

(b) The applicant has demonstrated the intent and ability to assure that services will be provided in a manner which ensures both their availability and accessibility consistent with the requirements of WAC 245-04-200 through WAC 245-04-240.

(c) The organization is financially responsible and may be reasonably expected to meet its obligations to enrollees. In making this determination the insurance commissioner will assure:

(i) The plan meets the requirements of RCW 48.43.080 for funded reserves and the requirements of RCW 48.43.070 for minimum net worth; and

(ii) The plan meets all requirements of RCW 43.72.100 or RCW 43.72.120, including but not limited to, provisions in enrollee contracts for grievance procedures and subrogation, provider contract requirements, and reporting requirements.

(d) The procedures for offering health care services are reasonable and equitable; and

(e) That procedures have been established to monitor the quality of care provided by the plan, including operating internal peer review mechanisms and resolving provider and consumer complaints and grievances.

NEW SECTION

**WAC 245-04-060 Provision of the uniform benefits package and supplemental benefits** (1) Each plan must be certified pursuant to RCW 48.43.010 to provide the benefits included in the uniform benefits package and supplemental benefits.

(2) The plan must provide or assure the provision of all services within the uniform benefits package and supplemental benefits.

(a) The plan, and its participating providers and facilities, shall be exempt from participating in provision of specific benefits included in the uniform benefits package or supplemental benefits if they object to doing so for reasons of conscience or religion and agree to comply with the following provisions:

(i) Enrollees shall be guaranteed timely access by the plan to any services identified in 2(a) above that are included in the uniform benefits package or supplemental benefits but not provided by the plan.

(ii) The plan is required to give enrollees written notice of any services that are not provided by the plan prior to enrollment, upon enrollment, and upon enrollee request thereafter. The notice must include a listing by facility and by provider, where necessary, of any services that any facility or provider refuses to perform for reasons of conscience or religion.

(iii) A plan must offer written, as well as verbal, information to enrollees describing how an enrollee may directly and expeditiously access services that a provider or facility refuses to perform or a plan refuses to provide for reasons of conscience and religion.

(iv) If the plan does not provide a service in the uniform benefits package or supplemental benefits, it must develop a mechanism that allows the enrollees to efficiently obtain the service and assures prompt payment for the service. This mechanism must be described in plan materials.

(3) Each plan will offer the uniform benefits package and supplemental benefits for a prepaid per capita community-rated premium not to exceed the maximum premium established by the commission, as specified in WAC 245-03-860.

(4) Each plan shall administer these benefits through a system of managed care that includes incentives for providers to deliver services which are timely, confidential, appropriate, and effective in accordance with the following:

(a) Managed care means an integrated system of insurance, financing, and delivery functions that assumes financial risk for delivery of health services and:

(i) Uses a defined network of providers, or

(ii) Promotes the efficient delivery of health services through the providers' assumption of some financial risk.

(b) Each plan, along with their participating providers and facilities, must provide services that:

(i) Assess and maintain the health of their enrollees;

(ii) Intervene to avoid illness to the greatest extent possible;

(iii) Treat illness in a cost-effective manner that endeavors to stabilize and return the enrollee to health and productivity whenever possible; and

(iv) Assure that persons with terminal conditions are cared for with compassion, sensitivity and respect for their dignity.

(5) A plan is not precluded from offering additional benefits not included in the uniform benefits package or supplemental benefits as provided by RCW 43.72.190 and other provisions of law.

NEW SECTION

**WAC 245-04-070 Enrollment standards.** (1) A plan that offers the uniform benefit package and supplemental benefits must accept for enrollment any state resident within the plan's service area.

(2) The plan may not discriminate against any enrollee based on age, sex, sexual orientation, family size and structure, disability, ethnicity, race, health condition, employment status, socioeconomic status, or other condition or situation.

(a) The insurance commissioner may grant a temporary exemption for a defined time period from the requirement in WAC 245-04-070(1) if, upon application by a plan, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired should a plan be required to continue enrollment of additional eligible individuals. Under this temporary exemption the plan may not enroll any new enrollees until the exemption has expired.

(i) A plan granted a temporary exemption would be allowed to continue enrolling new spouses or dependent family members of enrollees.

(b) A plan may accept for enrollment individuals who do not reside in the plan's service area at the request of the individual but the individual must be directly advised, in writing, by the plan of the limited availability of participating providers and facilities in the county in which the enrollee resides.

(c) A plan is not required to accept an individual who has been terminated by the plan for cause, such as fraud or refusal to abide by the plan's procedures for accessing care, for a period of two years after termination.

(3) A registered employer health plan is exempt from the provisions of WAC 245-04-070(1), however it must accept for enrollment all individuals who are qualified employees or dependents of qualified employees of the employer.

(4) Each enrollee must be provided the opportunity of at least a one-month period each year to disenroll from the plan.

(a) The ability of enrollees to select or change providers within the plan will be governed by plan procedures. These procedures must be described fully in the plan's marketing and enrollment materials and made available to the enrollee prior to enrollment.

(5) A plan may not offer a uniform benefits package product to any person who is eligible for the Medicare program unless that individual is also a qualified employee under the provisions of RCW 43.72.010(20) except as provided for by a federal waiver. This provision does not prevent a certified health plan from enrolling Medicare eligible individuals in other products under a contract with the Health Care Financing Administration or from offering

PROPOSED

supplemental coverage products to Medicare-eligible individuals, consistent with other statutory provisions.

(6) All certified health plans must accept for enrollment individuals eligible for a subsidy under the Basic Health Plan and must agree to contract with the state Medicaid program for enrolled populations.

(7) All plans must make enrollment available through all health insurance purchasing cooperatives in its service area. This requirement does not apply to registered employer health plans.

**NEW SECTION**

**WAC 245-04-080 Service areas standards.** (1) Each plan must establish the geographic boundaries within which they obligate themselves to deliver the services required under the uniform benefits package and supplemental benefits. This information will be included in their application for certification. The insurance commissioner, in consultation with the department of health, as necessary, may disapprove those boundaries that clearly have been drawn to be exclusionary. The service area boundaries are not exclusionary if they meet the following guidelines:

(a) The plan's service area boundaries include at least one entire county and must include all of any county or counties the plan serves.

(b) When more than 10% of a plan's enrollees are in a contiguous county being served by the providers in the plan's provider network, the plan must add this county to its service area before it expands to any other county.

(c) If the plan's service area contains more than two counties, it must not include only counties with a major metropolitan area of 300,000 people or greater.

(2) A plan may not reduce or add to its service area without prior approval from the insurance commissioner, in consultation with the department of health. If a plan removes a county from its service area, it cannot add that county back into its service area until at least three years have elapsed from the effective date of the reduction, unless required to do so by the insurance commissioner.

**WSR 94-17-187  
PROPOSED RULES  
HEALTH SERVICES COMMISSION**

[Filed August 24, 1994, 11:16 a.m.]

Original Notice.

Title of Rule: Uniform benefits package—Community-rated maximum premium.

Purpose: The purposes of the new rules are to define community-rating and specify how the commission will establish the initial maximum premium amount as required by RCW 43.72.040(6).

Statutory Authority for Adoption: RCW 43.72.040(6). Statute Being Implemented: RCW 43.72.040(6).

Summary: Creates a new section in chapter 245-03 WAC to implement RCW 43.72.040(6). Establishes how community-rating will be defined for certified health plans offering the uniform benefits package and specifies how the community-rated maximum premium will be established.

Reasons Supporting Proposal: These rules are necessary to implement RCW 43.72.040(6) and to direct certified health plans in setting community-rated premiums for their uniform benefits package offerings.

Name of Agency Personnel Responsible for Drafting: Lance Heineccius, 605 Woodland Square Loop S.E., Olympia, WA, 98504-1185, (206) 407-0049; Implementation and Enforcement: Don Brennan, 605 Woodland Square Loop S.E., Olympia, WA, 98504-1185, (206) 407-0039.

Name of Proponent: Washington Health Services Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule-making creates a new section in chapter 245-03 WAC to implement RCW 43.72.040(6). The rules will establish how community-rating will be defined for certified health plans that offer the uniform benefits package. The rules also specify how the community-rated maximum premium will be established by the commission. No certified health plan shall be permitted to charge a premium for the uniform benefits package that is greater than the maximum premium.

Proposal does not change existing rules.

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: Randy Revelle, Director, Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, phone (206) 407-0039, or FAX (206) 407-0069.

Hearing Location: The following is the schedule of eight public hearings to be held on the proposed rules:

Day/Date	Location	Starting Times
Tuesday September 27	Spokane Spokane City Hall 808 West Spokane Falls Boulevard	9:00 a.m. 1:00 p.m. 6:00 p.m.
Thursday September 29	Pasco Franklin County P.U.D. 1411 West Clark	1:00 p.m. 6:00 p.m.
Friday September 30	Yakima Cavanaugh's at the Yakima Center 607 East Yakima Avenue	1:00 p.m. 6:00 p.m.
Monday October 3	Tacoma (Fife) Executive Inn 5700 Pacific Avenue East	9:00 a.m. 1:00 p.m. 6:00 p.m.
Wednesday October 5	Longview Montecello Hotel 1405 17th Avenue	1:00 p.m. 6:00 p.m.
Friday October 7	Burlington Burlington Community/Senior Center 1011 Greenleaf Avenue	1:00 p.m. 6:00 p.m.
Tuesday October 11	Lacey Worthington Conference Center Saint Martin's College 5300 Pacific Avenue Southeast	1:00 p.m. 6:00 p.m.
Thursday October 13	Seattle Lopez/Fidalgo Rooms Seattle Center 305 Harrison Street	9:00 a.m. 1:00 p.m. 6:00 p.m.

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

Submit Written Comments to: Randy Revelle, Director,  
Health Services Commission, P.O. Box 41190, Olympia,  
WA 98504-1190, by October 7, 1994.

Date of Intended Adoption: October 26, 1994.

August 23, 1994  
Bernadene Dochnahl  
Commission Chair

#### WASHINGTON HEALTH SERVICES COMMISSION

#### Chapter 245-03 WAC UNIFORM BENEFITS PACKAGE

#### COMMUNITY-RATED MAXIMUM PREMIUM

#### NEW SECTION

**WAC 245-03-810 Policy statement.** RCW 43.72.040 (6)(a) requires the commission to establish for each year a community-rated maximum premium for the uniform benefits package. The maximum premium cost of the uniform benefits package in 1995 shall be established upon an actuarial determination of the costs of providing the uniform benefits package and such other cost factors as may be deemed relevant by the commission.

#### NEW SECTION

**WAC 245-03-820 Definitions.** (1) Unless the context requires otherwise, the definitions contained in WAC 245-03-820 apply to the provisions set forth in WAC 245-03-810 through WAC 245-03-880.

(2) "Uniform benefits package product" means a certified health plan's offering of the uniform benefits package to all residents of a geographic area. All uniform benefits package products must cover the uniform benefits package as specified in WAC 245-03-010 through WAC 245-03-680. Multiple uniform benefits package products offered by a certified health plan can only differ based on the size, composition, and breadth of the provider network, and on plan design features such as referral requirements or methods of provider reimbursement.

(3) "Premium price" means a dollar amount charged by a certified health plan for a uniform benefits package product and approved by the insurance commissioner for a defined geographic service area and time period.

(4) "Community-rated" means that a certified health plan must offer the same premium price to all purchasers of a uniform benefits package product within a geographic area, by coverage tier as defined in WAC 245-03-840.

#### NEW SECTION

**WAC 245-03-830 Multiple uniform benefits package products.** (1) If a certified health plan offers more than one uniform benefits package product within a geographic area, the package can only differ by those factors specified in WAC 245-03-820(2).

(2) If a certified health plan offers more than one uniform benefits package product within a geographic area, each product must be community-rated as defined in WAC 245-03-820(4) and there can be no financial cross-subsidization of rates between uniform benefits package products.

#### NEW SECTION

**WAC 245-03-840 Four required coverage tiers and an optional fifth tier.** (1) The community-rated premium prices offered by a certified health plan within a county shall be composed of four coverage tiers defined as follows and with fixed ratios between coverage tiers as defined in WAC 245-03-850:

(a) Tier 1, employee only coverage, defined as a single adult coverage;

(b) Tier 2, employee and dependent spouse coverage, where dependent spouse is defined as in WAC 245-03-580;

(c) Tier 3, employee and child(ren) coverage; and

(d) Tier 4, employee, spouse and child(ren) coverage.

(2) In situations where coverage would be under the third tier as defined in WAC 245-03-840 (1)(c) or the fourth tier as defined in WAC 245-03-840 (1)(d), and where both spouses are employed, both employers offer coverage for employees and dependents, and both spouses are enrolled in the same certified health plan, the certified health plan shall make available to those employers that contribute at least 80 percent of the premium price a fifth coverage tier, defined as Tier 5, employee and half the child(ren) coverage. The premium price of this coverage tier shall be one half the certified health plan's premium for the employee, spouse and child(ren) coverage tier. Further requirements for Tier 5 are specified in WAC 245-03-560. Nothing in this section shall be construed to affect collectively bargained employer contributions to health benefits to the extent that federal law specifically restricts the ability of states to limit collective bargaining rights of employee organizations.

#### NEW SECTION

#### **WAC 245-03-860 Setting the maximum premium.**

(1) No certified health plan premium price for the uniform benefits package shall be approved by the insurance commissioner which is greater than the maximum premium. The maximum premium shall be established annually by the commission for a period from July 1 through June 30, and applied to each certified health plan's community-rated premium prices for each county using the four rating tiers defined in WAC 245-03-840(1).

(2) In setting the initial maximum premium, and in redetermining the maximum premium as specified under WAC 245-03-880(3), the commission will use the following methodology:

(a) The expected average price of the uniform benefits package for each coverage tier shall be actuarially determined by geographic area for January 1, 1996, based on the most recent data available for state residents, under the assumption of current managed care effectiveness. If the actuarial determination is expressed as a range of expected prices, the midpoint of the range shall be used as the expected average price for each coverage tier.

(b) An expected annual growth rate in the expected average price will be determined based on the most recent five-year trend in the medical component of the consumer price index for the state, actuarially adjusted to reflect expected future trends in the costs of health services.

(c) The expected average price of the uniform benefits package for each coverage tier as specified in WAC 245-03-860 (2)(a) will be increased to reflect those specific policy

factors which the commission determines to be appropriate to include in setting a premium cap. These factors will include, at a minimum, consideration of the need for explicit additional financial support for adequate funding of medical research costs and health professions training costs, consideration of potential adverse selection from populations which may voluntarily participate or remain outside the uniform benefits package, and expected new costs to certified health plans for complying with quality improvement and health information reporting requirements. This adjusted expected average price for each coverage tier will be used in subsequent steps.

(d) A compliance period will be determined, by the end of which it is reasonable to expect that the majority of effectively managed health plans in Washington will be able to deliver quality health services for a premium that increases annually at a rate no greater than the most recent five-year rolling average of growth in Washington per capita income. In establishing this compliance period, the commission will consider the effectiveness of best practice managed care systems in containing costs in Washington and other states, the expected benefits of health promotion and wellness programs, improvements in health status of the enrolled populations, and the current capabilities of existing managed care organizations in Washington.

(e) The adjusted expected average price for each tier as determined in WAC 245-03-860 (2)(c) shall be inflated forward from January 1, 1996 until the end of the compliance period, using the expected annual growth rate as determined in WAC 245-03-860 (2)(b). This result shall be defined as the target maximum for each tier.

(f) The formula for increasing the maximum premium, as defined in RCW 43.72.040 (6)(a), shall be applied to determine the number which, when inflated according to the formula defined in RCW 43.72.040 (6)(a), results in the target maximum for each tier. This number shall be the maximum premium for each coverage tier for the period July 1, 1995 through June 30, 1996.

**NEW SECTION**

**WAC 245-03-880 Changes in the maximum premium over time.** (1) The maximum premium will increase annually according to the formula defined in RCW 43.72.040 (6)(a). Beginning in 1996, the maximum premium for the next annual period of July 1 through June 30 will be announced each year by the commission on or before February 1, unless there are changes in the maximum premium as described in the following WAC 245-03-880 (2) and (3).

(2) If the commission adds or deletes services or benefits to the uniform benefits package in any year, the maximum premium will be actuarially increased or decreased accordingly to reflect the actual cost experience of a broad sample of providers of that service in the state. The addition or deletion of a service or benefit from the uniform benefits package shall not result in a redetermination of the entire cost of the uniform benefits package.

(3) If the population base covered under the uniform benefits package will change significantly in any year due to the inclusion of new programs, such as Medicaid or Medicare, the maximum premium will be redetermined to reflect

the inclusion of these new populations in the community rate. This redetermination shall be limited to recalculating the expected average price of the uniform benefits package as described in WAC 245-03-860 (2)(a) and then applying the same methodology as specified in the remaining sections of WAC 245-03-860(2).

**WSR 94-17-188  
PROPOSED RULES  
HEALTH SERVICES COMMISSION**

[Filed August 24, 1994, 11:18 a.m.]

Original Notice.

Title of Rule: Uniform benefits package—Coordination of benefits and premium payments.

Purpose: The purpose of these new rules is to set forth the manner in which health benefits and premium payments are coordinated between employers, enrollees, and certified health plans while not eliminating enrollee financial participation, pursuant to RCW 43.72.130(5).

Statutory Authority for Adoption: RCW 43.72.130(5).

Statute Being Implemented: RCW 43.72.130(5).

Summary: Creates a new chapter in Title 245 WAC to implement RCW 43.72.130. Establishes the manner in which health benefits and premium payments are coordinated between employers, enrollees, and certified health plans.

Reasons Supporting Proposal: These rules are necessary to implement RCW 43.72.130 and to ensure equitable distribution of the costs of health coverage for those households composed of more than one member in the work force.

Name of Agency Personnel Responsible for Drafting: Kirsten Iversen, 605 Woodland Square Loop S.E., Olympia, WA 98504-1185, 407-0211; Implementation and Enforcement: Don Brennan, 605 Woodland Square Loop S.E., Olympia, WA 98504-1185, 407-0039.

Name of Proponent: Washington Health Services Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule making creates a new chapter in Title 245 WAC for the purposes of implementing RCW 43.72.130 Uniform benefits package design. It establishes the manner in which health benefits and premium payments are coordinated between employers, enrollees, and certified health plans while not eliminating enrollee financial participation. These rules are necessary to ensure equitable distribution of the costs of health coverage for those households composed of more than one member in the work force.

Proposal does not change existing rules.

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: Randy Revelle, Director, Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, phone (206) 407-0039, or FAX (206) 407-0069.

Hearing Location: The following is the schedule of eight public hearings to be held on the proposed rules:

Day/Date	Location	Starting Times
Tuesday	Spokane	9:00 a.m.

September 27	Spokane City Hall 808 West Spokane Falls Boulevard	1:00 p.m. 6:00 p.m.
Thursday September 29	Pasco Franklin County P.U.D. 1411 West Clark	1:00 p.m. 6:00 p.m.
Friday September 30	Yakima Cavanaugh's at the Yakima Center 607 East Yakima Avenue	1:00 p.m. 6:00 p.m.
Monday October 3	Tacoma (Fife) Executive Inn 5700 Pacific Avenue East	9:00 a.m. 1:00 p.m. 6:00 p.m.
Wednesday October 5	Longview Montecello Hotel 1405 17th Avenue	1:00 p.m. 6:00 p.m.
Friday October 7	Burlington Burlington Community/Senior Center 1011 Greenleaf Avenue	1:00 p.m. 6:00 p.m.
Tuesday October 11	Lacey Worthington Conference Center Saint Martin's College 5300 Pacific Avenue Southeast	1:00 p.m. 6:00 p.m.
Thursday October 13	Seattle Lopez/Fidalgo Rooms Seattle Center 305 Harrison Street	9:00 a.m. 1:00 p.m. 6:00 p.m.

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

Submit Written Comments to: Randy Revelle, Director, Health Services Commission, P.O. Box 41193, Olympia, WA 98504-1193, by October 7, 1994.

Date of Intended Adoption: October 26, 1994.  
August 23, 1994  
Bernadene Dochnahl  
Commission Chair

WASHINGTON HEALTH SERVICES COMMISSION

Chapter 245-03 WAC  
UNIFORM BENEFITS PACKAGE

COORDINATION OF BENEFITS AND PREMIUM  
PAYMENTS

NEW SECTION

**WAC 245-03-520 Coordination of benefits and premium payments - Policy statement.** (1) The commission is authorized to establish rules for the coordination of benefits and premium payments under RCW 43.72.130(5). In developing rules, the commission used the principles that over-payment of premiums should be avoided; that costs should be distributed equitably between employers, individuals and government; and that administrative burdens should be minimized.

(2) RCW 43.72.130(5) requires that coordination of benefits rules not eliminate enrollee financial participation. The law directs the commission to assure an equitable distribution between employers and employees of the costs of coverage for households with more than one member in the workforce.

NEW SECTION

**WAC 245-03-540 Enrollment in multiple uniform benefits packages is prohibited.** Dual and multiple coverage of the uniform benefits package for an individual is prohibited. No resident shall have coverage from more than one uniform benefits package. There shall be no coordination of benefits between one uniform benefits package and another uniform benefits package.

NEW SECTION

**WAC 245-03-560 Coordination of premium payments.** (1) Premium payments for families who have more than one spouse in the workforce shall be distributed equitably between the involved individuals and employers, according to the following rules:

(a) A fifth premium tier, in addition to the four specified in WAC 245-03-840, shall be available to establish the individual and employer premium payments when the requirements of WAC 245-03-840(2) are fulfilled. The fifth tier may be used to coordinate premium payments by employers, certified health plans and health insurance purchasing cooperatives.

(b) The premium for the fifth tier shall be equal to one-half of the premium for Tier 4, employee, spouse and child(ren) coverage, as specified in WAC 245-03-840 (1)(d).

NEW SECTION

**WAC 245-03-580 Definition of dependent for the purposes of coordinating premium payments.** The definition of dependent, for the purposes of coordinating premium payments when families have two spouses in the workforce, shall exclude spouses who work full-time. Spouses who work part-time shall continue to be included in the definition of dependent.

WSR 94-17-189  
PROPOSED RULES

HEALTH SERVICES COMMISSION

[Filed August 24, 1994, 11:19 a.m.]

Original Notice.

Title of Rule: Uniform benefits package—Enrollee cost-sharing and maximum enrollee financial participation.

Purpose: The purpose of the new rules is to establish enrollee point-of-service cost-sharing and the maximum enrollee financial participation for the uniform benefits package, as required by RCW 43.72.130(4) and 43.72.040(12), respectively.

Statutory Authority for Adoption: RCW 43.72.130(4), 43.72.040(12).

Statute Being Implemented: RCW 43.72.130, 43.72.040(12).

Summary: Creates a new chapter in Title 245 WAC to implement RCW 43.72.130 and 43[.72].040(12). Establishes the amounts which enrollees are required to pay for the health services they receive and the annual limit for their out-of-pocket expenditures.

Reasons Supporting Proposal: These rules are necessary to implement RCW 43.72.130 and 43[.72].040(12) and to

PROPOSED

ensure that the uniform benefits package provides for moderate point-of-service cost-sharing, that financial considerations are not a barrier to access, and that limits are placed on the amount of income residents are expected to pay for health care.

Name of Agency Personnel Responsible for Drafting: Kirsten Iversen, 605 Woodland Square Loop S.E., Olympia, WA 98504-1185, 407-0211; Implementation and Enforcement: Don Brennan, 605 Woodland Square Loop S.E., Olympia, WA 98504-1185, 407-0039.

Name of Proponent: Washington Health Services Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rulemaking creates a new chapter Title 245 WAC for the purposes of implementing RCW 43.72.130 Uniform benefits package design. Cost sharing shall be established for nonpreventive health services such that financial considerations are not a barrier to access to low-income persons, and to ensure that enrollees are protected from becoming impoverished due health care expenditures, pursuant to RCW 43.72.130(4). The maximum enrollee financial participation levels shall establish income-related total annual payments for enrollees who choose the lowest priced uniform benefits package in a geographic region and shall include both point-of-service cost sharing and premium sharing, as specified in RCW 43.72.010(17) and 43.72.040(12).

Proposal does not change existing rules.

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: Randy Revelle, Director, Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, phone (206) 407-0039, or FAX (206) 407-0069.

Hearing Location: The following is the schedule of eight public hearings to be held on the proposed rules:

Day/Date	Location	Starting Times
Tuesday September 27	Spokane Spokane City Hall 808 West Spokane Falls Boulevard	9:00 a.m. 1:00 p.m. 6:00 p.m.
Thursday September 29	Pasco Franklin County P.U.D. 1411 West Clark	1:00 p.m. 6:00 p.m.
Friday September 30	Yakima Cavanaugh's at the Yakima Center 607 East Yakima Avenue	1:00 p.m. 6:00 p.m.
Monday October 3	Tacoma (Fife) Executive Inn 5700 Pacific Avenue East	9:00 a.m. 1:00 p.m. 6:00 p.m.
Wednesday October 5	Longview Montecello Hotel 1405 17th Avenue	1:00 p.m. 6:00 p.m.
Friday October 7	Burlington Burlington Community/Senior Center 1011 Greenleaf Avenue	1:00 p.m. 6:00 p.m.
Tuesday October 11	Lacey Worthington Conference Center Saint Martin's College 5300 Pacific Avenue Southeast	1:00 p.m. 6:00 p.m.
Thursday	Seattle	9:00 a.m.

October 13 Lopez/Fidalgo Rooms  
Seattle Center  
305 Harrison Street

1:00 p.m.  
6:00 p.m.

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

Submit Written Comments to: Randy Revelle, Director, Health Services Commission, P.O. Box 41250, Olympia, WA 98504-1250, by October 7, 1994.

Date of Intended Adoption: October 26, 1994.

August 23, 1994  
Bernadene Dochnahl  
Commission Chair

WASHINGTON HEALTH SERVICES COMMISSION

Chapter 245-03 WAC  
UNIFORM BENEFITS PACKAGE

ENROLLEE COST SHARING AND  
MAXIMUM ENROLLEE FINANCIAL PARTICIPATION

NEW SECTION

**WAC 245-03-620 Definitions.** (1) Unless the context requires otherwise, the definitions in this section apply through WAC 245-03-620 through WAC 245-03-680:

(2) "Cost sharing" is defined as a general term for a health care coverage 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.

(3) "Premium sharing" is defined as the amount of the monthly premium for health care coverage that is paid by the individual, with the remainder of the premium being paid by the employer or the government. A sliding scale can be applied to low-income enrollee premium sharing levels, so that the percentage of the premium paid by the enrollee varies according to individual or family income.

(4) "Point-of-service" cost sharing is defined as 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 after delivery of service, when the patient is billed. Point-of-service cost sharing includes deductibles, co-insurance, co-payments, and balance billing.

(5) "Deductible" is defined as 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.

(6) "Co-insurance" is defined as 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 certified health plan. A co-insurance of 20% means the individual pays 20% of allowed charges and the certified health plan pays 80%.

(7) "Co-payment" is defined as a type of cost sharing where the individual pays a fixed dollar amount per service, for example, \$15 per provider visit.

(8) "Balance billing" is defined as the practice, in fee-for-service health insurance, of billing patients in excess of

the amount approved by the health plan. RCW 43.72.100(9) and 43.72.120(9) prohibit balance billing by certified health plan and registered employer health plan providers and facilities.

(9) "Out-of-pocket limit" is defined as the total point-of-service cost sharing amounts, including co-payments, deductibles and co-insurance, that an enrolled individual or family shall pay in one year. Premium sharing amounts and the costs of uncovered services are not included. One out-of-pocket limit is established for individuals, and a higher limit is established for families.

(10) "Maximum enrollee financial participation" is defined to include two components: maximum point-of-service cost sharing and maximum premium sharing.

#### NEW SECTION

**WAC 245-03-640 No deductible.** The uniform benefits package shall not have a deductible, as defined in WAC 245-03-620(5), unless an enrollee voluntarily elects to incur a deductible as a requirement for enrolling in a point-of-service opt-out plan design.

#### NEW SECTION

**WAC 245-03-650 Enrollee point-of-service cost sharing tiers.** (1) The uniform benefits package shall have three schedules of cost sharing for Washington state residents.

(2) Residents with individual or family incomes greater than 250% of the federal poverty level shall have the following point-of-service cost sharing levels:

(a) Primary and specialty care services delivered in ambulatory care settings shall have a co-payment of \$15 per provider visit, except as specified below or in subsequent sections of WAC 245-03-650(2):

(i) Preventive health services shall have no cost sharing;

(ii) Diagnostic services, including radiology, nuclear medicine, ultrasound, and laboratory services, shall have no cost sharing;

(iii) Blood components, synthetic factors, plasma expanders and their administration shall have no cost sharing;

(iv) Radiation therapy and chemotherapy shall have no cost sharing;

(v) Outpatient physical therapy, occupational therapy, speech therapy, and other medically necessary rehabilitation services shall have a \$15 per day co-payment, rather than a per visit co-payment;

(vi) Emergency services shall have the following cost-sharing features:

(A) Emergency room visits to a facility participating in the certified health plan network shall be \$50 per visit;

(B) Emergency room visits to a non-participating facility shall be \$100 per visit;

(C) Enrollees shall not pay the co-payment under WAC 245-03-650 (2)(a)(vi)(B) if they are appropriately triaged to state-designated regional centers for emergency and highly specialized services;

(D) The provider visit co-payment under WAC 245-03-650 (2)(a) shall apply to urgent services received at a hospital emergency room if other 24-hour urgent care is not available through the certified health plan.

(vii) Ambulance transport shall have a co-payment of \$50.

(viii) Durable medical equipment shall have a co-insurance of 50%.

(ix) Disposable medical supplies shall have a co-insurance of 50%, up to a maximum of \$50 per supply item.

(b) Inpatient hospital stays shall have a co-payment of \$150 per day up to a maximum of five days per admission. No additional professional, prescription drug, equipment, supply, or other cost sharing shall be applied for services received while an inpatient. Inter-facility transport shall not have any cost sharing.

(c) Outpatient surgical procedures shall have a co-payment of \$100 per visit.

(d) Prescription drugs and medications shall have a co-insurance of 50%, up to a maximum cost-sharing amount of \$50 per prescription.

(e) Preventive reproductive and maternity services shall have no cost sharing, but, otherwise, standard provider visit, inpatient, outpatient, and prescription drug cost sharing shall apply.

(f) Preventive dental services for children shall have no cost sharing.

(g) Case-managed chemical dependency inpatient hospital stays shall have a co-payment of \$150 per day, up to a maximum of five days. Chemical dependency residential treatment shall have a co-payment of \$30 per day up to a maximum five days. Chemical dependency outpatient visits shall have a co-payment of \$15 per visit, although co-payments may be reduced for group sessions at plan discretion.

(h) Case-managed mental health inpatient hospital stays shall have a co-payment of \$150 per day, up to a maximum of five days per admission. Mental health outpatient services shall have a co-payment of \$15 per visit, although co-payments may be reduced for group sessions at plan discretion.

(i) Case-managed skilled nursing facility services shall have a co-payment of \$30 per day, up to a maximum of five days.

(j) Case-managed home health services shall have a co-payment of \$15 per day.

(k) Case-managed hospice services shall have no cost sharing.

(3) Residents with individual or family incomes greater than 125% and less than or equal to 250% of the federal poverty level shall have the following point-of-service cost-sharing levels:

(a) Primary and specialty care services shall have a co-payment of \$5 per provider visit, except:

(i) Preventive health services shall have no cost sharing.

(ii) Diagnostic services, including radiology, nuclear medicine, ultrasound, and laboratory services, shall have no cost sharing.

(iii) Blood components, synthetic factors, plasma expanders and their administration shall have no cost sharing.

(iv) Radiation therapy and chemotherapy shall have no cost sharing.

(v) Outpatient physical therapy, occupational therapy, speech therapy, and other medically necessary rehabilitation

services shall have a \$5 per day co-payment, rather than a per visit co-payment.

(vi) Emergency services shall have the following cost sharing features:

(A) Emergency room visits to a facility participating in the certified health plan network shall be \$25 per visit.

(B) Emergency room visits to a non-participating facility shall be \$50 per visit.

(C) Enrollees shall not pay the co-payment under WAC 245-03-650 (3)(a)(vi)(B) if they are appropriately triaged to state-designated regional centers for emergency and highly specialized services. In this case, the co-payment shall be the same as in WAC 245-03-650 (3)(a)(vi)(A).

(D) The provider visit co-payment under WAC 245-03-650 (3)(a) shall apply to urgent services received at a hospital emergency room if other 24-hour urgent care is not available through the certified health plan.

(vii) Ambulance transport shall have a co-payment of \$25.

(viii) Durable medical equipment shall have a co-insurance of 20%.

(ix) Disposable medical supplies shall have a co-insurance of 20%, up to a maximum of \$25.

(b) Inpatient hospital stays shall have a co-payment of \$50 total per admission. No additional professional, prescription drug, equipment, supply or other cost sharing shall be applied. Inter-facility transport shall not have any cost sharing.

(c) Outpatient surgical procedures shall have a co-payment of \$25 per visit.

(d) Prescription drugs and medications shall have the same cost-sharing features as the Basic Health Plan under RCW 70.47.060, except that no prescription shall have cost sharing in excess of \$25.

(e) Preventive reproductive and maternity services shall have no cost sharing, otherwise, standard provider visit, inpatient, outpatient, and prescription drug cost sharing shall apply.

(f) Preventive dental services for children shall have no cost sharing.

(g) Case-managed chemical dependency inpatient hospital stays shall have a co-payment of \$50 total per admission. Chemical dependency residential treatment shall have a co-payment of \$10 per day, up to a maximum of five days. Chemical dependency outpatient visits shall have a co-payment of \$5 per visit, although co-payments may be reduced for group sessions at plan discretion.

(h) Case-managed mental health inpatient hospital stays shall have a co-payment of \$50 total per admission. Mental health outpatient services shall have a co-payment of \$5 per visit, although co-payment may be reduced for group sessions at plan discretion.

(i) Case-managed skilled nursing facility services shall have a co-payment of \$10 per day, up to a maximum of five days.

(j) Case-managed home health services shall have a co-payment of \$5 per day.

(k) Case-managed hospice services shall have no cost sharing.

(4) Residents with individual or family incomes less than or equal to 125% of the federal poverty level shall have

no point-of-service cost sharing, except that non-emergency use of an emergency room shall have a co-payment of \$10.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 245-03-660 Maximum enrollee financial participation - Policy statement.** (1) The commission is authorized to establish maximum enrollee financial participation levels, which the Act defines to include both point-of-service cost sharing and premium sharing. In developing rules, the commission used the following guiding principles:

(a) required financial participation in health care costs should be affordable;

(b) subsidy programs currently in existence should be used to the extent feasible, rather than creating new ones; and

(c) administration should be kept as simple as possible.

(2) The two components of maximum enrollee financial participation, as defined in WAC 245-03-620(10), shall be added together to establish an overall maximum enrollee financial participation level, but the two parts shall not be interchangeable. Separate policies shall address each component:

(a) Out-of-pocket limits, as specified in WAC 245-03-680, shall determine enrollees' maximum point-of-service financial participation.

(b) A sliding scale to determine enrollee premium-sharing shall establish enrollees' maximum premium-sharing level. Premium-sharing shall not exceed a percentage, to be determined by the commission, of enrollee income.

(3) The maximum enrollee financial participation level for point-of-service cost sharing and premium sharing shall apply only to residents who elect to receive subsidies. The limits shall not apply to residents who meet the income eligibility requirements, but who choose not to enroll in a subsidy program.

#### NEW SECTION

**WAC 245-03-680 Maximum out-of-pocket limits.**

(1) There shall be two schedules of maximum out-of-pocket limits in the uniform benefits package.

(2) Residents with individual or family incomes greater than 250% of the federal poverty level shall have an individual maximum out-of-pocket limit of \$1,250 and a family maximum out-of-pocket limit of \$2,500.

(3) Residents with individual or family incomes less than or equal to 250% of the federal poverty level shall have an individual maximum out-of-pocket of \$600 and a family maximum out-of-pocket limit of \$1,200.

**WSR 94-17-190**

**PROPOSED RULES**

**HEALTH SERVICES COMMISSION**

[Filed August 24, 1994, 11:20 a.m.]

Original Notice.

Title of Rule: Uniform benefits package.

PROPOSED

**Purpose:** The purpose of the new rules is to define the health benefits that shall be included in the uniform benefits package offered by all certified health plans, as required by RCW 43.72.130.

**Statutory Authority for Adoption:** RCW 43.72.040(5), 43.72.130.

**Statute Being Implemented:** RCW 43.72.130.

**Summary:** Creates a new chapter in Title 245 WAC to implement RCW 43.72.130. Establishes the health benefits that must be offered by certified health plans as the uniform benefits package.

**Reasons Supporting Proposal:** These rules are necessary to implement RCW 43.72.130 and to direct certified health plans in offering health services coverage.

**Name of Agency Personnel Responsible for Drafting:** Kirsten Iversen, 605 Woodland Square Loop S.E., Olympia, WA 98504-1185, 407-0211; **Implementation and Enforcement:** Don Brennan, 605 Woodland Square Loop S.E., Olympia, WA 98504-1185, 407-0039.

**Name of Proponent:** Washington Health Services Commission, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rulemaking creates a new chapter in Title 245 WAC for the purposes of implementing RCW 43.72.130 Uniform benefits package design. It establishes the health benefits that must be offered by certified health plans as the uniform benefits package. These rules are necessary to direct certified health plans in offering health services coverage.

**Proposal does not change existing rules.**

**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: Randy Revelle, Director, Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, phone (206) 407-0039, or FAX (206) 407-0069.

**Hearing Location:** The following is the schedule of eight public hearings to be held on the proposed rules:

Day/Date	Location	Starting Times
Tuesday September 27	Spokane Spokane City Hall 808 West Spokane Falls Boulevard	9:00 a.m. 1:00 p.m. 6:00 p.m.
Thursday September 29	Pasco Franklin County P.U.D. 1411 West Clark	1:00 p.m. 6:00 p.m.
Friday September 30	Yakima Cavanaugh's at the Yakima Center 607 East Yakima Avenue	1:00 p.m. 6:00 p.m.
Monday October 3	Tacoma (Fife) Executive Inn 5700 Pacific Avenue East	9:00 a.m. 1:00 p.m. 6:00 p.m.
Wednesday October 5	Longview Montecello Hotel 1405 17th Avenue	1:00 p.m. 6:00 p.m.
Friday October 7	Burlington Burlington Community/Senior Center 1011 Greenleaf Avenue	1:00 p.m. 6:00 p.m.
Tuesday October 11	Lacey Worthington Conference Center Saint Martin's College	1:00 p.m. 6:00 p.m.

5300 Pacific Avenue Southeast

Thursday	Seattle	9:00 a.m.
October 13	Lopez/Fidalgo Rooms	1:00 p.m.
	Seattle Center	6:00 p.m.
	305 Harrison Street	

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

**Submit Written Comments to:** Randy Revelle, Director, Health Services Commission, P.O. Box 41188, Olympia, WA 98504-1188, by October 7, 1994.

**Date of Intended Adoption:** October 26, 1994.

August 23, 1994  
Bernadene Dochnahl  
Commission Chair

WASHINGTON HEALTH SERVICES COMMISSION  
Chapter 245-03 WAC  
UNIFORM BENEFITS PACKAGE

NEW SECTION

**WAC 245-03-010 Definitions.** (1) Unless the context requires otherwise, the definitions contained in this section apply throughout this chapter.

(2) An "appropriate" covered service is defined as one that is determined by the certified health plan or its representative to be of a type, and delivered in a setting, that is consistent with:

- (a) the patient's needs, capabilities, symptoms, culture, language, age, gender, and development;
- (b) accepted health care professional standards; and
- (c) the obligations of the certified health plan to provide covered services to its enrolled members.

(3) An "effective" covered service is defined as one that is determined by the certified health plan to be most likely to achieve the desired health care outcome, while minimizing both the adverse effects on the patient and the use of resources by the certified health plan.

(4) "Emergency" is defined as a condition manifesting itself by acute symptoms so severe that the absence of immediate attention could reasonably be expected to result in:

- (a) placing the enrollee's physical and/or mental health in serious jeopardy;
- (b) serious impairment to bodily functions; or
- (c) serious dysfunction of any body organ or part.

(5) A "medically necessary" covered service is defined as one that is determined by the certified health plan to be:

- (a) consistent with the symptoms, diagnosis and treatment of the patient's condition;
- (b) appropriate with regard to standards of good clinical practice; and
- (c) not solely for the convenience of the patient, the patient's family or the provider of the service.

(d) The fact that a provider prescribes, orders, recommends, or approves a service or supply does not, in itself, make it medically necessary.

(6) A "pre-existing condition" is defined as an illness or injury that was diagnosed or treated, or that should reasonably have been treated, in the three months prior to the date of enrollment.

PROPOSED

(7) "Urgent" services are defined as those services which are required in order to prevent serious deterioration of an enrollee's health that results from unforeseen illness or injury.

#### NEW SECTION

**WAC 245-03-020 Policy statement.** (1) RCW 43-72-130(1) directs the commission 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 the residents of Washington, balanced with the need to control health services expenditures in Washington.

(2) The uniform benefits package emphasizes preventive services that improve or maintain the health of all segments of the population by promoting early detection and intervention; ensuring access to effective screening, assessment, and intervention services; and assuring that children receive a broad array of preventive services. At the same time, the uniform benefits package attempts to protect the residents of the state from financial ruin due to illness or injury.

(3) The uniform benefits package promotes consumer awareness and responsibility by requiring consumers to share in the cost of most of the health services they receive. Access to needed health care is enhanced by eliminating cost-sharing requirements for preventive services and by considering differences in income levels in establishing cost-sharing requirements.

(4) The uniform benefits package represents a deliberate balance by the commission between comprehensiveness and affordability of services covered. The design of the uniform benefits package strives to assure that the health care needs of state residents are met and that undue financial burdens are not placed on individuals, employers, and the economy.

**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 245-03-040 Preamble.** (1) The services in the uniform benefits package shall be covered when provided, prescribed, ordered, or otherwise authorized by a certified health plan for an enrolled member. In making coverage determinations, certified health plans and their representatives shall employ the concepts of medical necessity, appropriateness, and effectiveness as defined in WAC 245-03-010. All covered services shall be obtained from certified health plan participating providers and facilities except in the case of a medical emergency as described in WAC 245-03-140(2), or when otherwise permitted by the certified health plan.

#### NEW SECTION

**WAC 245-03-50 Pre-existing conditions.** The uniform benefits package may exclude coverage for a period of three months from the date of enrollment for health conditions for which an enrollee sought treatment, or for which a reasonably prudent person should have sought treatment, during the three months prior to the date of enrollment in a certified health plan. If a new enrollee in a certified health plan has maintained continuous coverage, any

portion of the three-month waiting period which has been fulfilled while enrolled with previous health plans will be credited toward the waiting period of the new certified health plan. If the enrollee does not maintain continuous coverage, the three-month waiting period may be imposed by the new certified health plan.

**Reviser's note:** The new section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 246-03-50 is probably intended to be to WAC 245-03-050.

#### NEW SECTION

**WAC 245-03-080 No annual or lifetime maximum benefit limitations.** The uniform benefits package shall not include any provisions which place total dollar limitations on the maximum amount of benefits an enrollee can receive during a year or during the enrollee's lifetime.

#### NEW SECTION

**WAC 245-03-120 Primary and specialty health services.** The following primary and specialty health services shall be covered in the uniform benefits package:

(1) Preventive health services, which include:

(a) Periodic, age- and risk- appropriate exams, including comprehensive preventive services, such as screening, assessment, and intervention. Generally accepted guidelines, such as those developed by the United States Preventive Services Task Force and the American Academy of Pediatrics, must be used by a certified health plan as a basis to define the content and periodicity of coverage of preventive services.

(b) Preventive screening, assessment, and intervention services shall include verbal interaction with individuals, family members, and/or appropriate others. They shall include appropriate history and physical exams, with careful attention to age-, gender-, cultural-, linguistic-, and risk-specific needs.

(i) Examples of screening and assessment services include those services which address: growth and development for children; vision; hearing; nutrition; cardiovascular risk, including physical activity; cancer risk, including mammograms; tuberculosis; reproductive health, including sexually transmitted diseases; oral health; mental health; and substance abuse.

(ii) Examples of preventive interventions include immunizations; counseling, including anticipatory guidance; and individual, family, and group education.

(c) Currently covered immunizations must include diphtheria, pertussis, tetanus, measles, mumps, rubella, poliomyelitis, and HIB. Additionally, currently covered vaccines for high risk groups must include those for influenza, pneumococci, and hepatitis B.

(d) Genetic screening, assessment, and counseling for congenital abnormalities and birth defects; and

(e) Preventive dental services for children based on the content and periodicity of generally accepted guidelines, such as those of the American Dental Association and the American Academy of Pediatrics.

(2) Surgical services.

(3) Radiology, nuclear medicine, ultrasound, laboratory, and other diagnostic services.

- (4) Dressings, casts, and use of cast room.
- (5) Anesthesia and oxygen services.
- (6) Blood components, synthetic factors, plasma expanders and their administration, including autologous and family blood transfusion when indicated and cost-effective.
- (7) Provider visits, including diagnosis, treatment, consultations, management, and second opinions in the hospital, office, home, or other appropriate setting.
- (8) Radiation therapy and chemotherapy.
- (9) Plastic and reconstructive services to correct a physical functional disorder due to a congenital disease or anomaly, injury, covered surgery, or mastectomy.
- (10) Internal breast prostheses required incidental to surgery, as well as all stages of one reconstructive breast reduction on the non-diseased breast to make it equivalent in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.
- (11) Up to 60 visits per year for medically necessary physical therapy, occupational therapy, speech therapy, and other medical rehabilitation services provided in non-inpatient settings.
- (12) Mental health medication management.
- (13) Vision exams related to diseases of or injuries to the eye, or symptomatic refractive error, and eyeglasses and/or contact lenses used to replace the human lens as a result of cataract removal or to treat ocular disease.
- (14) Hearing exams related to diseases of or injuries to the ear, or to sensorial hearing impairment.
- (15) In-service-area emergency and urgent services, as defined in WAC 245-04-080 and WAC 245-03-010 (4) and (7).
- (16) Out-of-service-area emergency services, as defined in WAC 245-04-080 and WAC 245-03-010(4).
- (17) Out-of-service-area urgent services, as defined in WAC 245-04-080 and WAC 245-03-010(7), for a period of 90 days. Out-of-service-area urgent services may be authorized at the certified health plan's discretion when an enrollee lives or visits out of the service area for longer than 90 days.
- (18) Ambulance services shall be covered in the uniform benefits package for emergency conditions, when other transport is not appropriate, and when authorized by the certified health plan. Air ambulance shall be covered in the uniform benefits package only if ground transportation is not available to serve the same purpose.
- (19) Prescribed medically necessary durable medical equipment, with the provision that certified health plans may limit durable medical equipment coverage to those items on a formulary, if a mechanism is in place to allow approval of non-formulary items, including newly developed or released items, when a formulary item will not suffice.
- (20) Prescribed disposable medical supplies, with the provision that certified health plans may limit disposable medical supply coverage to those items on a formulary, if a mechanism is in place to allow approval of non-formulary items, including newly developed or released items, when a formulary item will not suffice.

NEW SECTION

**WAC 245-03-140 Inpatient and outpatient hospital services.** (1) The following hospital services shall be covered in the uniform benefits package:

- (a) Semi-private room and board, including meals; private room and special diets when prescribed as medically necessary.
- (b) General nursing services.
- (c) Hospital services, including use of operating room and related facilities; intensive care unit and services; labor and delivery room; anesthesia; radiology; laboratory and other diagnostic services.
- (d) Medically necessary physical therapy, occupational therapy, speech therapy, and other medical rehabilitation services.
- (e) Medically necessary durable medical equipment, with the provision that certified health plans may limit durable medical equipment coverage to those items on a formulary, if a mechanism is in place to allow approval of non-formulary items, including newly developed or released items, when a formulary item will not suffice.
- (f) Drugs and medications administered while an inpatient.
- (g) Special duty nursing when prescribed as medically necessary.
- (h) Dressings, casts, equipment, supplies, oxygen services, radiation and inhalation therapy.
- (i) Implants for procedures determined by the commission to be safe and effective. Currently covered implants include cardiac devices, artificial joints and intraocular lenses.
- (j) Transplants and the reasonable, directly related medical and hospital expenses of the donor for those transplantation procedures determined by the commission to be safe and effective. Currently covered transplants include kidney, heart, lung, heart-lung, liver, cornea, bone marrow, and simultaneous kidney-pancreas transplants.
- (k) In-service-area emergency and urgent services, as defined in WAC 245-04-080 and WAC 245-03-010 (4) and (7).
- (l) Out-of-service-area emergency services, as defined in WAC 245-04-080 and WAC 245-03-010(4).
- (m) Out-of-service-area urgent services, as defined in WAC 245-04-080 and WAC 245-03-010(7), for a period of 90 days. Out-of-service-area urgent services may be authorized at the certified health plan's discretion when an enrollee lives or visits out of the service area for longer than 90 days.
- (2) If an enrollee is hospitalized in a non-participating facility for emergency or non-emergency care, the certified health plan may require transfer and/or follow-up care in a certified health plan-participating facility at the certified health plan's expense, upon consultation with the primary care provider or other designated provider. If the enrollee refuses to transfer to a participating facility, all further costs incurred during hospitalization shall be the responsibility of the enrollee.

PROPOSED

NEW SECTION

**WAC 245-03-160 Prescription drugs and medications.** Drugs and medications prescribed by a certified health plan provider shall be covered in the uniform benefits package for a 31-day supply per prescription, except in instances when the certified health plan determines a longer period is appropriate and cost-effective. Certified health plans may limit routine coverage to those items on a formulary, if a mechanism is in place to allow approval of non-formulary items, including newly developed or released items, when a formulary item will not suffice.

NEW SECTION

**WAC 245-03-180 Reproductive and maternity services.** (1) Reproductive services shall be covered in the uniform benefits package, including, but not limited to:

- (a) Reproductive health screening;
- (b) Assessment/exam and treatment;
- (c) Pregnancy diagnosis;
- (d) Sterilization;
- (e) Termination of pregnancy and exams following termination of pregnancy;
- (f) Counseling for reproductive health risk, birth control, pregnancy options, preconception care, and sterilization; and
- (g) Contraceptive supplies and devices.

(2) Maternity services shall be covered in the uniform benefits package, including, but not limited to:

- (a) Pregnancy diagnosis;
- (b) Prenatal care;
- (c) Postpartum care;
- (d) Care for complications of pregnancy;
- (e) Professional and facility services, including labor and delivery in home, birth center, or hospital;
- (f) Lactation management;
- (g) Newborn and nursery services; and
- (h) Prenatal counseling and education.

NEW SECTION

**WAC 245-03-200 Well-child care services.** Well-child care services shall be covered in the uniform benefits package as preventive services as defined in WAC 245-03-120(1).

NEW SECTION

**WAC 245-03-220 Preventive dental services for children.** Preventive dental services for children shall be covered in the uniform benefits package as preventive services as defined in WAC 245-03-120 (1)(e).

NEW SECTION

**WAC 245-03-240 Case-managed chemical dependency services.** Case-managed inpatient, outpatient, and residential chemical dependency treatment, including case-managed nicotine addiction treatment, shall be covered in the uniform benefits package up to 30 inpatient or residential days and 30 outpatient visits per year.

NEW SECTION

**WAC 245-03-260 Case-managed mental health services.** Case-managed inpatient and outpatient mental health treatment shall be covered in the uniform benefits package up to 30 inpatient days and 30 outpatient visits per year. Coverage for inpatient mental health days may be converted to equivalent coverage for other intensive mental health treatment only.

NEW SECTION

**WAC 245-03-280 Case-managed skilled nursing facility services.** Case-managed skilled nursing facility services shall be covered in the uniform benefits package only when they are provided in substitution for more costly, less efficacious hospital services. Coverage for skilled nursing facility services shall not require prior hospitalization.

NEW SECTION

**WAC 245-03-300 Case-managed home health services.** Case-managed home health services, when determined to be medically necessary by activities of daily living (ADL) or other appropriate measures, shall be covered in the uniform benefits package when they are provided in substitution for institutional or other more costly, less efficacious treatment. Coverage for home health services shall not require prior hospitalization or admission to a skilled nursing facility.

NEW SECTION

**WAC 245-03-320 Case-managed hospice services.** Case-managed hospice services shall be covered in the uniform benefits package when the patient is deemed by the certified health plan to be in the last six months of life due to a terminal illness or condition. If, after six months, the patient's prognosis has not changed, continued coverage for hospice care shall be authorized by the certified health plan.

NEW SECTION

**WAC 245-03-390 Exclusions.** The following services shall be excluded from coverage in the uniform benefits package:

(1) Dental services, except for treatment of accidental injury within 90 days of the occurrence of injury, or as specifically indicated in WAC 245-03-120 (1)(e).

(2) Cosmetic surgery, including treatment for complications of cosmetic surgery, except as otherwise specifically indicated.

(3) Orthopedic shoes.

(4) Corrective lenses, frames, and contact lenses, except as specifically indicated.

(5) Hearing aids.

(6) Private rooms and personal comfort items such as telephone, guest trays and television, unless specifically authorized by the certified health plan.

(7) Experimental and investigational services, except for those categories of services authorized by the commission.

(8) Implants and transplants, except as specifically indicated in WAC 245-03-140 (1)(i) and (j).

(9) Sex change operations.

(10) Use of emergency room for non-emergency care unless other 24-hour emergency and urgent coverage is not available through the certified health plan.

(11) Transportation services except as specifically indicated in WAC 245-03-120(18).

(12) Treatment for infertility, reversal of sterilization, artificial insemination, and other assistive reproductive technology, including but not limited to in-vitro fertilization.

(13) Long-term residential or long-term outpatient chemical dependency services, chemical dependency treatment related support and habilitative services, family counseling, and child care.

(14) Long-term residential or long-term outpatient mental health services, mental health treatment related support and habilitative services, family counseling, and child care.

(15) Long-term custodial care.

(16) Obesity treatment and weight-loss programs, unless provided as part of a certified health plan-approved program for specific diagnoses.

(17) Benefits payable under automobile medical, automobile no-fault, underinsured, or uninsured motorist or similar contract of insurance.

(18) Conditions resulting from acts of war, declared or undeclared.

(19) Medical services received from or paid for by federal, state, or local government programs not governed by the Act.

(20) Any service or supply not specifically listed as a covered service or otherwise authorized by the certified health plan.

PROPOSED

**WSR 94-17-011**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Filed August 8, 1994, 3:49 p.m.]

Date of Adoption: August 4, 1994.

Purpose: To clarify protection needs and field identification of forested bogs and fens.

Citation of Existing Rules Affected by this Order: Amending WAC 173-202-020.

Statutory Authority for Adoption: RCW 90.48.420, 76.09.040.

Pursuant to notice filed as WSR 94-08-071 on April 4, 1994.

Changes Other than Editing from Proposed to Adopted Version: Clarification of harvest restrictions in forested bogs and fens and editing of bog definition by a technical advisory group of wetland scientists to simplify field identification of these systems.

Effective Date of Rule: Thirty-one days after filing.  
 August 4, 1994  
 Mary Riveland  
 Director

**AMENDATORY SECTION** (Amending WSR 93-11-062, filed 5/13/93, effective 6/13/93)

**WAC 173-202-020 Certain WAC sections adopted by reference.** The following sections of the Washington Administrative Code existing on (~~May 12, 1993~~) September 15, 1994, are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:

WAC 222-08-035—Continuing review of forest practices regulations.

WAC 222-12-010—Authority.

WAC 222-12-040—Alternate plans.

WAC 222-12-045—Adaptive management.

WAC 222-12-046—Cumulative effect

WAC 222-12-070—Enforcement policy.

WAC 222-16-010—General definitions.

WAC 222-16-030—Water typing system.

WAC 222-16-035—Wetland typing system.

WAC 222-16-050 (1)(a), (1)(e), (1)(h), (1)(i), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(n), (3)(o), (3)(p), (4)(c), (4)(d), (4)(e), (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(h), (5)(n)—Classes of forest practices.

WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.

WAC 222-22-010—Policy.

WAC 222-22-020—Watershed administrative units.

WAC 222-22-030—Qualification of watershed resource analysts, specialists, and field managers.

WAC 222-22-040—Watershed prioritization.

WAC 222-22-050—Level 1 watershed resource assessment.

WAC 222-22-060—Level 2 watershed resource assessment.

WAC 222-22-070—Prescription recommendation.

WAC 222-22-080—Approval of watershed analysis.

WAC 222-22-090—Use and review of watershed analysis.

WAC 222-22-100—Application review prior to watershed analysis.

WAC 222-24-010—Policy.

WAC 222-24-020 (2), (3), (4), (6)—Road location.

WAC 222-24-025 (2), (5), (6), (7), (8), (9), (10)—Road design.

WAC 222-24-030 (2), (4), (5), (6), (7), (8), (9)—Road construction.

WAC 222-24-035 (1), (2)(c), (2)(d), (2)(e), (2)(f)—Landing location and construction.

WAC 222-24-040 (1), (2), (3), (4)—Water crossing structures.

WAC 222-24-050—Road maintenance.

WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.

WAC 222-30-010—Policy—Timber harvesting.

WAC 222-30-020 (2), (3), (4), (5), (7)(a), (7)(e), (7)(f), (8)(c)—Harvest unit planning and design.

WAC 222-30-025—Green-up: Even-aged harvest size and timing.

WAC 222-30-030—Stream bank integrity.

WAC 222-30-040—Shade requirements to maintain stream temperature.

WAC 222-30-050 (1), (2), (3)—Felling and bucking.

WAC 222-30-060 (1), (2), (3), (5)(c)—Cable yarding.

WAC 222-30-070 (1), (2), (3), (4), (5), (7), (8), (9)—Tractor and wheeled skidding systems.

WAC 222-30-080 (1), (2)—Landing cleanup.

WAC 222-30-100 (1)(a), (1)(c), (4), (5)—Slash disposal.

WAC 222-34-040—Site preparation and rehabilitation.

WAC 222-38-010—Policy—Forest chemicals.

WAC 222-38-020—Handling, storage, and application of pesticides.

WAC 222-38-030—Handling, storage, and application of fertilizers.

WAC 222-38-040—Handling, storage, and application of other forest chemicals.

**WSR 94-17-033**  
**PERMANENT RULES**  
**FOREST PRACTICES BOARD**

[Filed August 10, 1994, 10:45 a.m., effective August 13, 1994]

Date of Adoption: August 4, 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, 222-16-035, and 222-30-020.

Statutory Authority for Adoption: RCW 76.09.040, and chapter 34.05 RCW.

Pursuant to notice filed as WSR 94-09-029 on April 15, 1994; and continuance filed as WSR 94-15-024 on July 12, 1994.

Changes Other than Editing from Proposed to Adopted Version: The general subject matter of the adopted rule is the same as what was proposed. As a result of written comments received and oral comments made at the public hearing, the board revised the definition of "bog" and

eliminated the definition of "fen." This was done in order to streamline field procedures for identifying bogs. The editorial change proposed for the table in WAC 222-30-020 (3)(c) was not adopted, it will be considered at some future date.

Effective Date of Rule: August 13, 1994. The current emergency rule protecting bogs expires on August 12, 1994. Bogs have been identified as an important resource related to water quality. Since they are of unique biological value and are extremely sensitive to disturbance, the wider buffer of the Type A wetland provides better protection for bogs. The earlier effective date of August 13, 1994, provides protection of this public resource in accordance with RCW 34.05.380(3).

August 4, 1994

Jennifer M. Belcher  
Commissioner of Public Lands

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations:

"**Act**" means the Forest Practices Act, chapter 76.09 RCW.

"**Affected Indian tribe**" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"**Appeals board**" means the forest practices appeals board established in the act.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: ((~~Peat~~)) Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the Forest Practices Board Manual.

"**Borrow pit**" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Chemicals**" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"**Clearcut**" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Commercial tree species**" means any species which is capable of producing a merchantable stand of timber on

the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"**Completion of harvest**" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"**Constructed wetlands**" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"**Contamination**" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"**Conversion option harvest plan**" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"**Conversion to a use other than commercial timber operation**" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"**Critical habitat (federal)**" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3(5)(A) and 4(a)(3) of the Federal Endangered Species Act.

"**Critical wildlife habitat (state)**" means those habitats designated by the board in accordance with WAC 222-16-080.

"**Cultural resources**" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"**Cumulative effects**" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"**Debris**" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"**Department**" means the department of natural resources.

"**Eastern Washington**" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Fen"** means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

**"Fertilizers"** means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

**"Fill"** means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

**"Flood level - 50 year."** For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being

actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

**"Forest trees"** excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

**"Green recruitment trees"** means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

**"Herbicide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

**"Historic site"** includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

**"Identified watershed processes"** means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and

Stream bank and bed stability.

**"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

**"Interdisciplinary team"** (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Notice to comply"** means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

**"Operator"** shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

**"Ordinary high-water mark"** means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

**"Other forest chemicals"** means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

**"Park"** means any park included on the parks register maintained by the department pursuant to WAC 222-20-

100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

**"Partial cutting"** means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

**"Pesticide"** means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

**"Plantable area"** is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

**"Power equipment"** means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

**"Public resources"** means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

**"Rehabilitation"** means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

**"Relief culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

**"Resource characteristics"** means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

**"Riparian management zone"** means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

**"Rodenticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

**"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

**"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

**"Shorelines of the state"** shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

**"Side casting"** means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

**"Site preparation"** means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

**"Skid trail"** means a route used by tracked or wheeled skidders to move logs to a landing or road.

**"Slash"** means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

**"Spoil"** means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

**"Stop work order"** means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

**"Threatened or endangered species"** means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

**"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

**"Water bar"** means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

**"Watershed administrative unit (WAU)"** means an area shown on the map specified in WAC 222-22-020(1).

**"Watershed analysis"** means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

**"Weed"** is any plant which tends to overgrow or choke out more desirable vegetation.

**"Western Washington"** means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

**"Wetland"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

**"Wetland functions"** include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

**"Wetland management zone"** means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

**"Wildlife"** means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

**"Wildlife reserve trees"** means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

**"Windthrow"** means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

**AMENDATORY SECTION** (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

**WAC 222-16-035 Wetland typing system.** \*The department in cooperation with the departments of fisheries, wildlife, and ecology, and affected Indian tribes shall classify wetlands. The wetlands will be classified in order to distinguish those which require wetland management zones and those which do not. Wetlands which require wetland management zones shall be identified using the following criteria: Accurate delineation of wetlands in accordance with the manual shall be required only where necessary to determine whether replacement by substitution or enhancement is required pursuant to WAC 222-24-025(10) and shall be limited to the area of wetland proposed to be filled. For the purposes of determining acreage to classify or type wetlands under this section, approximate determination using aerial photographs and maps, including the national wetlands

inventory, shall be sufficient. In addition, the innermost boundary of the wetland management zone on Type A or B wetlands may be determined by either of two methods: Delineation of the wetland edge, or identifying the point where the crown cover changes from less than 30% to 30% or more. Except where necessary to determine whether replacement by substitution or enhancement is required pursuant to WAC 222-24-025(10), accurate delineation shall not be required under this Title 222 WAC for activities regulated by these rules, including but not limited to the location of roads, landings, culverts, and cross drains. Landowners are encouraged to leave vegetation in these forested wetlands in undisturbed leave areas where possible. When so requested by any affected landowners, applicant or aggrieved person, the department shall make available informal conferences, which shall include the departments of fisheries, wildlife, and ecology, and affected Indian tribes and those contesting the adopted wetland types. These conferences shall be established under procedures established in WAC 222-46-020.

**\*(1) "Nonforested wetlands"** means any wetland or portion thereof that has, or if the trees were mature would have, a crown closure of less than 30 percent.

(a) **"Type A Wetland"** classification shall be applied to all nonforested wetlands which:

(i) Are greater than 0.5 acre in size, including any acreage of open water where the water is completely surrounded by the wetland; and

(ii) Are associated with at least 0.5 acre of ponded or standing open water. The open water must be present on the site for at least 7 consecutive days between April 1 and October 1 to be considered for the purposes of these rules; or

~~((iii) Are bogs and fens greater than 0.25 acre.))~~

(b) **"Type B Wetland"** classification shall be applied to all other nonforested wetlands greater than 0.25 acre.

**\*(2) "Forested wetland"** means any wetland or portion thereof that has, or if the trees were mature would have, a crown closure of 30 percent or more.

**\*(3) "All forested and nonforested bogs" greater than 0.25 acres shall be considered Type A Wetlands.**

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-30-020 Harvest unit planning and design.**

(1) **Logging system.** The logging system should be appropriate for the terrain, soils, and timber type so yarding or skidding can be economically accomplished in compliance with these regulations.

**\*(2) Landing locations.** Locate landings to prevent damage to public resources. Avoid excessive excavation and filling.

**\*(3) Western Washington riparian management zones.** These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than 25 feet in width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone

width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.

WATER TYPE/AVERAGE WIDTH	RMZ MAXIMUM WIDTH	RATIO OF CONIFER TO DECIDUOUS/ MINIMUM SIZE LEAVE TREES	# TREES/1000 FT. EACH SIDE	
			GRAVEL/ COBBLE <10" DIAMETER	BOULDER/ BEDROCK
1 & 2 Water 75' & over	100'	representative of stand	50 trees	25 trees
1 & 2 Water under 75'	75'	representative of stand	100 trees	50 trees
3 Water 5' & over	50'	2 to 1/12" or next largest available	75 trees	25 trees
3 Water less than 5'	25'	1 to 1/6" or next largest available	25 trees	25 trees

"Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified. Ponds or lakes which are Type 1, 2 or 3 Waters shall have the same leave tree requirements as boulder/bedrock streams.

(d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion

of harvest. Wildlife trees shall be left in clumps whenever possible.

(e) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and the harvest unit is a clearcutting of 30 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection.

**\* (4) Eastern Washington riparian management zones.** These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Waters and extend to the line where vegetation changes from wetland to upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-16-010 "Partial cutting." When the adjacent unit harvest type is:

Partial cutting - The riparian management zone width shall be a minimum of 30 feet to a maximum of 50 feet on each side of the stream.

Other harvest types - The riparian management zone shall average 50 feet in width on each side of the stream with a minimum width of 30 feet and a maximum of 300 feet on each side of the stream.

(ii) Leave tree requirements within the riparian management zones of Type 1, 2 or 3 Waters:

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all wildlife reserve trees within the riparian management zone where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 16 live conifer trees/acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 3 live conifer trees/acre 20 inches dbh or larger and the 2 largest live deciduous trees/acre 16 inches dbh or larger. Where these deciduous trees do not exist, and where 2 wildlife reserve trees/acre 20 inches or larger do not exist, substitute 2 live conifer trees/acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees/acre; and

(E) Leave 3 live deciduous trees/acre between 12 inches and 16 inches dbh where they exist.

(iii) Minimum leave tree requirements per acre for Type 1, 2 and 3 Waters. Trees left for (c)(ii) of this subsection shall be included in the minimum counts.

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees/acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 135 trees/acre 4 inches dbh or larger.

(C) On lakes or ponds the minimum leave tree requirement shall be 75 trees/acre 4 inches dbh or larger.

Note: (See the Forest Practices Board Manual for assistance in calculating trees/acre and average RMZ widths.)

(d) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and either the harvest unit is a clearcutting of 30 acres or less or the harvest unit is a partial cutting of 80 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010 "Partial cutting.")

\*(5) Riparian leave tree areas. The department will require trees to be left along Type 4 Water where such practices are necessary to protect public resources. Where such practices are necessary leave at least 25 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 25 feet of the stream. The leave trees may be arranged to accommodate the operation.

\*(6) **Forested wetlands.** Within the wetland, unless otherwise approved in writing by the department, harvest methods shall be limited to low impact harvest or cable systems. Where feasible, at least one end of the log shall be suspended during yarding.

(a) When forested wetlands are included within the harvest area, landowners are encouraged to leave a portion (30 to 70%) of the wildlife reserve tree requirement for the harvest area within a wetland. In order to retain undisturbed habitat within forested wetlands, these trees should be left in clumps. Leave tree areas should be clumped adjacent to streams, riparian management zones, or wetland management zones where possible and they exist within forested wetlands. Green recruitment trees should be representative of the size and species found within the wetland. Leave nonmerchantable trees standing where feasible.

(b) If a RMZ or WMZ lies within a forested wetland, the leave tree requirement associated with those areas may be counted toward the percentages in (a) of this subsection.

(c) If the conditions described in (a) and (b) of this subsection are met, the distribution requirements for wildlife reserve trees and green recruitment trees (subsection (11)(e) of this section) are modified as follows: For purposes of

distribution, no point within the harvest unit shall be more than 1000 feet from a wildlife reserve tree and green recruitment tree retention area.

(d) Approximate determination of the boundaries of forested wetlands greater than 5 acres shall be required. Approximate boundaries and areas shall be deemed to be sufficient for harvest operations.

(e) The department shall consult with the department of wildlife, the department of fisheries, and affected Indian tribes about site specific impacts of forest practices on wetland-sensitive species in forested wetlands.

\*(7) **Wetland management zones (WMZ).** These zones shall apply to Type A and B Wetlands, as indicated in (a) of this subsection, and shall be measured horizontally from the wetland edge or the point where the nonforested wetland becomes a forested wetland, as determined by the method described in the board manual, and shall be of an average width as described in (a) of this subsection. These zones shall not be less than the minimum nor more than the maximum widths described in (a) of this subsection. When these zones overlap a riparian management zone the requirement which best protects public resources shall apply.

\*(a) Wetland management zones (WMZ) shall have variable widths based on the size of the wetland and the wetland type, described as follows:

((WETLAND MANAGEMENT ZONE WIDTHS

Wetland Type	Acres of Nonforested Wetland	Maximum WMZ Width	Average WMZ Width	Minimum WMZ Width
A	Greater than 5	200 feet	100 feet	50 feet
A	0.5 to 5	100 feet	50 feet	25 feet
A-Bog/Fen	0.25 to 0.5	100 feet	50 feet	25 feet
B	Greater than 5	100 feet	50 feet	25 feet
B	0.5 to 5			25 feet
B	0.25 to 0.5	No WMZ Required))		

PERMANENT

**WETLAND MANAGEMENT ZONES**

<u>Wetland Type</u>	<u>Acres of Nonforested Wetland*</u>	<u>Maximum WMZ Width</u>	<u>Average WMZ Width</u>	<u>Minimum WMZ Width</u>
<u>A (including bogs)</u>	<u>Greater than 5</u>	<u>200 feet</u>	<u>100 feet</u>	<u>50 feet</u>
<u>A (including bogs)</u>	<u>0.5 to 5</u>	<u>100 feet</u>	<u>50 feet</u>	<u>25 feet</u>
<u>A (bogs only)</u>	<u>0.25 to 0.5</u>	<u>100 feet</u>	<u>50 feet</u>	<u>25 feet</u>
<u>B</u>	<u>Greater than 5</u>	<u>100 feet</u>	<u>50 feet</u>	<u>25 feet</u>
<u>B</u>	<u>0.5 to 5</u>			<u>25 feet</u>
<u>B</u>	<u>0.25 to 0.5</u>	<u>No WMZ Required</u>	<u>No WMZ Required</u>	

\*For bogs, both forested and non-forested acres are included.

(b) Within the WMZ, leave a total of 75 trees per acre of WMZ greater than 6 inches dbh in Western Washington and greater than 4 inches dbh in Eastern Washington, 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches dbh, where they exist. Leave trees shall be representative of the species found within the WMZ.

(c) Retain wildlife reserve trees where feasible. Type 1 and 3 wildlife reserve trees may be counted among, and need not exceed, the trees required in (b) of this subsection. Leave all cull logs on site.

(d) Partial-cutting or removal of groups of trees is acceptable within the WMZ. The maximum width of openings created by harvesting within the WMZ shall not exceed 100 feet as measured parallel to the wetland edge. Openings within WMZs shall be no closer than 200 feet. Landowners are encouraged to concentrate leave trees within the WMZ to the wetland edge.

(e) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

(f) When 10% or more of a harvest unit lies within any combination of a wetland management zone or a riparian management zone of Type 1, 2, or 3 Waters and either the harvest unit is a clearcut of 30 acres or less or the harvest unit is a partial cut of 80 acres or less, leave not less than 50% of the trees required in (b) of this subsection.

(8) ~~(Nonforested wetlands)~~ **Type A or B** Wetlands. Within the boundaries of Type A or B Wetlands the following shall apply:

(a) Individual trees or forested wetland areas less than 0.5 acre in size may occur. These trees have a high habitat value to the nonforested wetland. Leave individual trees or forested wetlands less than 0.5 acre. These trees may be counted toward the WMZ requirements.

(b) Harvest of upland areas or forested wetlands which are surrounded by Type A or B Wetlands must be conducted in accordance with a plan, approved in writing by the department.

(c) No timber shall be felled into or cable yarded across Type A or B Wetlands without written approval of the department.

(d) Harvest shall not be allowed within a Type A Wetland which meets the definition of a bog.

(9) **Future productivity.** Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for riparian management zones; or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

(10) **Wildlife habitat.** This subsection is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the department of wildlife to identify critical wildlife habitats (state) as defined by the board. Where these habitats are known to the applicant, they shall be identified in the application or notification.

(b) Harvesting methods and patterns in established big game winter ranges should be designed to insure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

(11) **Wildlife reserve tree management.** In areas where leaving wildlife reserve trees under this section will not create a significant fire hazard, or significant hazard to overhead power lines and operations that are proposed in the vicinity of wildlife reserve trees will not create a significant safety or residential hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (snag falling law) and chapter 49.17 RCW (safety), wildlife reserve trees will be left to protect habitat for cavity nesting wildlife in accordance with the following:

(a) In Western Washington, for each acre harvested 3 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. In Eastern Washington for each acre harvested 2 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. Type 1 wildlife reserve trees may be counted, at the landowner's option, either as a wildlife reserve tree or as a green recruitment tree. If adequate wildlife reserve trees are not available, no additional green recruitment trees will be required as substitutes. Landowners shall not under any circumstances be required to leave more than 2 green recruitment trees per acre for the purpose of wildlife reserve tree recruitment, or be required to leave Type 3 or 4 wildlife reserve trees.

(b) In Eastern Washington, for 5 years from the effective date of this subsection where over-story harvest of seed trees left for purpose of reforestation are proposed and less than 10 trees per acre will be harvested within the 5-year period, 50% of the green recruitment trees otherwise required in this subsection may be left.

(c) In Western Washington, only those wildlife reserve trees 10 or more feet in height and 12 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. In Eastern Washington, only those wildlife reserve trees 10 or more feet in height and 10 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. Green recruitment trees, 10 or more inches dbh and 30 or more feet in height and with at least 1/3 of their height in live crown, left standing after harvest may be counted toward green recruitment tree requirements. Green recruitment trees and/or wildlife reserve trees left to meet other requirements of the rules or those left voluntarily by the landowner shall be counted toward satisfying the requirements of this section. Large, live defective trees with broken tops, cavities, and other severe defects are preferred as green recruitment trees. Only down logs with a small end diameter greater than or equal to 12 inches and a length greater than or equal to 20 feet or equivalent volume shall be counted under (a) of this subsection. Large cull logs are preferred as down logs.

(d) In the areas where wildlife reserve trees are left, the largest diameter wildlife reserve trees shall be retained to meet the specific needs of cavity nesters. Where the

opportunity exists, larger trees with numerous cavities should be retained and count as recruitment trees.

(e) In order to facilitate safe and efficient harvesting operations, wildlife reserve trees and recruitment trees may be left in clumps. For purposes of distribution, no point within the harvest unit shall be more than 800 feet from a wildlife reserve tree or green recruitment tree retention area. Subject to this distribution requirement, the location of these retention areas and the selection of recruitment trees shall be at the landowner's discretion. Closer spacing of retention areas through voluntary action of the landowner is encouraged. Wildlife reserve tree and green recruitment tree retention areas may include, but are not limited to, riparian management zones, riparian leave tree areas, other regulatory leave areas, or voluntary leave areas that contain wildlife reserve trees and/or green recruitment trees.

(f) In order to provide for safety, landowners may remove any Type 3 or 4 wildlife reserve tree which poses a threat to humans working, recreating, or residing within the hazard area of that tree. In order to provide for fire safety, the distribution of wildlife reserve tree retention areas, described in (e) of this subsection, may be modified as necessary based on a wildlife reserve tree management plan proposed by the landowner and approved by the department.

**WSR 94-17-034**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Order 3767—Filed August 10, 1994, 10:53 a.m.]

Date of Adoption: August 10, 1994.

Purpose: Provides that *Sneede vs. Kizer* rules are changed to allow an eligibility determination for one or more family members based on family income prior to establishing separate medical assistance units. This change is intended to simplify the process.

Citation of Existing Rules Affected by this Order: Amending WAC 388-506-0610 AFDC related medical programs.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 94-14-057 on June 30, 1994.

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

August 10, 1994

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-506-0610 AFDC related medical programs.** (1) When determining eligibility for medical programs, the department shall consider:

(a) The family unit living in the same household as including all family members when determining program relationship;

(b) A relative financially responsible only as follows:

(i) The natural or adoptive parent or stepparent to a child eighteen years of age or younger living in the same household; and

(ii) Spouse to spouse living in the same household.

(c) As a separate medical assistance unit (MAU) the following family member living in the same household, when ~~((a))~~ the family member ~~((s-are))~~ is not eligible for a categorically needy medical care program:

(i) A child with countable income or resources;

(ii) A child in common of unmarried parents;

(iii) Each unmarried parent of a child in common with such parent's separate children, if any; or

(iv) A nonresponsible caretaker relative.

(d) Categorically related family members, other than those described under (c) of this subsection, in the same MAU; and

(e) A pregnant minor as not living in the same household as her parent regardless of whether she lives with her parent. See subsections (4)(b) and (5)(b) of this section.

(2) The department shall consider income and resources jointly for spouses and spouses' children living in the same household unless the exceptions in subsection (1)(c) of this section are met. See WAC 388-506-0620 for the financial responsibility requirements for SSI-related clients.

(3) When determining eligibility for medical care, the department shall ~~((not))~~ consider the countable income or resources of a child available only to ~~((any person other than))~~ the child.

(4) The department shall consider the income of a parent of a child eighteen years of age or younger:

(a) Living in the same household, available to the child whether or not actually contributed. The department shall:

(i) Allow a parent one hundred percent of the Federal Poverty Level (FPL) for the parent and other members of the parent's MAU; and

(ii) Allocate income in excess of one hundred percent of the FPL on a prorated basis to all children eighteen years of age or younger in separate MAUs for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent the parent's income is actually contributed to the child.

(5) The department shall consider the resources of a parent of a child eighteen years of age or younger:

(a) Living in the same household, available to the child whether or not actually contributed. The department shall ensure a parent's countable resources are:

(i) Prorated; and

(ii) Allocated in equal shares to:

(A) The parent; and

(B) Each person for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent the parent's resources are actually contributed to the child.

(6) When determining medical care eligibility, the department shall not consider available, unless actually contributed to the client, the income and resources of a:

(a) Stepparent not legally liable for support of the stepchildren;

(b) Legal guardian other than the parent of the client;

(c) Caretaker other than the parent of the client;

(d) Alien sponsor;

(e) Sibling or child of the client; or

(f) Spouse not living in the same household as the client.

(7) The department shall determine each MAU's medical care eligibility using:

(a) The MAU's countable income and resources;

(b) Household size for the number of persons in the MAU; and

(c) The income and resource standards that apply to the household size equal to the number of persons in the MAU.

(8) For each separate MAU, the department shall exempt one vehicle as described under WAC 388-216-2650.

(9) When the household contains an SSI-related family member who is ineligible for AFDC-related categorically needy Medicaid because of income or resources, that member shall be removed from the MAU and placed in a separate CAU. The department shall determine eligibility for:

(a) The remaining members of the MAU without consideration of the income or resources of the SSI-related client ~~((The department shall determine eligibility of))~~; and

(b) The SSI-related member using SSI-related income and resource rules.

**WSR 94-17-035**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3768—Filed August 10, 1994, 10:55 a.m.]

Date of Adoption: August 10, 1994.

Purpose: Implements the provisions of Omnibus Budget Reconciliation Act of 1993 (OBRA) and state law HB 2492. OBRA establishes provisions for the state agency to establish procedures for recovering cost of institutional, medical, and related care from a medical assistance client's estate. Mandatory for the state receiving federal financial participation. Amended to lower the age of client affected from sixty-five to fifty-five years of age. "Undue hardship" provisions are established.

Citation of Existing Rules Affected by this Order: Amending WAC 388-527-2710 Recovery from estates.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: OBRA 1993, HB 2492.

Pursuant to notice filed as WSR 94-14-056 on June 30, 1994.

Changes Other than Editing from Proposed to Adopted Version: Subsection (2), added "of this section." Same wording added to subsection (5)(d). Subsection (4), added "recovery shall apply to payments for such costs made on or after July 1, 1994." Subsection (7)(c), added and moved from subsection (12)(b)(iv) the wording "seek adjustment or recovery from a person's estate when the department determines the adjustment or recovery is cost effective." This change assures consistency with the Omnibus Budget Reconciliation Act of 1993 (OBRA), and does not change intent.

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

August 10, 1994

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-527-2710 Recovery from estates. (1) The department may file a lien against a client's property at any time pursuant to a judgment of a court on account of medical assistance incorrectly paid on behalf of a client.

(2) The department shall continue to seek adjustment or recovery of medical assistance which is recoverable before July 1, 1994 under subsection (3) and (4) of this section.

(3) For a medical assistance client whose death occurred on or prior to June 30, 1994, the department shall recover the cost of public assistance benefits provided under chapter 74.09 RCW provided to a client, who was sixty-five years of age or older, upon the client's death, except:

- (a) When there is a surviving spouse; or
- (b) When there is a surviving child:

(i) Twenty years of age and under; or

(ii) Blind or disabled as defined under chapter 388-511 WAC; or

(c) For family heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects that have been held in the possession of the deceased client to which a surviving child may otherwise be entitled not to exceed a total fair market value of two thousand dollars.

~~((2))~~ (4) For a medical assistance client whose death occurs on or after July 1, 1994, the department shall ~~((assert and enforce))~~ recover from the client's estate the cost of nursing facility services, home and community-based services and related hospital, prescription drug and Medicare cost sharing services, paid on behalf of a client, who was fifty-five years of age or older when the client received the services. Recovery shall apply to payments for such costs made on or after July 1, 1994.

(5) The department shall seek adjustment or recovery of a claim against the estate of the deceased client for the debt in subsection ~~((4))~~ (3) and (4) of this section, in accordance with chapter 11.40 RCW.

~~((3))~~ (6) The department shall:

(a) File a lien against any real property which ~~((was in the name of the client just before the))~~ is included in a deceased client's ~~((death-~~

(a) The department shall) estate;

(b) File the lien with the county auditor of the county in which the property is located; ~~((and~~

~~((b) The department shall deem))~~

(c) Consider the lien effective as of the date of the client's death; and

~~((e) The department's recovery of property shall be))~~

(d) Recover the cost of medical assistance as described in subsection (3) and (4) of this section from the estate or upon the next sale or transfer of the property.

~~((4) When a surviving spouse or child, as defined under subsection (1)(b) of this section, is discovered or contacts the department before recovery, the department shall release the lien.~~

~~((5) The term "child" shall include both natural and adopted children.~~

~~((6))~~ (7) The department shall:

(a) Seek adjustment or recovery from a person's estate where there is a surviving spouse;

(b) Collect against the lien upon the death of the surviving spouse or upon the next sale or transfer of the property; and

(c) Seek adjustment or recovery from a person's estate when the department determines the adjustment or recovery is cost effective.

(8) The department shall not seek adjustment or recovery when there is a surviving child who is:

(a) Twenty years of age and under; or

(b) Blind or disabled as defined under chapter 388-511 WAC.

(9) The department shall waive recovery of medical assistance costs described in subsection (4) of this section when such recovery would work an undue hardship as described in subsection (12) of this section.

(10) The department may undertake partial recovery to avoid an undue hardship situation as described in subsection (12) of this section.

(11) The department may consider, in situations where recovery is not waived because of undue hardship and the heirs of the estate from which recovery is sought wish to satisfy the recovery claim without selling a nonliquid asset, a reasonable payment schedule, subject to reasonable interest.

(12) For the purpose of this section:

(a) The value of the estate shall be the total estate value less any liabilities on any real property outstanding at the time of the client's death. "Estate" includes all real and personal property and other assets as provided under Washington state probate law.

(b) "Undue hardship" exists when:

(i) The estate subject to adjustment or recovery is the sole income-producing asset of the survivors and income is limited;

(ii) Recovery would result in the impoverishment of the survivors; or

(iii) The estate subject to adjustment or recovery consists of a homestead as defined in chapter 6.13 RCW and the sole occupants or survivors have limited income and resources.

(c) "Undue hardship" does not exist when:

(i) The adjustment or recovery of the client's cost of medical assistance as described in subsection (4) of this section would merely cause the client's family members inconvenience or restrict the families lifestyle; or

(ii) The survivor divests assets in order to qualify under the hardship provision.

WSR 94-17-036

PERMANENT RULES  
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES  
(Public Assistance)

[Order 3769—Filed August 10, 1994, 10:57 a.m.]

Date of Adoption: August 10, 1994.

Purpose: Increase standards to 200% of the federal poverty level (FPL) for children under nineteen years of age.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-503-0310 Categorically needy eligible persons, 388-509-0910 Medicaid for children—Eligible to

nineteen years of age, 388-509-0920 Children's health program, and 388-509-0960 Children's income standards.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 94-14-055 on June 30, 1994.

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

August 10, 1994

Dewey Brock, Chief

Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-503-0310 Categorically needy eligible persons.** The department shall determine eligible for categorically needy medical assistance a client who is:

(1) Receiving or eligible to receive a cash assistance payment under:

(a) Aid to families with dependent children (AFDC); or

(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment (SSP) to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-500-0005. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for categorically needy medical assistance.

(2) A person twenty years of age or younger who meets the:

(a) One-person AFDC financial requirements and is in:

(i) Foster care; or

(ii) Subsidized adoption; or

(iii) A nursing facility or intermediate care facility for mentally retarded (ICF/MR); or

(iv) An approved inpatient psychiatric facility.

(b) Eligibility requirements under chapter 388-509 WAC.

(3) A current client of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent client of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the department deducts the following from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the client since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the client's spouse and/or other financially responsible family member living in the same household.

(4) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance under P.L. 96-265 and 99-643;

(5) A currently disabled client receiving widow's or widower's benefits under Section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; and

(b) Was entitled to and received a widow's or widower's benefit based on a disability under Section 202 (e) or (f) of the Social Security Act for January 1984;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under Section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under Section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under Section 215 (i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(6) Effective January 1, 1991, any person receiving Title II disabled widow/widower benefits (DWB) under Section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under Section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under Section 215 (i) of the act were disregarded.

(7) A disabled or blind client receiving Title II Disabled Adult Childhood (DAC) benefits under Section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age;

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under Section 202(d) of the SSA and any subsequent cost-of-living increases provided under Section 215(i) of the SSA Act were disregarded.

(8) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or

(iv) Aid to the Permanently and totally disabled (APTD); and

(b) Was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or

(c) Is ineligible for OAA, AB, AFDC, SSI or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(9) A pregnant woman whose family income is at or below one hundred eighty-five percent of the Federal Poverty Level (FPL), or postpartum woman as described under WAC 388-508-0830;

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household;

(11) A child eighteen years of age or younger meeting residence, citizenship, and Social Security number requirements whose countable family income is(=

- ~~(a) Under one hundred eighty five percent of the Federal Poverty Level (FPL) for a child under one year of age; or~~
- ~~(b) Under one hundred thirty three percent of the FPL for a child five years of age or younger; or~~
- ~~(c) Under one hundred percent of the FPL for a child eighteen years of age or younger))~~ at or under two hundred percent of the FPL.

(12) In a family unit ineligible for AFDC financial assistance as a result (wholly or in part) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of ineligibility, if the family unit received AFDC financial assistance in at least three of the six months immediately preceding the month of ineligibility;

(13) In a family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility, provided:

- (a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and
- (b) A member of such family continues to be employed; and
- (c) The department considers earned income tax credits (EITC) as income for the purposes of this subsection.

(14) Denied AFDC cash payments solely because of a departmental recovery of an overpayment;

(15) In a medical facility and:

- (a) Who would be eligible for cash assistance if the person was not institutionalized; or
- (b) Is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized, and the person's gross income does not exceed the three hundred percent SSI benefit cap.

(16) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and is resource and income eligible as described under subsection (15)(a) or (b) of this section;

(17) A person eligible for and accepting hospice services as described under WAC 388-86-047 and who shall be:

- (a) SSI categorically related with gross income less than three hundred percent of the SSI Federal Benefit Rate; or
- (b) AFDC categorically related.

(18) Blind or presumptively disabled under SSI criteria, as described under WAC 388-511-1105, and the person receives continuing general assistance (GA-X) cash assistance;

(19) An alien ineligible for AFDC or SSI cash assistance because of deeming of income of the alien's sponsors;

(20) Not an inmate of a public institution;

(21) Not receiving cash assistance because of special situations as defined under WAC 388-507-0740; or

(22) A client who:

- (a) Was entitled to RSDI benefits in August 1972; and
- (b) Is ineligible for AFDC or SSI solely because of the twenty percent increase in Social Security benefits under PL 92-336.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-509-0910 Medicaid for children—Eligible to nineteen years of age.** The department shall find a child eighteen years of age or younger eligible for Medicaid when the child meets:

- (1) Citizenship, residence, and Social Security number requirements under chapter 388-505 WAC; and
- (2) Income (~~requirements corresponding to the age level of the child~~) standards described under WAC 388-509-0960 (~~((1), (2), and (3))~~).

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-509-0920 Children's health program.** (1) The department shall consider a child seventeen years of age or younger, eligible for state-funded medical services with the same coverage as categorically needy, when:

- (a) The child is not eligible for a federally-funded Medicaid program; and
- (b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under (~~WAC 388-509-0960(3))~~ subsection (4) of this section.

(2) The department shall determine nonexempt family income by:

- (a) Following AFDC methodology; and
- (b) Applying the medical income rules as described under WAC 388-506-0610.
- (3) The department shall not require a child to meet the following eligibility factors:
  - (a) Citizenship;
  - (b) Social Security number; or
  - (c) Resources limits.

(4) The department shall find that one hundred percent of the current FPL equals:

<u>Family Size</u>	<u>Monthly Income</u>
<u>(a) One</u>	<u>\$ 614</u>
<u>(b) Two</u>	<u>\$ 820</u>
<u>(c) Three</u>	<u>\$1,027</u>
<u>(d) Four</u>	<u>\$1,234</u>
<u>(e) Five</u>	<u>\$1,440</u>
<u>(f) Six</u>	<u>\$1,647</u>
<u>(g) Seven</u>	<u>\$1,854</u>
<u>(h) Eight</u>	<u>\$2,060</u>

(i) For family units with more than eight members, add \$207 to the monthly income for each additional member.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-509-0960 Children's income standards.** The department shall determine(=

- (1) ~~An infant under one year of age eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty five percent of the current federal poverty level~~

PERMANENT

~~(FPL). See income guidelines as described under WAC 388-508-0805.~~

~~(2) A child one year of age, but under six years of age, eligible as categorically needy when the total family countable income does not exceed one hundred thirty three percent of the FPL. One hundred thirty three percent of the current FPL is:~~

Family Size	Monthly Income
<del>(a) One</del>	<del>\$ 816</del>
<del>(b) Two</del>	<del>\$1,091</del>
<del>(c) Three</del>	<del>\$1,366</del>
<del>(d) Four</del>	<del>\$1,641</del>
<del>(e) Five</del>	<del>\$1,916</del>
<del>(f) Six</del>	<del>\$2,191</del>
<del>(g) Seven</del>	<del>\$2,465</del>
<del>(h) Eight</del>	<del>\$2,740</del>

~~(i) For family units with more than eight members, add \$275 to the monthly income for each additional member.~~

~~(3)) a child ((eighteen years of age or younger)) meeting the eligibility requirements under WAC 388-509-0910 eligible as categorically needy when the total family countable income does not exceed ((one)) two hundred percent of the federal poverty level (FPL). ((One)) The department shall find that two hundred percent of the current FPL ((is)) equals:~~

Family Size	Monthly Income
<del>((a) One</del>	<del>\$ 614</del>
<del>(b) Two</del>	<del>\$ 820</del>
<del>(c) Three</del>	<del>\$1,027</del>
<del>(d) Four</del>	<del>\$1,234</del>
<del>(e) Five</del>	<del>\$1,440</del>
<del>(f) Six</del>	<del>\$1,647</del>
<del>(g) Seven</del>	<del>\$1,854</del>
<del>(h) Eight</del>	<del>\$2,060))</del>

<u>(1) One</u>	<u>\$1,227</u>
<u>(2) Two</u>	<u>\$1,640</u>
<u>(3) Three</u>	<u>\$2,054</u>
<u>(4) Four</u>	<u>\$2,467</u>
<u>(5) Five</u>	<u>\$2,880</u>
<u>(6) Six</u>	<u>\$3,294</u>
<u>(7) Seven</u>	<u>\$3,707</u>
<u>(8) Eight</u>	<u>\$4,120</u>

~~((+)) (9) For family units with more than eight members, add (((\$207)) \$414 to the monthly income for each additional member.~~

**WSR 94-17-039**  
**PERMANENT RULES**  
**MULTIMODAL TRANSPORTATION PROGRAMS**  
**AND PROJECTS SELECTION COMMITTEE**  
 [Filed August 10, 1994, 1:10 p.m.]

Date of Adoption: July 21, 1994.

Purpose: To provide rules for the distribution of funds from four transportation accounts administered by the Multimodal Transportation Programs and Projects Selection Committee.

Statutory Authority for Adoption: Chapter 47.66 RCW. Pursuant to notice filed as WSR 94-10-029 on April 28, 1994.

Changes Other than Editing from Proposed to Adopted Version: The last sentence of WAC 240-20-075 was deleted.

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

August 1, 1994

Martha Choe

Committee Chairperson

NEW SECTION

**WAC 240-20-075 Supplemental applications.** After program and project selection, circumstances may develop wherein unobligated funds may accumulate in one or more of the accounts. Such accumulation may occur as a result of a program or project costing less than budgeted, a program or project being unable to go forward or to complete its objectives, or more funds being available in the account than projected. Should such accumulations occur, the committee may institute a supplemental application period to program those funds. Should the committee elect to do so, the application and project selection process will be subject to the conditions identified in this chapter. Furthermore, the application guidelines identified by WAC 240-20-060 and currently in use shall be used for the supplemental process.

**WSR 94-17-041**  
**PERMANENT RULES**  
**SPOKANE COUNTY AIR**  
**POLLUTION CONTROL AUTHORITY**  
 [Filed August 10, 1994, 1:34 p.m.]

Date of Adoption: August 4, 1994.

Purpose: To provide for a possible permanent ban on the use of uncertified solid fuel burning devices in the Spokane smoke control zone in the event of future violations of federal air quality standards.

Citation of Existing Rules Affected by this Order: Amending Spokane County Air Pollution Control Authority Regulation I, Article VIII.

Statutory Authority for Adoption: RCW 70.94.141.

Pursuant to notice filed as WSR 94-13-192 on June 21, 1994.

Changes Other than Editing from Proposed to Adopted Version: Minor reformatting was done. No substantive changes.

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

August 5, 1994

Eric Skelton

Director

**REGULATION I**  
**ARTICLE VIII**  
**SOLID FUEL BURNING DEVICE STANDARDS**

**ADOPTED: April 7, 1988**

**REVISED: January 6, 1994 August 4, 1994**

**EFFECTIVE: February 6, 1994**

**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 integrally 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 either:

1. failed to make Reasonable Further Progress, or  
2. 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

3. 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 94-17-042**  
**PERMANENT RULES**  
**SPOKANE COUNTY AIR**  
**POLLUTION CONTROL AUTHORITY**

[Filed August 10, 1994, 1:36 p.m.]

Date of Adoption: August 4, 1994.

Purpose: To control fine particulate emissions from unpaved roads as part of a strategy to comply with federal air quality standards.

Citation of Existing Rules Affected by this Order:  
 Amending Spokane County Air Pollution Control Authority Regulation I, Article VI.

Statutory Authority for Adoption: RCW 70.94.141.

Pursuant to notice filed as WSR 94-13-193 on June 21, 1994.

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

August 5, 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 specifications 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 94-17-044**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed August 10, 1994, 3:16 p.m.]

Date of Adoption: August 5, 1994.

Purpose: Amend rules related to administration of ride sharing. Amend rules related to determination of vehicle model year.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-160, 308-96A-005, and 308-96A-175.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: Chapter 488, Laws of 1993 and chapter 46.12 RCW.

Pursuant to notice filed as WSR 94-13-123 on June 20, 1994.

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

Kathy Baros Friedt  
 Director

**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~~((s))~~ 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 recertifi-

cation 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.

(c) (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 94-17-058**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed August 12, 1994, 10:42 a.m.]

Date of Adoption: August 12, 1994.

Purpose: To amend chapter 392-141 WAC to increase accountability and accuracy in school district reporting for funding purposes.

Citation of Existing Rules Affected by this Order: Amending chapter 392-141 WAC.

Statutory Authority for Adoption: RCW 28A.150.290.

Pursuant to notice filed as WSR 94-14-093 on July 6, 1994.

Effective Date of Rule: Thirty-one days after filing.  
 August 12, 1994  
 Judith A. Billings  
 Superintendent of  
 Public Instruction

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

**WAC 392-141-160 District reporting and recordkeeping requirements.** Annual or supplementary reports shall be submitted by each school district to the superintendent of public instruction prior to the third Monday in October. This report shall reflect to the extent practical the planned pupil transportation program for the entire school year and which is in operation during ridership count week. Reports shall be submitted with a cover letter signed by the chief school district administrator attesting to the completeness of the requirements below and the accuracy of the data contained therein. The superintendent shall have the authority to make modifications or adjustments in accordance with the intent of RCW 28A.160.150, 28A.160.160, and 28A.160.170. Each district shall submit the data required on a timely basis as a condition to the continuing receipt of student transportation allocations.

These reports shall be maintained for a period of three school years or until audited and include the following but are not limited to:

(1) School bus route logs completed in ink by bus drivers for five consecutive days. These logs shall include state school bus numbers, each bus stop, the number of students boarding the bus at each stop, and destination schools, transfer points, learning centers, or agencies; and

(2) Maps showing student route stop locations, and schools, learning centers, transfer points, or agency locations shall be in a format in accordance with instructions issued by the superintendent of public instruction; and

(3) Other operational data and descriptions, as required by the superintendent of public instruction to determine operation allocation requirements for each district~~((-))~~; and

(4) An annual school bus mileage report including the beginning and ending year odometer reading, the total miles for each bus for the school year, an estimate of to and from school mileage for the upcoming school year, and miles for extended day routes, field trips, extracurricular, and other contractual uses of school buses; and

(5) Copies of any and all correspondence, publications, news articles, or campaign materials which encourage ridership during count week of the report that is beyond the normal activity experienced during the school year. School districts shall not utilize incentive programs that provide tangible gifts to reward increases in ridership counts.

School districts shall maintain at least a weekly one-day route log containing the school bus driver's name, state bus number, route number, route type, day of the week, beginning and ending odometer readings, destinations, destination times and student counts. These route logs shall be maintained in the school district files for a period of three years or until audited.

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

**WAC 392-141-175 Hazardous walking conditions.** Route stops located within one radius mile of schools, learning centers, or agencies may be reported to the superintendent of public instruction for funding purposes if the walking conditions meet the criteria established in the publication "Guidelines for Determining the Existence of Hazardous Walking Conditions." If route stops are submitted for funding purpose, the evaluation must be completed prior to submission of the report to the superintendent.

**WSR 94-17-059**  
**PERMANENT RULES**  
**WESTERN WASHINGTON UNIVERSITY**  
 [Filed August 12, 1994, 1:52 p.m.]

Date of Adoption: June 3, 1994.

Purpose: Clarify information the university can release regarding student records and to update the policy.

Citation of Existing Rules Affected by this Order: Amending chapter 516-26 WAC, Student records.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Pursuant to notice filed as WSR 94-07-117 on March 22, 1994.

Changes Other than Editing from Proposed to Adopted Version: Changed "vice-president for student affairs" to "vice-president for student affairs/dean for academic support services or his or her designee." Minimal editing changes also.

Effective Date of Rule: Thirty-one days after filing.  
August 10, 1994  
Wendy Bohlke  
Assistant Attorney General

AMENDATORY SECTION (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

WAC 516-26-010 ((Purpose-)) Preamble. The purpose of this ~~((chapter is to implement 20 U.S.C. Sec. 1232g, the Family Educational Rights and Privacy Act of 1974, by establishing rules and procedures to insure that information contained in student records is accurate and is handled in a responsible manner by the university and its employees))~~ student records policy is to establish rules and procedures that appropriately implement the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. § 1232g. Western Washington University is committed to safeguarding appropriate access to student education records as well as maintaining individual student privacy. The university records officer works to ensure that information contained in student records is treated responsibly with due regard to its personal nature, and for the students', university's and community's needs. Questions regarding this policy should be addressed to the university records officer.

(1) Generally, students have the right to review and copy their education records. Students also have the right to challenge the content of, release of, or denial of access to their education records.

(2) The university will normally not permit access to the public without a student's permission; some exceptions exist as detailed in this policy.

(3) The university may release directory information concerning a student unless the student requests in writing that it not be released.

Please read below for a complete description of the policy.

AMENDATORY SECTION (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

WAC 516-26-020 Definitions. For purposes of this chapter the following terms shall have the indicated meanings:

(1) "Student" shall mean any person, regardless of age, who is or has been officially registered at and attending Western Washington University and with respect to whom the university maintains education records or personally identifiable information.

(2)(a)(i) "Education records" shall refer to those records, files, documents and other materials maintained by Western Washington University or by a person acting for Western Washington University which contain information directly related to a student.

(ii) Records relating to an individual in attendance at the university who is employed as a result of his or her status as a student are considered education records. Records made and maintained by the university in the normal course of business which relate exclusively to a person's capacity as an employee and are not available for any other purpose are not considered education records.

(b) The term "education records" does not include the following:

(i) Records of instructional, supervisory or administrative personnel and educational personnel ancillary ~~((thereto which are))~~ to those persons, which are kept in the sole possession of the maker ~~((thereof))~~ of the record and which are not accessible or revealed to any other person except a substitute;

(ii) ~~((If the personnel of the university's department of safety and security do not have access to education records under WAC 516-26-080, the records and documents of the department which are kept apart from records described in WAC 516-26-020 (2)(a), are maintained solely for law enforcement purposes, and are not made available to persons other than law enforcement officials of the same jurisdiction;~~

~~((iii) Records made and maintained by the university in the normal course of business which relate exclusively to a person's capacity as an employee and are not available for any other purpose except that records relating to an individual in attendance at the university who is employed as a result of his or her status as a student are education records and not exempt; or~~

~~((iv)) Records of the university's public safety office maintained solely for law enforcement purposes, disclosed only to law enforcement officials of the same jurisdiction, and maintained separately from education records in (a) of this subsection; but only if said law enforcement personnel do not have access to education records under WAC 516-26-080; or~~

(iii) Records concerning a student which are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and which are created, maintained or used only in connection with the provision of treatment to the student and are not available to anyone other than persons providing such treatment, except that such records may be personally reviewed by a physician or other appropriate professional of the student's choice.

(3) "Personally identifiable information" shall refer to data or information which includes either (a) the name of a student, the student's parent, or other family member, (b) the address of the student, (c) the address of the student's family, (d) a personal identifier, such as the student's social security number or student number, (e) a list of personal characteristics which would make it possible to identify the student with reasonable certainty, or (f) other information which would make it possible to identify the student with reasonable certainty.

(4) "Vice-president for student affairs" shall refer to the vice-president for student affairs/dean for academic support services or his or her designee.

(5) "University records officer" shall refer to that individual (or his or her designee) responsible for the policies safeguarding the access, release, or copying of

education records and for informing students and parents of their rights.

(6) "Records center manager" shall refer to that individual (or his or her designee) responsible for the facilitation of the development of records retention schedules.

(7) "Records coordinator" shall refer to that individual (or his or her designee) designated by the department or unit head to be responsible for the custody of the education record(s) in that office, department or unit.

(8) "Unit head" shall refer to that individual (or his or her designee) responsible for the supervision or management of an institutional department or unit.

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-030 Access to education records.** (1) Except as provided in WAC 516-26-035, each student at Western Washington University shall have access to his or her education records. The right of access shall include the right to inspect, review, and obtain copies of education records.

(2) ~~The ((vice president for student affairs shall prepare a list of the types of student education records which are maintained by Western Washington University)) records coordinator is responsible for maintaining an up-to-date records retention schedule which lists the types of student education records maintained by that office, department or unit. The said records retention schedule is also filed with the records center manager and the state archives in Olympia.~~

(3) A student wishing access to his or her education records shall submit a written request for access to the ~~((vice president for student affairs. A request for access shall be acted upon by the vice president for student affairs))~~ appropriate records coordinator. The records coordinator shall respond to a request for access within a reasonable period of time, not to exceed ~~((twenty))~~ five days.

(4) ~~The ((vice president for student affairs)) records coordinator shall provide students of the university with an opportunity for reasonable access to education records, ((provided that the vice president for student affairs)) and shall be responsible for taking appropriate measures to safeguard and insure the security and privacy of the institution's records while being inspected by students.~~

(5) ~~The ((vice president for student affairs)) records coordinator will inform in writing a student who has requested access to his or her education records of the nature of any records which are being withheld from the student on the basis of the exceptions set forth in WAC 516-26-035. A student may ((challenge a decision by the vice president for student affairs)) file with the university records officer a request to review the decision by the records coordinator and/or by the unit head as per WAC 516-26-055 to withhold certain of the student's records. A student may also request a review of the university records officer's decision to withhold certain of the student's records by filing an appeal with the student ((rights and responsibilities committee)) academic grievance board, refer to WAC 516-26-060.~~

~~((6) This section shall not prohibit the university registrar from providing a student with a copy of the~~

~~student's academic transcript without prior clearance from the vice president for student affairs.))~~

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-035 Access to education records— Limitations on access.** (1) Western Washington University shall not make available to a student the following types of materials:

(a) The financial records of the student's parents or any information contained therein, if the parents have requested in writing that such information remain confidential.

(b) Letters or statements of recommendation, evaluation or comment which were provided to the university in confidence, either expressed or implied, prior to January 1, 1975, provided that such letters or statements shall not be used for purposes other than those for which they were originally intended.

(c) If a student has signed a waiver of the student's right of access in accordance with subsection (2) of this section, confidential records relating to the following:

- (i) Admission to any educational agency or institution;
- (ii) An application for employment; or
- (iii) The receipt of an honor or honorary recognition.

(2) A student, or a person applying for admission to the university, may waive his or her right of access to the type of confidential records referred to in subsection (1)(c) of this section, provided that such a waiver shall apply only if the student is, upon request, notified of the names of all persons making confidential recommendations, and such recommendations are used solely for the specific purpose for which the waiver has been granted. ~~((Such a waiver may not be required))~~ The university is not allowed to require such a waiver as a condition for admission to, receipt of financial aid from, or receipt of other services or benefits from the university.

(3) If any material or document in the education record of a student includes information concerning more than one student, the student shall only have the right either to inspect and review that portion of the material or document which relates to the student or to be informed of the specific information contained in that portion of the material or document.

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-040 Right to copy education records.**

(1) ~~The ((vice president for student affairs)) records coordinator shall, at the request of a student, provide the student with copies of the student's education records. The fees for providing such copies shall not exceed the actual cost to the university of providing the copies.~~

(2) Official copies of transcripts from other educational institutions, such as high school or other college transcripts, will not be provided to students by the university.

AMENDATORY SECTION (Amending Order 76-4, filed 8/20/76)

**WAC 516-26-045 Request for explanation or interpretation of record.** The ~~((vice president for student affairs))~~ records coordinator shall respond to reasonable requests for explanations or interpretations of the contents of student education records.

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-050 Challenges—To content of education records—To release of education records—Or to denial of access to education records.** (1) Any student who believes that inaccurate, misleading, or otherwise inappropriate data is contained within his or her education records shall be permitted to have included within the record a written explanation by the student concerning the content of the records.

(2) A student shall have the right, in accordance with the procedures set forth in WAC 516-26-055 and 516-26-060, to:

(a) Challenge the content of education records in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the students;

(b) Have the opportunity to ~~((correct or delete))~~ request the correction or deletion of inaccurate, misleading, or otherwise inappropriate data contained within education records;

(c) Challenge the release of education records to specific persons as contrary to the provisions of this chapter; and

(d) Challenge a decision by the university to deny the student access to particular types of records.

(3) A student shall not be permitted under this chapter to challenge the validity of grades given in academic courses, except on the grounds that, as a result of clerical error, the student's records fail to accurately reflect the grades actually assigned by an instructor.

AMENDATORY SECTION (Amending Order 76-4, filed 8/20/76)

**WAC 516-26-055 Challenges—Informal proceedings.** A student wishing to exercise the rights set forth in WAC 516-26-050(2) shall first discuss with the ~~((vice president for student affairs))~~ the nature of the corrective action sought by the student) records coordinator the nature of the corrective action sought by the student. Failing resolution, the student shall next discuss with the department or unit head the corrective action sought by the student. Failing resolution, the student shall next discuss with the university records officer the corrective action sought by the student, as outlined in WAC 516-20-030(5).

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-060 Challenges—Hearing before student ~~((rights and responsibilities committee))~~ academic grievance board.** (1) If informal proceedings fail to resolve the complaint of a student, the student may file ~~((with the vice president for student affairs))~~ a written request for ~~((a~~

~~hearing before the student rights and responsibilities committee of the university.~~

~~(2) Within a reasonable time after submission of a request for hearing, the student rights and responsibilities committee shall conduct a hearing concerning the student's request for corrective action.~~

~~(a) The student and the university shall be given a full opportunity to present relevant evidence at the hearing before the student rights and responsibilities committee.)~~ an appeal to the student academic grievance board of the university.

(2) The student academic grievance board shall process the appeal according to procedures outlined in the student academic grievance policy.

(3) If a student demonstrates that the student's education records are inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the student ~~((rights and responsibilities committee))~~ academic grievance board shall have authority to order the correction or deletion of inaccurate, misleading or otherwise inappropriate data contained in the records.

(4) If a student demonstrates that the release of the student's education records would be improper under this chapter, the student ~~((rights and responsibilities committee))~~ academic grievance board shall have authority to order that the records not be released.

(5) If a student demonstrates that the student is entitled to access to particular documents under this chapter, the student ~~((rights and responsibilities committee))~~ academic grievance board shall have authority to order that the student be permitted access to the records.

(6) The decision of the student ~~((rights and responsibilities committee))~~ academic grievance board shall be rendered in writing within a reasonable period of time after the conclusion of the hearing.

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-070 Release of personally identifiable information or education records.** ~~((Except as provided in WAC 516-26-080, 516-26-085, or 516-26-090, the university shall not permit access to or the release of a student's education records or personally identifiable information contained therein to any person without the written consent of the student.))~~ The university shall not permit access to or release of a student's education records or personally identifiable information contained therein to any person without the written consent of the student, except as provided in WAC 516-26-080, 516-26-085, or 516-26-090. Misuse or inappropriate access to student education records may result in disciplinary action.

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-080 Release of personally identifiable information or education records—Exceptions to consent requirement.** (1) The university may permit the access to or release of a student's education records or personally identifiable information contained therein without the written consent of the student to the following parties:

(a) University officials, including faculty members, when the information is required for a legitimate educational

purpose within the scope of the recipient's official responsibilities with the university and will be used only in connection with the performance of those responsibilities;

(b) Federal or state officials requiring access to education records in connection with the audit or evaluation of federally or state supported educational programs or in connection with the enforcement of federal or state legal requirements relating to such programs. In such cases the information required shall be protected by the federal or state officials in a manner which shall not permit the personal identification of students or their parents to other than those officials, and such personally identifiable data shall be destroyed when no longer needed for the purposes for which it was provided;

(c) Agencies or organizations requesting information in connection with a student's application for, or receipt of, financial aid;

(d) Organizations conducting studies for or on behalf of the university for purposes of developing, validating or administering predictive tests, administering student aid programs, or improving instruction, if such studies are conducted in a manner which will not permit the personal identification of students by persons other than representatives of such organizations, and the information will be destroyed when no longer needed for the purposes for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions; or

(f) Any person or entity authorized by judicial order or lawfully issued subpoena to receive such records or information, upon condition that the student is notified of all such orders or subpoenas in advance of compliance therewith by the university. Any university employee or official receiving a subpoena or judicial order for education records or personally identifiable information contained therein shall immediately notify the assistant attorney general representing the university;

(g) An alleged victim of any crime of violence (as defined in section 16 of Title 18, United States Code) may have disclosed the results of any disciplinary proceeding conducted by the university against the alleged perpetrator of such crime with respect to such crime, without the consent of the alleged perpetrator.

(2) Education records of a student or personally identifiable information contained therein which are released to third parties, with or without the consent of the student involved, shall be accompanied by a written statement indicating that the information cannot subsequently be released in a personally identifiable form to any other party without the written consent of the student involved.

(3) The university shall maintain a record, kept with the education records of each student, indicating all parties, other than those parties specified in WAC 516-26-080 (1)(a), which have requested or obtained access to the student's education records, and indicating the legitimate interest that each such party has in obtaining the records or information contained therein. This record of access shall be available only to the student, to the employees of the university responsible for maintaining the records, and to the parties identified under WAC 516-26-080 (1)(a) and (c).

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-085 Release of information in emergencies.** (1) The vice-president for student affairs or his designee may, without the consent of a student, release the student's education records or personally identifiable information contained therein to appropriate parties in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

(2) The university police, during instances of emergency pertaining to individual students, may have access to those student's education records or personally identifiable information.

(3) The following factors should be taken into consideration in determining whether records may be released under this section:

(a) The seriousness of the threat to the health or safety of the student or other persons;

(b) The need for personally identifiable information concerning the student to meet the emergency;

(c) Whether the parties to whom the records or information are released are in a position to deal with the emergency; and

(d) The extent to which time is of the essence in dealing with the emergency.

~~((3))~~ (4) If the university, pursuant to subsection (1) of this section, releases personally identifiable information concerning a student without the student's consent, the university shall notify the student as soon as possible of the identity of the parties and to whom the records or information have been released and of the reasons for the release.

AMENDATORY SECTION (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

**WAC 516-26-090 Release of directory information.**

(1) The university may release "directory information" concerning a student to the public unless the student requests in writing of the ~~((vice president for student affairs))~~ university registrar that the student's directory information not be released except as provided in WAC 516-26-070, 516-26-075, 516-26-080 or 516-26-085.

(2) The term "directory information" shall include information relating to the student's name, local ~~((and home address,))~~ telephone ~~((listing))~~ number, dates of attendance, degrees and awards received, participation in officially recognized sports and activities, weight and height if a member of an athletic team, and the most recent previous educational institution attended.

AMENDATORY SECTION (Amending Order 79-05, Resolution No. 79-05, filed 5/14/79)

**WAC 516-26-095 Destruction of ~~((student))~~ education records.** Except as otherwise provided by law, the university shall not be ~~((precluded))~~ prevented under this chapter from destroying all or any portion of a student's education records in accordance with established record retention schedules, provided that no education record to which a student has requested access shall be removed or

destroyed by the university prior to providing the student with the requested access.

AMENDATORY SECTION (Amending WSR 90-10-042, filed 4/27/90, effective 5/1/90)

**WAC 516-26-100 Notification of rights under this chapter.** The university shall annually notify students currently in attendance of their rights under this chapter and the Family Educational Rights and Privacy Act.

The notice shall include a statement (~~((that the student has a right to each of the following))~~) of the following student rights:

(1) Inspect and review (~~((the student's))~~) his or her education records;

(2) Request (~~((the))~~) an amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;

(3) (~~((Consent to))~~) Allow or deny disclosures of personally identifiable information contained in the student's education records, except to the extent that these regulations and the regulations promulgated pursuant to the Family Educational Rights and Privacy Act allow;

(4) File a complaint with the United States Department of Education under 34 C.F.R. 99.64 concerning alleged failures by the university to comply with the requirements of the act;

(5) Access information concerning the cost to be charged for reproducing copies of the student's records; and

(6) (~~((Obtain))~~) Access a copy of the regulations in this chapter (chapter 516-26 WAC).

The notice shall indicate the places where copies of these regulations are located.

**WSR 94-17-069  
PERMANENT RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed August 15, 1994, 11:26 a.m., effective September 15, 1994]

Date of Adoption: August 15, 1994.

Purpose: To respond to legislation by clarifying terminology, to simplify rules by eliminating duplication and to respond to customers' requests regarding group membership timeframe.

Citation of Existing Rules Affected by this Order: Amending WAC 296-15-02601, 296-15-060, 296-15-070, 296-15-072, and 296-15-160.

Statutory Authority for Adoption: RCW 51.04.020.

Pursuant to notice filed as WSR 94-12-096 on June 1, 1994.

Changes Other than Editing from Proposed to Adopted Version: One grammatical correction is being made.

Effective Date of Rule: September 15, 1994.

August 15, 1994  
Mark O. Brown  
Director

AMENDATORY SECTION (Amending Order 83-38, filed 3/1/84, effective 4/1/84)

**WAC 296-15-02601 Group self-insurers admission of new members, termination of individual members.** (1) After the inception date of the trust fund, prospective new members of the trust fund shall submit an application for membership to the board of trustees, or its administrator, on a form provided by the department. The trustees or administrator may approve the application for membership pursuant to the bylaws of the group self-insurers' trust fund. The application for membership shall then be filed with the department. Membership shall take effect the first day of the calendar quarter after reporting the approval to the department.

(2) Individual members may elect to terminate their participation in a group self-insurer's program or be subject to cancellation by the group trust fund pursuant to the bylaws of the group. Such termination or cancellation shall be effective at the end of the (~~((calendar quarter during))~~) month in which it was reported to the department.

(3) Contributions to the trust fund for purposes of meeting the requirements of WAC 296-15-02605 shall be paid under a schedule of dates and amounts specified by the group's board of trustees, subject to the following requirement: At no time during any coverage period shall the amount collected by the trust fund to apply to costs and/or reserves for that coverage period be less than the result obtained by multiplying the fraction of the coverage period which has elapsed by the total contribution expected to be necessary to satisfy requirements of WAC 296-15-02605 for the entire coverage period.

AMENDATORY SECTION (Amending WSR 93-11-064, filed 5/14/93, effective 6/14/93)

**WAC 296-15-060 Administrative cost assessment.** (1) Assessments levied by the department against each self-insurer shall be based on the self-insured employer's proportionate share of the administrative costs determined to be attributable to self-insurers, including expenses of (~~((the safety division, the industrial insurance))~~) other divisions of the department, the University of Washington environmental research facility, the board of industrial insurance appeals, appeals expenses and other general administrative expenses.

(2) The administrative assessment rate shall be determined on a fiscal year basis as prescribed in subsection (1) of this section. Employers certified to self-insure after the fiscal period for which costs were used to determine the assessment rate shall be assessed at a rate which does not include adjustments made for prior periods. The administrative assessment shall be based on the payments made on all claims involving the self-insured employer: *Provided*, That in any event a self-insured employer shall be subject to the payment of a minimum quarterly assessment of twenty-five dollars.

(3) Administrative cost assessments shall be payable for each quarter, by the thirtieth day following the receipt of a quarterly report form supplied by the department (SIF #6). This quarterly report form shall also provide for payment of the supplemental pension fund assessment.

(4) A self-insured employer who has, or shall hereafter, voluntarily, or involuntarily, surrender his certification as a

self-insurer shall pay an adjusted administrative assessment. The amount of this adjusted administrative assessment will be determined annually and shall represent such self-insurer's portion of the administrative assessment which can be attributed directly to the operational costs of the self-insurance section. This adjusted administrative assessment shall continue until such time as all liabilities and all responsibilities of such employer have been terminated. The amount of this adjusted administrative assessment shall in no case be less than \$25.00 per calendar quarter.

When such an employer has had no self-insured claim activity, excluding activity in cases of total permanent disability or death, for a period of one year, a request may be made to the department for a review to determine if there is a need to continue the adjusted administrative assessment, in which circumstances, the minimum assessment will not apply.

**AMENDATORY SECTION** (Amending WSR 90-14-009, filed 6/25/90, effective 8/1/90)

**WAC 296-15-070 Accident reports and claims procedures.** (1) Reporting of accidents shall be on a form prescribed by the department, entitled the self-insurer(~~(s)~~) accident report (~~((SIF #2))~~ SIF-2), which will be supplied to all self-insurers, and by self-insurers to their employees. Forwarding a completed copy of this form to the department for compensable claims immediately and medical only claims monthly after closing by the self-insured employer shall satisfy the initial accident reporting responsibility and statistical reporting responsibility under the law.

(2) A self-insurer, on denying any claim, shall provide to the claimant, the department, and the attending physician, (~~within thirty days after such self-insurer has notice of the claim,~~) a notice of denial of claim, substantially similar to the example (~~(SIF #4))~~ SIF-4 in WAC 296-15-21002. With every such claim denial a self-insurer shall send to the department all information on which the denial was based.

(3) A self-insurer shall file a complete and accurate supplemental or final report on injury or occupational disease claims resulting in time loss payments, on a form substantially similar to labor and industries Form No. F207-005-000, self-insurer's report of occupational injury or disease(~~(7-786))~~ (SIF-5) at the following times:

(a) Within five working days following the date the first time loss compensation is paid.

(b) Within five working days following the date the time loss compensation is terminated, reinstated, or the rate thereof changed. If time loss compensation is terminated due to the self-insurer's finding that the injured worker is not eligible for vocational rehabilitation services, the self-insurer must attach the employability notification to the supplemental SIF-5.

(c) On the date a determination is requested or date temporary disability claim is closed.

(d) On all claims where vocational rehabilitation services have been provided, a rehabilitation outcome report must be submitted with the final (~~(SIF #5))~~ SIF-5.

All medical reports and other pertinent information in the self-insurer's possession not previously forwarded to the department must be submitted with the request for all determinations.

(4)(a) A self-insured employer shall, upon notice of an industrial injury, provide the injured worker with the opportunity to file a self-insurer accident report (SIF-2) and shall notify the worker of his/her rights and responsibilities under Title 51 RCW. A completed copy of the self-insurer accident report (SIF-2), with an assigned department claim number, is to be provided to the worker within five working days of the date an injured worker submits the SIF-2 to the employer.

(b) A self-insurer, upon closure of a medical only claim, shall issue an order on a form prescribed by the department entitled self-insurer's claim closure order and notice (~~((L-207-20))~~) (F207-020-111), which will be supplied to all self-insurers, and by the self-insurers to their employees, in compliance with reporting responsibilities under the law, a copy of which shall be sent to the attending physician.

The self-insurer shall submit monthly statistical information on medical only claims closed during the month by copy of the accident report (~~((SIF #2))~~ SIF-2). In medical only claims where vocational rehabilitation services have been provided, the self-insurer shall submit a rehabilitation outcome report with the self-insurer(~~(s)~~) accident report (SIF-2) at the time of reporting claim closure.

(c) A self-insurer, upon closure of a temporary disability claim, shall issue an order on a format substantially similar to labor and industries Form No. F207-070-000, self-insured (~~(employer's))~~ employers' time loss claim closure order and notice(~~(7-786))~~). The self-insurer shall send a copy of the closing order and final SIF-5 to the claimant and the department at the time of closure of a temporary disability claim.

(d) When the department requests claim information by certified mail, the self-insurer shall submit all information in its possession dealing with the claim in question, within ten working days from the date of receipt of such certified mail.

(e) In any case where the department or the self-insured employer has issued an appealable order on a (~~(medical-only))~~ medical only claim, all subsequent orders in that claim shall be issued by the department.

(f) When an application for reopening of claim for aggravation of condition is received by a self-insured employer or its authorized representative, it shall be the responsibility of the self-insured employer to forward it to the department within five working days from the date of receipt.

~~((5) Self insurers may close temporary disability claims with the date of injury occurring July 1, 1986, through June 30, 1990, and occupational disease claims filed July 1, 1986, through June 30, 1990. Self insured claims that involve a permanent partial disability, an order issued by the department resolving a disagreement, or return to work with a different employer are not subject to closure by the self-insurer.))~~

**AMENDATORY SECTION** (Amending Order 86-35, filed 8/28/86)

**WAC 296-15-072 Employer claim closures** (~~(study)).~~ (~~(A study shall be conducted to determine if self insured employers are administering claim closure in a proper manner. The study shall include issues involving proper payment of time loss benefits, correctness of claim closure~~

~~including attending physician concurrence, conditions and duration of reemployment, and correct application of the rehabilitation laws. Protests to claim closures and the outcome of these protests will also be considered. The study will be accomplished by having department disability adjudicators review self-insured temporary disability closures and compile the statistics. This staff will review documents submitted to the department and employer's workers' compensation files. A form will be used to ensure consistency and objectivity in the study. The special assessment base shall be the total claim payments as defined for the administrative cost assessment in WAC 296-15-060.)~~ (1) A self-insurer may close certain compensable claims if the following criteria are met:

- (a) The claim was accepted after June 30, 1986;
  - (b) At the time medical treatment is concluded, it does not involve permanent disability;
  - (c) The department has not intervened; and
  - (d) The worker has returned to work with the employer of record either at the worker's previous job or at a job that has comparable wages and benefits.
- (2) Upon closure, the self-insurer must submit to the department a copy of the closing order and an SIF-5 pursuant to the provisions of WAC 296-15-070.
- (3) If within two years of closure, the department determines that the self-insurer has made an error in the payment of benefits or discovers a violation of the conditions of claim closure, the department may require the self-insurer to correct the benefits paid or payable. The application of RCW 51.32.240 is not limited by this provision.
- (4) For the purpose of determining whether a worker has returned to a job that has "comparable wages and benefits" under this rule, the new wages and benefits cannot exceed a five percent loss in comparison to those received in the previous job held by the worker at the time of the industrial injury.
- (5) This rule does not affect self-insured employers' ability to close noncompensable claims.

AMENDATORY SECTION (Amending Order 86-25, filed 7/1/86)

WAC 296-15-160 Order on ((compensable)) self-insured claims. ((In all cases the department shall issue an allowance, segregation or interlocutory order)) (1)(a) Upon receipt of an ((SIF #5 from a self-insured employer, which reports)) SIF-5 reporting the first payment of time loss compensation ((as required by WAC 296-15-070)), the department will issue an allowance, segregation or interlocutory order unless a request for denial has been received on an ((SIF #4)) SIF-4.

(b) In cases of medical or treatment only claims where claim allowance is at issue, a request for denial (SIF-4) or a request for an interlocutory order (SIF-5) must be submitted within sixty days from the date the claim is filed.

(2) Interlocutory orders ((shall only)) may be issued upon the application for such by a self-insurer. Such orders will be issued at the discretion of the department ((and only when)). The request from the self-insurer must be accompanied by substantiating documentation and a reasonable explanation as to why an investigation is in order ((accompanies the request from the self-insurer)).

(3) Interlocutory orders shall be effective ((for a period of sixty days commencing on)) from the date the self-insurer has knowledge or notice of the industrial injury or occupational disease((, after which time an allowance or rejection order shall be issued)). During this period, the claim shall remain in provisional status.

(4) All orders shall be issued in accordance with RCW 51.52.050.

**WSR 94-17-070**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Filed August 15, 1994, 3:54 p.m.]

Date of Adoption: August 15, 1994.

Purpose: Create fee provisions for determining RACT and new source review requirements.

Citation of Existing Rules Affected by this Order: Amending chapter 173-400 WAC, General regulations for air pollution sources.

Statutory Authority for Adoption: RCW 70.94.153 and 70.94.154.

Pursuant to notice filed as WSR 94-10-079 on May 4, 1994.

Changes Other than Editing from Proposed to Adopted Version: Please see concise explanatory statement in responsiveness summary. Available from Audrey O'Brien, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

Effective Date of Rule: Thirty-one days after filing.  
 August 12, 1994  
 Mary Riveland  
 Director

NEW SECTION

**WAC 173-400-045 Control technology fees.** (1) General. Ecology may assess and collect a fee as authorized in RCW 70.94.154 and described in subsections (2) through (5) of this section.

(2) Fee schedule for source-specific determinations where RACT analysis and determination are performed by ecology.

(a) Basic RACT analysis and determination fee:

(i) Low complexity (the analysis addresses one type of emission unit) - one thousand five hundred dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - seven thousand five hundred dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - fifteen thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - two thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and

(b) of this subsection, the following fees will be required as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but less than ten tons per year of any toxic air pollutant - one thousand dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - two thousand dollars.

(3) Fee schedule for source-specific determinations where RACT analysis is performed by the source and review and determination conducted by ecology.

(a) Basic RACT review and determination fees:

(i) Low complexity (the analysis addresses one type of emission unit) - one thousand dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - five thousand dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - ten thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - one thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but less than ten tons per year of any toxic air pollutant - five hundred dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - one thousand dollars.

(4) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.

(a) Notice of construction application. Review and approval of notice of construction application (NOCA) for replacement or substantial alteration of control technology - three hundred fifty dollars.

(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - five hundred dollars.

(5) Fee schedule for categorical RACT determinations. Fees for categorical RACT determinations (for categories with more than three sources) shall be assessed as shown below. The fees described in (a) of this subsection shall be based on the most complex source within a category. Except as provided in (b) and (d) of this subsection, fees for individual sources in the category will be determined by dividing the total source category fee by the number of sources within the category.

(a) RACT analysis and determination (RACT analysis performed by ecology with assistance from sources):

(i) Low complexity source category (average source emissions of individual criteria pollutants are all less than twenty tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit) - twenty-five thousand dollars;

(ii) Moderate complexity source category (average source emissions of one or more individual criteria pollutants are greater than twenty tons/year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten tons per year, or the analysis addresses two to five types of emissions units) - fifty thousand dollars; or

(iii) High complexity source category (average source emissions of one or more individual criteria pollutants exceed one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units) - one hundred thousand dollars.

(b) If an emission unit is being evaluated for more than one categorical RACT determination within a five-year period, ecology will charge the owner or operator of that emission unit one fee and the fee will reflect the higher complexity categorical RACT determination.

(c) Ecology may adjust the fee to reflect workload savings from source involvement in source category RACT determination.

(d) Ecology may approve alternate methods for allocating the fee among sources within the source category.

(6) Small business fee reduction. The RACT analysis and determination fee identified in subsections (2) through (5) of this section may be reduced for a small business.

(a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW 43.31.025.

(b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the RACT analysis and determination fee shall be reduced to the greater of:

(i) Fifty percent of the RACT analysis and determination fee; or

(ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology

may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and average annual profits. In no case will a RACT analysis and determination fee be reduced below one hundred dollars.

(7) Fee reductions for pollution prevention initiatives. Ecology may reduce RACT analysis and determination fees for an individual source if that source is using approved pollution prevention measures.

(8) Fee payments. Fees specified in subsection (4)(a) of this section shall be paid at the time a notice of construction applications is submitted to the department. Other fees specified in subsections (2) through (7) of this section shall be paid no later than thirty days after receipt of an ecology billing statement. For fees specified in subsection (5) of this section, a billing for one-half of the payment from each source will be mailed when the source category rule-making effort is commenced as noted by publication of the CR101 form in the *Washington State Register*. A billing for the second half of the payment will be mailed when the proposed rule is published in the *Washington State Register*. No order of approval or other action approving or identifying a source to be at RACT will be issued by the department until all fees have been paid by the source. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(9) Dedicated account. All control technology fees collected by the department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All control technology fees collected by the department from nonpermit program sources shall be deposited in the air pollution control account.

(10) Tracking revenues, time, and expenditures. Ecology shall track revenues on a source-specific basis. For purposes of source-specific determinations under subsections (2) through (4) of this section, Ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (5) of this section, ecology shall track time and expenditures on a source-category basis.

(11) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

**NEW SECTION**

**WAC 173-400-116 New source review fees.** (1) Applicability. Every person required to submit a notice of construction application to the department of ecology as authorized in RCW 70.94.152 for establishment of any proposed new source or emissions unit(s) shall pay fees as set forth in subsections (2) and (3) of this section. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee to ecology to cover the costs of Prevention of significant deterioration (PSD) permits issued pursuant to WAC 173-400-141, Second tier analysis pursuant to WAC 173-460-090, and risk management decisions pursuant to WAC 173-460-100 as set forth in subsection (3) of this section. Fees assessed under

this section shall apply without regard to whether an order of approval is issued or denied.

(2) Basic review fees. All owners or operators of proposed new sources are required to pay a basic review fee. The basic review fee covers the costs associated with preapplication assistance, completeness determination, BACT determination, technical review, public involvement and approval/denial orders. Complexity determination shall be based on the project described in the notice of construction application. Basic review fees are shown below:

(a) Low complexity new source or emission unit (emissions of individual criteria pollutants are all less than one-half of the significance levels established in WAC 173-400-030(67) or emissions of individual toxic air pollutants are all less than 2.0 tons/year) - one thousand dollars;

(b) Moderate complexity new source or emission unit (emissions of one or more individual criteria pollutants are greater than one-half of the significance levels established in WAC 173-400-030(67) or emissions of one or more toxic air pollutants are greater than 2.0 tons/year and less than ten tons/year) - five thousand dollars; or

(c) High complexity new source or emissions unit (emissions of one or more criteria pollutants are greater than the significance levels established in WAC 173-400-030(67) or emissions of one or more toxic air pollutants are greater than ten tons/year) - fifteen thousand dollars.

(d) Exceptions. The following fees for new source review shall be charged instead of the applicable fees listed in (a) through (c) of this subsection and in subsection (3) of this section:

(i)	Dry cleaners	\$200
(ii)	Gasoline stations	\$200
(iii)	Storage tanks	
(A)	< 20,000 gallons	\$200
(B)	20,000 - 100,000 gallons	\$500
(C)	> 100,000	\$700
(iv)	Chromic acid plating and anodizing identified in WAC 173-460-060	\$200
(v)	Solvent metal cleaners identified in WAC 173-460-060	\$200
(vi)	Abrasive blasting identified in WAC 173-460-060	\$200
(vii)	New emission units or activities that qualify as insignificant emission units under WAC 173-401-530 whether located at a chapter 401 source or nonchapter 401 source	\$200

(e) Additional units. An owner or operator proposing to build more than one identical emission unit shall be charged a fee for the additional units equal to one-third the basic review fee of the first unit.

(3) Additional charges. In addition to those fees required under subsection (2)(a) through (c) of this section, the following fees will be required as applicable:

(a) Prevention of significant deterioration review (includes ecology review of local air authority sources) - ten thousand dollars;

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(b) Establishing LAER and offset requirements for a major stationary source or major modification proposing to locate in a nonattainment<sup>o</sup> area - ten thousand dollars;

(c) Tier II toxics review as required under WAC 173-460-090 - seven thousand five hundred dollars;

(d) Tier III review as required under WAC 173-460-100 - five thousand dollars;

(e) State Environmental Policy Act review (where ecology is the lead agency):

(i) Determination of nonsignificance (DNS) and environmental checklist review - two hundred dollars; or

(ii) Environmental impact statement (EIS) review or preparation - two thousand dollars;

(iii) Where more than one ecology program is charging a fee for reviewing or preparing SEPA documents, ecology will not charge a SEPA review fee as part of the new source review fees;

(f) Case-by-case MACT determinations required for a new source or modification under Section 112(g) or Section 112(j) of the FCAA - five thousand dollars.

(4) Small business fee reduction. The new source review fee identified in subsections (2) and (3) of this section may be reduced for a small business.

(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 43.31.025.

(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:

(i) Fifty percent of the new source review fee; or

(ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce the fees defined in subsections (2) and (3) of this section where the owner or operator of the

proposed source demonstrates that approved pollution prevention measures will be used.

(6) Fee payments. Fees specified in subsections (2) through (5) of this section shall be paid at the time a notice of construction application is submitted to the department. A notice of construction application is considered incomplete until ecology has received the appropriate new source review payment. Additional charges assessed pursuant to subsection (3) of this section shall be due thirty days after receipt of an ecology billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(7) Dedicated account. All new source review fees collected by the department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All new source review fees collected by the department from nonpermit program sources shall be deposited in the air pollution control account.

(8) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of complexity categories.

(9) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

**WSR 94-17-083**  
**PERMANENT RULES**  
**FISH AND WILDLIFE**  
**COMMISSION**

[Filed August 15, 1994, 4:58 p.m., effective August 16, 1994]

Date of Adoption: August 13, 1994.

Purpose: Closes selected Columbia River and Puget Sound tributaries for fishing for steelhead.

Citation of Existing Rules Affected by this Order:  
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-14-106 on July 6, 1994.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: An effective date of August 16, 1994, which is earlier than the thirty-one days after filing is necessary because the time requirements would be contrary to the public interest. Waiting thirty-one days to implement this regulation will make these depressed salmon stocks vulnerable to hooking mortality, poaching and harvest due to misidentification during summer steelhead sport fishing seasons.

Effective Date of Rule: August 16, 1994.

August 15, 1994  
Bruce A. Crawford  
Assistant Director  
for John McGlenn  
Chairman

NEW SECTION

**WAC 232-28-61954 1994-95 Washington game fish seasons and catch limits—Sauk River, Suiattle River, Cascade River, Grays River, Skamokawa Creek, Elochoman River, Coweeman River, Toutle River (North**

**Fork), Green River (Cowlitz County), Cowlitz River, Kalama River, Lewis River (North Fork), Salmon Creek (Clark County), Washougal River, Skokomish River, Quilcene River, Dungeness River, and Gray Wolf River.** Notwithstanding the provisions of WAC 232-28-619, effective August 16, 1994, the following regulations apply:

- Item 1: Sauk River: Mouth to headwaters, including North and South Forks: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 2: Suiattle River: Mouth to headwaters: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 3: Cascade River: Mouth to headwaters: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 4: Grays River: Mouth to South Fork: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 5: Skamokawa Creek: Mouth to forks below Oatfield and Middle Valley Road: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 6: Elochoman River: From the Foster (Risk) Road Bridge upstream to the WDFW temporary rack (a distance of less than one mile): Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 7: Coweeman River: Mouth to Mulholland Creek: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 8: Toutle River (NF): From the mouth of the Green River downstream approximately 200 yards to the power line crossing: Closed to fishing for steelhead September 16, 1994 through October 15, 1994.
- Item 9: Green River: Mouth to salmon hatchery rack: Closed to fishing for steelhead September 16, 1994 through October 15, 1994.
- Item 10: Cowlitz River: From Mill Creek upstream to barrier dam: Closed to fishing for steelhead Sep-

- tember 16, 1994 through October 15, 1994.
- Item 11: Kalama River: Mouth upstream to 200 feet upstream of temporary rack: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 12: Lewis River (NF): From lower Cedar Creek concrete boat ramp to Colvin Creek: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 13: Salmon Creek: Mouth to N.E. 72nd (Clark County) Avenue: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 14: Washougal River: Mouth to 3rd Avenue bridge: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- From mouth upstream to Salmon Falls: Unlawful to fish with non-buoyant artificial lures having more than one single pointed hook August 16, 1994 through October 15, 1994.
- Item 15: Skokomish River: Mouth to forks: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 16: Quilcene River: Mouth to upper boundary of Falls View Campground: Closed to fishing for steelhead August 16, 1994 through October 31, 1994.
- Item 17: Dungeness River: Mouth to source: Closed to fishing for steelhead, night closure and unlawful to fish with non-buoyant lures having more than one single pointed hook. August 16, 1994 through September 30, 1994.
- Item 18: Gray Wolf River: Night closure August 16, 1994 through September 30, 1994.

All other provisions of WAC 232-28-619 for these waters remain in effect and unchanged.

**WSR 94-17-084  
PERMANENT RULES  
FISH AND WILDLIFE  
COMMISSION**

[Filed August 15, 1994, 4:59 p.m., effective August 16, 1994]

Date of Adoption: August 13, 1994.

PERMANENT

Purpose: To allow anglers to use electric motors while fishing from floating devices in Big Twin Lake.

Citation of Existing Rules Affected by this Order:  
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-14-107 on July 6, 1994.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: An effective date of August 16, 1994, which is earlier than the thirty-one days after filing is necessary because the time requirements would be contrary to the public interest.

Effective Date of Rule: August 16, 1994.

August 15, 1994  
Bruce A. Crawford  
Assistant Director  
for John McGlenn  
Chairman

#### NEW SECTION

**WAC 232-28-61953 1994-95 Washington game fish seasons and catch limits - Big Twin Lake (Okanogan Co.).** Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to the Big Twin Lake (Okanogan Co.).

Big Twin Lake (Okanogan Co.): Trout - catch limit 1; Selective Fishery Regulations, all species, except electric motors allowed.

All other provisions of WAC 232-12-619 and 232-28-619 relating to the above waters remain in effect and unchanged.

**WSR 94-17-090**  
**PERMANENT RULES**  
**GAMBLING COMMISSION**

[Order 255—Filed August 16, 1994, 4:28 p.m.]

Date of Adoption: August 12, 1994.

Purpose: New rule establishes operating restrictions and standards of electronic bingo card daubers.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 94-16-011 on July 20, 1994.

Changes Other than Editing from Proposed to Adopted Version: Wording changed in subsections (2) and (3) to clarify operating restrictions and standards. Provision added subsection (2) to require operators to reserve at least one device for players with disabilities as defined in the Americans with Disabilities Act. If there are no requests for this unit prior to fifteen minutes before scheduled start of the session, it may be made available for use by any player. Provision added to subsection (2)(d) which allows that persons with disabilities that would restrict their ability to mark cards and such disabilities are consistent with the ADA shall not be required to pay rental fees or comply with minimum purchase requirements imposed on all players utilizing electronic daubers. Such players are, however, required to comply with minimum purchase requirements imposed on all players by an operator.

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

August 16, 1994

Sharon M. Tolton

Assistant Director

#### NEW SECTION

**WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restriction—Standards.** The commission deems that any device, apparatus, or scheme that allows a player in any gambling activity a material advantage over other players is against public policy and restriction of such is in the public's interest. Electronic bingo card marking devices or daubers are deemed to provide a player a material advantage unless operated in accordance with subsection (2) of this section. For purposes of this title, the following definitions, restrictions, and standards apply to such devices:

(1) Electronic bingo card daubers are defined as electronic appliances used by players to identify bingo cards that contain numbers or symbols input by a player. These devices electronically store preprinted bingo cards purchased by a player, provide a means for players to input numbers or symbols called by the operator, compare the numbers or symbols input by the player to bingo cards previously stored in an electronic data base, and identify to the player those stored bingo cards that contain the numbers or symbols input by the player: *Provided*, That player-owned devices, which are not directly interfaced with or connected to equipment used to conduct bingo games or the electronic data base in which electronically generated bingo cards are stored in any manner, are not "electronic bingo card daubers" for purposes of this title;

(2) Electronic bingo card daubers will not be deemed to provide players a material advantage and may be used by players in bingo games when operated in the following manner:

(a) The player must perform at least the following functions:

(i) Input each number or symbol called by the operator into the memory of the dauber unit by use of a separate input function for each number symbol. Automatic or global marking of numbers or symbols is prohibited;

(ii) Notify the operator when a winning pattern or "bingo" occurs by means that do not utilize the dauber unit or the associated system; and

(iii) Identify the winning card and display the card to the operator;

(b) Each player using an electronic dauber is limited to playing a maximum of sixty-six cards during any game;

(c) Operators shall not reserve electronic daubers for any player. An operator must devise and disclose to players a scheme for assignment of dauber units to players during each session. Such schemes shall allow all players an equal opportunity to utilize the available dauber units. If a drawing is used to assign dauber units to players, the operator shall ensure that each player participating in the drawing has an equal chance to win: *Provided*, That operators that offer electronic dauber units shall reserve at least one device for players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with definitions set forth in the Americans with Disabilities Act (ADA). If there are no requests for use of

this unit prior to fifteen minutes before the scheduled start of the session, it may be made available for use by any players;

(d) If operators charge players a fee for use of the electronic daubers, such fees must be a flat fee and shall not be based on the number or dollar value of cards purchased. Fees charged shall be treated as rental income and may be used to reduce any expenses of operating these devices for compliance with net income requirements. Rental fees shall be considered bingo receipts for purposes of WAC 230-12-020: *Provided*, That players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with the ADA shall not be required to pay a rental fee or to comply with minimum purchase requirements imposed on all players utilizing electronic daubers. Such players are required to comply with any minimum purchase requirement imposed on all players by an operator;

(e) Each player utilizing an electronic dauber must have in their possession cards that meet all requirements of WAC 230-20-240 and 230-20-101(3). Electronic images of cards or faces stored in such devices are for player convenience only and are not bingo cards for purposes of this title;

(f) If the electronic daubers are leased to an operator, the lease cannot be based in whole or part on the amount of bingo card sales or rental income derived from such devices; and

(g) The use of electronic daubers is prohibited when a licensee utilizes any marketing scheme for cards that results in a decrease in the per unit price of each card as the number of cards purchased increases: *Provided*, That a single discount level is authorized for each type of card sold if:

- (i) The licensee has a minimum purchase requirement;
  - (ii) The discount applies to all additional cards purchased; and
  - (iii) "All you can play" schemes are prohibited;
- (3) Electronic bingo card daubers must meet the following standards:
- (a) Be manufactured by licensed manufacturers;
  - (b) Be sold, leased, and serviced by licensed distributors or manufacturers: *Provided*, That operators may perform routine maintenance on devices under their control;
  - (c) Not be capable of accessing the electronic computer system in any manner that would allow modification of the program which operates and controls the dauber units or the cards stored in the electronic data base; and
  - (d) Be capable of complying with applicable requirements of WAC 230-20-101(3).

**WSR 94-17-091**  
**PERMANENT RULES**  
**GAMBLING COMMISSION**  
 [Order 256—Filed August 16, 1994, 4:31 p.m.]

Date of Adoption: August 12, 1994.

Purpose: Amendment will allow cardroom licensees 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 notice filed as WSR 94-13-112 on June 16, 1994.

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

August 16, 1994  
 Sharon M. Tolton  
 Assistant Director

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 subsection (2) ((below)) of this section, the fee shall not exceed ~~(\$2.00)~~ \$3.00 per half hour, or portion thereof, per player. The following procedures apply to collection of such fees:

(a) The fee charged shall be collected by the licensee in cash, or in wagering chips, directly from the player upon each half hour only.

(b) 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)~~ subsection (3) of this section.

(c) 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)~~ the licensee elects to allow free play, then all players at a table must be allowed to play for free.

(5) 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.

(6) 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 94-17-095**  
**PERMANENT RULES**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**

[Filed August 17, 1994, 10:42 a.m.]

Date of Adoption: July 29, 1994.

Purpose: "Housekeeping." The changes 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.

Citation of Existing Rules Affected by this Order: Repealing WAC 286-06-010, 286-06-030, 286-06-040, 286-06-130, 286-06-140, 286-06-150, 286-06-990, 286-26-040, 286-26-055, 286-26-060, 286-26-070, chapters 286-16, 286-20 and 286-24 WAC; and amending WAC 286-04-010, 286-04-020, 286-04-030, 286-04-050, 286-04-060, 286-04-070, 286-06-050, 286-06-060, 286-06-070, 286-06-080, 286-06-090, 286-06-100, 286-06-110, 286-06-120, 286-26-010, 286-26-020, and 286-26-030.

Statutory Authority for Adoption: RCW 43.98A.060(1), [43.98A].070(5), 43.99.080, 46.09.240, 77.12.720.

Pursuant to notice filed as WSR 94-13-196 on June 21, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 286-04-050(2) added NEPA; WAC 286-04-070 replaced "enforce" with "administer"; WAC 286-04-085 replaced "pursuant" with "in accordance with" and deleted numbers (5), (7), (8), and (9); WAC 286-06-110 deleted "for purposes of judicial review" and replaced "attorney general's office" with "office of the attorney general"; WAC 286-26-020 deleted second occurrence of "For purposes of this chapter, the following definitions shall apply:"; WAC 286-26-080 and 286-35-035 clarified that "applicant" will mean the "applicant's governing body"; WAC 286-35-070 deleted "Generally"; WAC 286-40-020 added a new (1) "Adherence to the outdoor recreation account planning requirements of WAC 286-27-040"; WAC 286-40-060(i) deleted "utility" and added that conversion replacement property must be of "at least equal fair market value" and "usefulness."

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

August 15, 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 submis-

sion 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); (e) 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)~~) 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, the National Environmental Protection Act, 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 (~~(-)~~) 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) Enforce~~) (3) Administer 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 in accordance with 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 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.

#### 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.

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 31.))~~ 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. Whenever possible in such matters, the director or designee shall first consult with the committee's chair and/or office of the attorney general.

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

PERMANENT

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, motoreyes, 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 commit-~~

tee 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.)

"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's governing body.

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.

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

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(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's governing body.

**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.** 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) Adherence to the outdoor recreation account planning requirements of WAC 286-27-040.
- (2) How well the project(s) has ranked in the evaluation;
- (3) 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;
- (4) 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 at least equal fair market value and of reasonably equivalent recreation usefulness 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 94-17-096**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed August 17, 1994, 10:50 a.m.]

Date of Adoption: August 16, 1994.

Purpose: To establish the process of providing basic education funding directly to technical college.

Statutory Authority for Adoption: RCW 28A.150.290.

Pursuant to notice filed as WSR 94-13-107 on June 16, 1994.

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

August 16, 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 94-17-099**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed August 17, 1994, 1:27 p.m.]

Date of Adoption: August 10, 1994.

Purpose: Amend chapter 246-338 WAC, Medical test site rules, to include new lower fee category for sites performing less than 750 tests per year; expand definition of

physician performed microscopic procedure category to include mid-level practitioners and additional tests recommended by the federal Clinical Laboratory Improvement Advisory Committee.

Citation of Existing Rules Affected by this Order: Amending WAC 246-338-010, 246-338-020, 246-338-030, 246-338-050, and 246-338-990.

Statutory Authority for Adoption: Chapter 70.42 RCW. Pursuant to notice filed as WSR 94-14-039 on June 29, 1994.

Effective Date of Rule: Thirty-one days after filing.  
 August 15, 1994  
 Bruce Miyahara  
 Secretary

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

**WAC 246-338-010 Definitions.** For the purpose of chapter 70.42 RCW and this chapter, the following words and phrases have these meanings unless the context clearly indicates otherwise.

(1) "Accreditation body" means a public or private organization or agency which accredits, certifies, or licenses medical test sites, by establishing and monitoring standards judged by the department to be consistent with federal law and regulation, and this chapter.

(2) "Authorized person" means any individual allowed by Washington state law or rule to order tests or receive test results.

(3) "Case" means any slide or group of slides, from one patient specimen source, submitted to a medical test site, at one time, for the purpose of cytological or histological examination.

(4) "Certificate of waiver" means a medical test site performing one or more of the tests listed under WAC 246-338-030(11), and no other tests.

(5) "Days" means calendar days.

(6) "Department" means the department of health.

(7) "Designated test site supervisor" means the available individual responsible for the technical functions of the medical test site and meeting the qualifications for Laboratory Director, listed in 42 CFR Part 493 Subpart M - Personnel for Moderate and High Complexity Testing.

(8) "Disciplinary action" means license or certificate of waiver denial, suspension, condition, revocation, civil fine, or any combination of the preceding actions, taken by the department against a medical test site.

(9) "Facility" means one or more locations where tests are performed, within one campus or complex, under one owner.

(10) "Federal law and regulation" means Section 353 of the Public Health Service Act, Clinical Laboratory Improvement Amendments of 1988, and regulations implementing the federal amendments, 42 CFR Part 493 - Laboratory Requirements.

(11) "Forensic" means investigative testing in which the results are never used for health care or treatment, or referral to health care or treatment, of the individual.

(12) "Licensed test" means all tests categorized as (~~physician-performed~~) provider-performed microscopic procedures or moderate or high complexity tests consistent

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with federal law and regulation and not specifically listed as waived under WAC 246-338-030(11), or defined as forensic under subsection (11) of this section.

(13) "Limited public health testing" means a combination of fifteen or less waived tests, as listed under WAC 246-338-030(11), or tests of moderate complexity, as defined under subsection (12) of this section;

(14) "May" means permissive or discretionary on the part of the department.

(15) "Medical test site" or "test site" means any facility or site, public or private, which analyzes materials derived from the human body for the purposes of health care, treatment, or screening. A medical test site does not mean:

(a) A facility or site, including a residence, where a test approved for home use by the Federal Food and Drug Administration is used by an individual to test himself or herself without direct supervision or guidance by another and where this test is not part of a commercial transaction; or

(b) A facility or site performing tests solely for forensic purposes.

(16) "Owner" means the person, corporation, or entity legally responsible for the business requiring licensure or a certificate of waiver as a medical test site under chapter 70.42 RCW.

(17) "Performance specification" means a value or range of values for a test that describe its accuracy, precision, analytical sensitivity, analytical specificity, reportable range and reference range.

(18) "Person" means any individual, public organization, private organization, agent, agency, corporation, firm, association, partnership, or business.

(19) "Physician" means an individual with a doctor of medicine, doctor of osteopathy, doctor of podiatric medicine, or equivalent degree who is a licensed professional under chapter 18.71 RCW Physicians; chapter 18.57 RCW Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW Podiatric medicine and surgery.

(20) "~~((Physician-performed))~~ Provider-performed microscopic procedures" means only those tests listed under WAC 246-338-020 (2)(b)(i) through ~~((viii))~~ (xix), when the tests are performed ~~((by a physician))~~ in conjunction with a patient's visit by a licensed professional meeting one or more of the following qualifications:

(a) Physician licensed under chapter 18.71 RCW, Physicians; chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW, Podiatric medicine and surgery;

(b) Advanced registered nurse practitioner, licensed under chapter 18.88 RCW, Registered nurses;

(c) Midwife licensed under chapter 18.50 RCW, Midwifery;

(d) Physician assistant licensed under chapter 18.71A RCW, Physician assistants; or

(e) Naturopath licensed under chapter 18.36A RCW, Naturopathy.

(21) "Provisional license" means an interim approval issued by the department to the owner of a medical test site.

(22) "Recordkeeping" means books, files, or records necessary to show compliance with the quality control and quality assurance requirements under this chapter.

(23) "Shall" means compliance is mandatory.

(24) "Specialty" means a group of similar subspecialties or tests. The specialties for a medical test site are as follows:

- (a) Chemistry;
- (b) Cytogenetics;
- (c) Diagnostic immunology;
- (d) Immunohematology;
- (e) Hematology;
- (f) Histocompatibility;
- (g) Microbiology;
- (h) Pathology; and
- (i) Radiobioassay.

(25) "Subspecialty" means a group of similar tests. The subspecialties of a specialty for a medical test site are as follows, for:

(a) Chemistry, the subspecialties are routine chemistry, urinalysis, endocrinology, toxicology, and other chemistry;

(b) Diagnostic immunology, the subspecialties are syphilis serology and general immunology;

(c) Immunohematology, the subspecialties are blood group and Rh typing, antibody detection, antibody identification, crossmatching, and other immunohematology;

(d) Hematology, the subspecialties are routine hematology, coagulation, and other hematology;

(e) Microbiology, the subspecialties are bacteriology, mycology, parasitology, virology, and mycobacteriology; and

(f) Pathology, the subspecialties are histopathology, diagnostic cytology, and oral pathology.

(26) "Supervision" means authoritative procedural guidance by a qualified individual, assuming the responsibility for the accomplishment of a function or activity by technical personnel.

(27) "Technical personnel" means individuals employed to perform any test or part of a test.

(28) "Test" means any examination or procedure conducted on a sample taken from the human body, including screening.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

**WAC 246-338-020 Licensure of the medical test sites.** (1) After July 1, 1990, no person shall advertise, operate, manage, own, conduct, open, or maintain a medical test site without first obtaining from the department, a license or a certificate of waiver as described under chapter 70.42 RCW and this chapter.

(2) Applicants requesting a medical test site license or renewal shall:

(a) Submit a completed application and fee for the appropriate category of license to the department on forms furnished by the department, including signature of the owner;

(b) Submit a completed application and fee for ~~((physician-performed))~~ provider-performed microscopic procedures if the medical test site restricts its testing performance to waived tests as listed under WAC 246-338-030(11) and one or more of the tests listed in this section, unless specifically disallowed under federal law and regulation:

(i) Wet mounts, including, but not limited to, preparations of vaginal, cervical or skin specimens;

(ii) Potassium hydroxide (KOH) preparations;

- (iii) Pinworm examinations;
- (iv) Fern tests;
- (v) Post-coital direct, qualitative examinations of vaginal or cervical mucous;
- (vi) Urine sediment examinations; ~~((and))~~
- (vii) Nasal smears for eosinophils;
- (viii) Post vasectomy qualitative semen analysis; and
- (ix) Any other tests specifically categorized under federal law and regulation as ~~((physician-performed))~~ provider-performed microscopic procedures;

(c) File a separate application for each facility except under the following conditions:

(i) If the medical test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single license for the home base location;

(ii) If the medical test site is a not-for-profit or state or local government laboratory that engages in limited public health testing at different locations, the owner may file an application for a single license;

(d) Furnish full and complete information to the department in writing, as required for proper administration of rules implementing chapter 70.42 RCW including:

(i) Name, address, and phone number of the medical test site;

(ii) Name, address, and phone number of the owner of the medical test site;

(iii) Number and types of tests performed, planned, or projected;

(iv) Names and qualifications including educational background, training, and experience of the designated test site supervisor;

(v) Names and qualifications including educational background, training, and experience of technical personnel, if requested by the department, in order to determine consistency with federal law and regulation;

(vi) Name of proficiency testing program or programs used by the medical test site and a copy of the enrollment form for initial application;

(vii) Other information as required to implement chapter 70.42 RCW; and

(viii) Methodologies for tests performed, when the department determines the information is necessary, consistent with federal law and regulation.

(e) Submit to inspections by the Health Care Financing Administration (HCFA) or HCFA agents as a condition of licensure or approval, for the purpose of validation or in response to a complaint against the medical test site; and

(f) Authorize the department to release to HCFA or HCFA agents all records and information requested by HCFA;

(3) The owner or applicant shall submit an application and fee to the department thirty days prior to the expiration date of the current license.

(4) The department shall:

(a) Issue or renew a license for the medical test site, valid for two years, when the applicant or owner meets the requirements of chapter 70.42 RCW and this chapter, subject to subsection (7) of this section;

(b) Terminate a provisional license, at the time a two-year license for the medical test site is issued;

(c) Establish fees to be paid under WAC 246-338-990;

(d) Prohibit transfer or reassignment of a license without thirty days prior written notice to the department and the department's approval;

(e) Examine records of the medical test site, if the department believes a person is conducting tests without an appropriate license;

(f) Give written notice of any violations to the medical test site, including a statement of deficiencies observed and requirements to:

(i) Present a written plan of correction to the department within fourteen days following the date of postmark; and

(ii) Comply within a specified time, not to exceed sixty days, after department approval of a written plan of correction;

(g) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency unless the deficiency is an immediate threat to life, health, or safety.

(5) The department shall also issue a license for a medical test site if the medical test site:

(a) Is accredited, certified, or licensed by an accreditation body under WAC 246-338-040; and

(b) Submits to the department:

(i) Information defined under subsection (2)(a) and (d) of this section;

(ii) Proof of accreditation, certification or licensure by an accreditation body within eleven months of issuance of the medical test site license; and

(c) Authorizes the accrediting body to submit, upon request from the department:

(i) On-site inspection results;

(ii) Statement of deficiencies;

(iii) Plan of correction for the deficiencies cited;

(iv) Any disciplinary action and results of any disciplinary action taken by the accreditation body against the medical test site; and

(v) Any records or other information about the medical test site required for the department to determine whether or not standards are consistent with chapter 70.42 RCW and this chapter.

(6) The department shall require the owner of a medical test site to reapply for a medical test site license if:

(a) Proof of accreditation is not supplied to the department within eleven months of issuance of the medical test site license; or

(b) The medical test site has its accreditation denied or terminated by the accreditation body.

(7) The department may:

(a) Issue, to a medical test site applying for licensure for the first time a provisional license valid for a period of time not to exceed two years from date of issue;

(b) Conduct on-site review of a medical test site at any time to determine compliance with chapter 70.42 RCW and this chapter; and

(c) Initiate disciplinary action, as described under chapter 70.42 RCW and this chapter, if the owner or applicant fails to comply with chapter 70.42 RCW and this chapter, consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) The department may:

(a) Extend a license for a period not to exceed six months beyond the expiration date of the license; or

(b) Issue a license for a period of one year for applications for licensure or renewal submitted during September 1993 to ~~((October 1994))~~ August 1995.

(9) The owner shall notify the department, in writing, at least thirty days prior to the date of a proposed change of ownership and provide the following information:

- (a) Full name, address, and location of the current owner and prospective new owner, if known;
- (b) Name and address of the medical test site and the new name of the medical test site, if known;
- (c) Changes in technical personnel and supervisors, if known; and
- (d) The date of the proposed change of ownership.

(10) The prospective new owner shall submit the information required under subsection (2)(a) and (d) of this section, at least thirty days prior to the change of ownership.

(11) The owner shall inform the department within thirty days, in writing, of:

- (a) The date of opening or closing the medical test site; and
- (b) Any changes in:
  - (i) Name;
  - (ii) Location; or
  - (iii) Designated test site supervisor.
- (12) The owner shall inform the department within six months, in writing, of any changes in:
  - (a) Tests, specialties and subspecialties; and
  - (b) Test methodology.

**AMENDATORY SECTION** (Amending Order 390, filed 9/1/93, effective 10/2/93)

**WAC 246-338-030 Waiver from licensure of medical test sites.** (1) The department shall grant a certificate of waiver to a medical test site performing only the tests listed under this section.

(2) Applicants requesting a certificate of waiver or renewal shall:

(a) Submit a completed application and fee for initial certificate of waiver or renewal to the department on forms furnished by the department, including signature of the owner; and

(b) File a separate application for each facility except under the following conditions:

(i) If the medical test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single certificate of waiver for the home base location;

(ii) If the medical test site is a not-for-profit or state or local government laboratory that performs, at different locations, only those tests listed in subsection (11) of this section, the owner may file an application for a single certificate of waiver;

(c) Furnish full and complete information to the department in writing, as required for proper administration of rules to implement chapter 70.42 RCW including:

- (i) Name, address, and phone number of the medical test site;
- (ii) Name, address, and phone number of the owner of the medical test site;

(iii) Number and types of tests performed, planned or projected;

(iv) Names and qualifications including educational background, training and experience of the personnel directing and supervising the medical test site;

(v) Names and qualifications including educational background, training, and experience of personnel performing the test procedures, if requested by the department, in order to determine consistency with federal law and regulation;

(vi) Other information as required to implement chapter 70.42 RCW; and

(vii) Methodologies for tests performed, when the department determines the information is necessary consistent with federal law and regulation.

(3) The owner or applicant shall submit an application and fee to the department thirty days prior to the expiration date of the current certificate of waiver.

(4) The department shall:

(a) Grant a certificate of waiver or renewal of a certificate of waiver for the medical test site valid for two years when the applicant or owner meets the requirements of chapter 70.42 RCW and this chapter, subject to subsection ~~((5))~~ (6) of this section;

(b) Establish fees to be paid under WAC 246-338-990; and

(c) Prohibit transfer or reassignment of a certificate of waiver without thirty days prior written notice to the department and the department's approval.

(5) The department may:

(a) Extend a certificate of waiver for a period not to exceed six months beyond the expiration date of the certificate of waiver; or

(b) Issue a certificate of waiver for a period of one year for initial or renewal applications submitted during September 1993 to ~~((October 1994))~~ August 1995.

(6) If the department has reason to believe a waived site is conducting tests requiring a license, the department shall:

- (a) Conduct on-site reviews of the medical test site;
- (b) Examine records of the medical test site;
- (c) Give written notice of any violations to the medical test site, including a statement of deficiencies observed and requirements to:

(i) Present a written plan of correction to the department within fourteen days following the date of postmark; and

(ii) Comply within a specified time not to exceed sixty days after department approval of a written plan of correction;

(d) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency unless the deficiency is an immediate threat to life, health, or safety.

(7) The department may:

(a) Conduct on-site review of a medical test site at any time to determine compliance with chapter 70.42 RCW and this chapter; and

(b) Initiate disciplinary action, as described under chapter 70.42 RCW and this chapter, if the owner or applicant fails to comply with chapter 70.42 RCW and this chapter, consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) The owner shall notify the department, in writing, at least thirty days prior to the date of a proposed change of ownership and provide the following information:

(a) Full name, address, and location of the current owner and prospective new owner, if known;

(b) Name and address of the medical test site and the new name of the medical test site, if known;

(c) Changes in personnel directing the medical test site, if known; and

(d) The date of the proposed change of ownership.

(9) The prospective new owner shall submit the information required under subsection (2)(a) and (c) of this section, at least thirty days prior to the change of ownership.

(10) The owner shall inform the department within thirty days, in writing, of:

(a) The date of opening or closing the medical test site; and

(b) Any changes in:

(i) Name;

(ii) Location; or

(iii) Personnel directing the medical test site.

(11) The department shall grant a certificate of waiver if the medical test site performs only the tests listed in this section and no other tests unless specifically disallowed or allowed under federal law and regulation:

(a) Dipstick or tablet reagent urinalysis;

(b) Fecal occult blood;

(c) Ovulation tests-visual color comparison tests for human luteinizing hormone;

(d) Urine pregnancy tests-visual color comparison tests;

(e) Erythrocyte sedimentation rate-nonautomated;

(f) Hemoglobin-copper sulfate-nonautomated;

(g) Blood glucose by glucose monitoring devices cleared by the FDA specifically for home use;

(h) Spun microhematocrit; and

(i) Hemoglobin by single analyte instruments with self-contained or component features to perform specimen/reagent interaction, providing direct measurement and readout.

(12) The department will make additions or deletions to the list of waived tests under subsection (11) of this section, by rule, consistent with federal law and regulation.

(13) If the medical test site adds tests not included under subsection (11) of this section, the owner shall apply for licensure as defined under chapter 70.42 RCW and WAC 246-338-020.

**AMENDATORY SECTION** (Amending Order 390, filed 9/1/93, effective 10/2/93)

**WAC 246-338-050 Proficiency testing.** (1) ~~((Effective January 1, 1994:~~

~~((a)) All licensed medical test sites, excluding those granted a certificate of waiver, shall:~~

~~((a) Comply with federal proficiency testing requirements listed in 42 CFR Part 493-Laboratory Requirements, ((Subpart H Participation in Proficiency Testing for Laboratories Performing Tests of Moderate or High Complexity;)) Subparts H and I; and~~

~~((b) ((By December 31 of each year, each medical test site, excluding those granted a certificate of waiver, shall)) Submit to the department, by December 31 of each year, a~~

copy of proficiency testing enrollment form(s) for the tests the medical test site will perform during the following calendar year((s)).

~~((e)) (2) The department ((will)) shall:~~

~~((a) Recognize only those programs approved by the HCFA; and~~

~~((d) The department shall evaluate proficiency testing results according to the grading criteria listed in 42 CFR Part 493 Subparts H and I; and~~

~~((e) The department, upon request, shall)) (b) Furnish, upon request:~~

~~((i) 42 CFR Part 493 Subparts H and I; and~~

~~((ii) A list of the programs approved by HCFA.~~

~~((2) Until December 31, 1993, each medical test site shall comply with proficiency testing requirements as described in this section.~~

~~((3) Except where there is no available proficiency test, each licensed medical test site shall demonstrate satisfactory participation in a department approved proficiency testing program appropriate for the test or tests performed on-site, excluding waived tests as listed under WAC 246-338-030(11).~~

~~((4) The department, upon request, shall furnish a list of the approved proficiency testing programs under RCW 70.42.050.~~

~~((5) The department may approve the owner or applicant's use of a specific proficiency testing program when the program:~~

~~((a) Assures the quality of test samples;~~

~~((b) Appropriately evaluates the testing results;~~

~~((c) Identifies performance problems in a timely manner;~~

~~((d) Has the technical ability required to prepare and distribute samples;~~

~~((e) Uses methods assuring samples mimic actual patient specimens when possible and where applicable;~~

~~((f) Uses homogenous samples if applicable;~~

~~((g) Maintains stability of samples within the time frame specified in written instructions for analysis by proficiency testing participants;~~

~~((h) Provides necessary documentation to establish requirements under this section;~~

~~((i) Uses an appropriate process for determining the correct answer for each sample; and~~

~~((j) Uses at least two samples per test each testing event if applicable.~~

~~((6) The medical test site shall:~~

~~((a) Assure testing of proficiency testing samples in a similar manner as patient specimens are tested, unless otherwise specifically requested by the proficiency testing program;~~

~~((b) Assure testing of proficiency testing samples on-site by the technical personnel performing examinations on patient specimens;~~

~~((c) Maintain reports of graded results received from the proficiency testing program and documentation of the:~~

~~((i) Test methodology;~~

~~((ii) Identification of technical personnel performing the tests; and~~

~~((iii) Reporting of results of the proficiency testing samples; and~~

(d) Request that the proficiency testing program provide a copy of the graded proficiency testing results to the department.

~~(7))~~ (3) The department shall evaluate proficiency testing results by using the following grading criteria:

(a) An evaluation of scores for the last ~~((four shipments))~~ three testing events of proficiency testing samples including:

- (i) Tests;
- (ii) Subspecialties; and
- (iii) Specialties;

(b) Maintenance of a minimum acceptable score ~~((for satisfactory participation as follows:~~

~~(i) Seventy-five percent))~~ of eighty percent for all tests, subspecialties, and specialties except ~~((for human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) and immunohematology; and~~

~~(ii))~~ one hundred percent for ~~((all tests, subspecialties, and specialties for HIV/AIDS and immunohematology));~~

(i) ABO group and D(Rh<sub>0</sub>) typing; and

(ii) Compatibility testing;

(c) ~~((A grade of marginal))~~ Unsatisfactory performance occurs when:

(i) ~~((An unsatisfactory score is obtained on any single test in a shipment for immunohematology or HIV/AIDS; or~~

~~(ii) For all other tests, subspecialties, or specialties if:~~

~~(A))~~ Unsatisfactory scores are obtained in any specialty or subspecialty ~~((on two of any three successive shipments))~~ in a testing event; or

~~((B))~~ (ii) An unsatisfactory score is obtained on a single test ~~((on two of any three successive shipments))~~ in a testing event;

(d) Unsuccessful participation occurs when a grade of unsatisfactory performance ~~((occurs when unsatisfactory shipment scores are))~~ is obtained on a single test or in a specialty or subspecialty on ~~((three))~~ two of any ~~((four))~~ three successive ~~((shipments))~~ testing events.

~~((8))~~ (4) For ~~((marginal performance on))~~ unsuccessful participation in proficiency testing ~~((samples)),~~ the following ~~((department and medical test site))~~ actions shall occur:

(a) The department shall mail a ~~((cautionary))~~ letter to the designated test site supervisor stating that the medical test site may choose to:

(i) Discontinue patient testing for the identified test, specialty or subspecialty; or

(ii) Follow a directed plan of correction; and

(b) The medical test site shall~~((:~~

~~(i) Determine the cause of the marginal proficiency testing performance; and~~

~~(ii) Keep records at the medical test site showing what action was taken to correct the problem.~~

~~(9) In addition the department may require the owner of the medical test site demonstrating marginal performance in any identified test, subspecialty or specialty, to:~~

~~(a) Submit a plan of correction to the department within fifteen days from receipt of notice; and~~

~~(b) Provide or ensure:~~

~~(i) Additional training of personnel;~~

~~(ii) Necessary technical assistance to meet the requirements of the proficiency testing program and the department;~~

~~(iii) Participation in a program of additional proficiency testing, if available; or~~

~~(iv) Any combination of training, technical assistance, or testing described under (b)(i), (ii), and (iii) of this subsection.~~

~~(10) For unsatisfactory performance on proficiency testing samples))~~ notify the department, within fifteen days of receipt of the notice of the decision to:

(i) Discontinue testing patient specimens for the identified test, subspecialty or specialty; or

(ii) Agree to a directed plan of correction.

(5) After completing a directed plan of correction, if a medical test site has continued unsatisfactory performance for a test, specialty or subspecialty in either of the next two sets of proficiency testing samples, the following action will occur:

(a) The department shall send to the owner and designated test site supervisor by certified mail~~((:~~

~~(a) A letter identifying the particular problem;~~

~~(b) Acknowledgement of previous contacts; and~~

~~(c))~~ a notice to the medical test site to cease performing the identified test, subspecialty, or specialty~~((:~~

~~(11))~~; and

(b) The owner shall notify the department within fifteen days of the receipt of the notice of the decision to voluntarily stop performing tests on patient specimens for the identified test, subspecialty, or specialty.

~~((12))~~ (6) The owner may petition the department for reinstatement of approval to perform tests on patient specimens after demonstrating satisfactory performance on two successive ~~((shipments))~~ testing events of proficiency testing samples for the identified test, subspecialty, or specialty.

~~((13))~~ (7) The department shall notify the owner in writing, within fifteen days of receipt of petition, of the decision related to the request for reinstatement.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-990 Fees. (1) For the purpose of this section, the following words and phrases have the following meanings:

(a) "Accredited by organization" means a testing site is accredited, certified, or licensed by an organization meeting the requirements of WAC 246-338-040, Approval of accreditation bodies;

(b) "Limited testing" means a medical test site performing not more than seven hundred fifty licensed tests per year;

(c) "Low volume" means a medical test site performing greater than seven hundred fifty licensed tests per year, and not more than two thousand licensed tests per year;

~~((e))~~ (d) "Category A" means a medical test site performing greater than two thousand licensed tests per year, not more than ten thousand licensed tests per year and three or less specialties;

~~((d))~~ (e) "Category B" means a medical test site performing greater than two thousand licensed tests per year, not more than ten thousand licensed tests per year and at least four specialties;

~~((e))~~ (f) "Category C" means a medical test site performing greater than ten thousand licensed tests per year, not more than twenty-five thousand licensed tests per year and three or less specialties;

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(Dispensing Opticians)
[Filed August 17, 1994, 1:35 p.m.]

((f)) (g) "Category D" means a medical test site performing greater than ten thousand licensed tests per year, not more than twenty-five thousand licensed tests per year and four or more specialties;

((g)) (h) "Category E" means a medical test site performing greater than twenty-five thousand, but not more than fifty thousand licensed tests per year;

((h)) (i) "Category F" means a medical test site performing greater than fifty thousand, but not more than seventy-five thousand licensed tests per year;

((i)) (j) "Category G" means a medical test site performing greater than seventy-five thousand, but not more than one hundred thousand licensed tests per year;

((j)) (k) "Category H" means a medical test site performing greater than one hundred thousand, but not more than five hundred thousand licensed tests per year;

((k)) (l) "Category I" means a medical test site performing greater than five hundred thousand, but not more than one million licensed tests per year;

((l)) (m) "Category J" means a medical test site performing more than one million licensed tests per year;

((m)) (n) "Direct staff time" means all state employees' work time, including travel time and expenses involved in functions associated with medical test site licensure or complaint investigation including:

- (i) On-site follow up visit; and
(ii) Telephone contacts and staff or management conferences in response to a deficiency statement or complaint.

(2) The department shall assess and collect biennial fees for medical test sites as follows:

- (a) Charge fees, based on the requirements authorized under RCW 70.42.090 and this section;
(b) Assess additional fees when a medical test site adds licensed tests that result in a change of category; and
(c) Determine fees according to criteria below:

Table with 2 columns: Description and Fee. Includes categories like Certificate of waiver (\$100 per biennium), Limited testing (500 per biennium), and Categories A through J with various fees.

(3) The department shall exclude from fee charges the women, infant, and children (WIC) programs performing only hematocrit testing or hemoglobin testing as listed in WAC 246-338-030 (11)(f) or (i) for food distribution purposes and the Washington state migrant council performing only hematocrit testing or hemoglobin testing as listed in WAC 246-338-030 (11)(f) or (i) for nutritional evaluation.

Date of Adoption: August 11, 1994.
Purpose: Implementation of ESHB 1847 Consumer Access to Vision Care Act.
Statutory Authority for Adoption: Section 6, chapter 106, Laws of 1994.
Pursuant to notice filed as WSR 94-14-080 on July 5, 1994.
Effective Date of Rule: Thirty-one days after filing.
August 17, 1994
Bruce Miyahara
Secretary

NEW SECTION

WAC 246-852-010 Duties of practitioners pursuant to chapter 106, Laws of 1994. (1) Prescribers, including ophthalmologists and optometrists, under chapters 18.53, 18.57, or 18.71 RCW:

(a) When performing an eye examination including the determination of the refractive condition of the eye, shall provide the patient a copy of the prescription at the conclusion of the eye examination.

(b) Shall, if requested by the patient, at the time of the eye examination, also determine the appropriateness of contact lenses wear and include a notation of "OK for Contacts" or similar language on the prescription if the prescriber would have fitted the patient him or herself, if the patient has no contraindications for contact lenses.

(c) Shall inform the patient that failure to complete the initial fitting and obtain a follow-up evaluation by a prescriber within six months of the exam will void the "OK for Contacts" portion of the prescription.

(d) Shall provide a verbal explanation to the patient if the prescriber determines the ocular health of the eye presents a contraindication for contact lenses. Documentation of contraindication will also be maintained in the patient's record.

(e) May exclude categories of contact lenses where clinically indicated.

(f) Shall not expire prescriptions in less than two years, unless a shorter time period is warranted by the ocular health of the eye. If a prescription is to expire in less than two years, an explanatory notation must be made by the prescriber in the patient's record and a verbal explanation given to the patient at the time of the eye examination.

(g) Shall comply with WAC 246-852-020.

(2) When conducting a follow-up evaluation for contact lenses fitted and dispensed by another practitioner, the prescriber:

(a) Shall indicate on the written prescription, "follow-up completed" or similar language, and include his or her name and date of the follow-up;

(b) May charge a reasonable fee at the time the follow-up evaluation is performed.

(3) Opticians under chapter 18.34 RCW:

(a) May perform mechanical procedures and measurements necessary to adapt and fit contact lenses from a

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written prescription consisting of the refractive powers and a notation of "OK for Contacts" or similar language within six months of the eye examination date.

(b) Shall notify patients in writing that a prescriber is to evaluate the initial set of contact lenses on the eye within six months of the eye examination or the "OK for Contacts" portion of the prescription is void and replacement contact lenses will not be dispensed. The patient shall be requested to sign the written notification. The signed or unsigned notification will then be dated and placed in the patient's records.

(4) If the patient is fitted by a practitioner other than the initial prescriber, the contact lens specifications shall be provided to the patient and to a prescriber performing the follow-up evaluation.

(5) When the follow-up evaluation is completed, the approved contact lens specifications shall become a valid prescription with the signature of the evaluating prescriber. The patient shall be able to obtain replacement lenses, from this finalized prescription, for the remainder of the prescription period.

(6) All fitters and dispensers shall distribute safety pamphlets to all contact lens patients designed to inform the patient of consumer and health-related decisions.

#### NEW SECTION

##### **WAC 246-852-020 Prescription for corrective lenses.**

(1) A prescription from a prescriber for corrective lenses shall at a minimum include:

- (a) Patient name.
- (b) Prescriber's name, address, professional license number, phone number and/or facsimile number.
- (c) Spectacle prescription.
- (d) Prescription expiration date.
- (e) Date of eye exam.
- (f) Signature of prescriber.

(2) If the patient requests contact lenses and has received an eye examination for contact lenses, the prescription shall also include:

- (a) The notation "OK for Contacts" or similar language indicating there are no contraindications for contacts.
- (b) Exclusion of categories of contact lenses, if any.
- (c) Notation that the "OK for Contacts" portion of the prescription becomes void if the patient fails to complete the initial fitting and obtain the follow-up evaluation by a prescriber within the six-month time period.

(3) When the follow-up evaluation is completed, the approved contact lens specifications shall become a valid prescription with the signature of the evaluating prescriber. The patient shall be able to obtain replacement lenses, from this finalized prescription, for the remainder of the prescription period.

#### NEW SECTION

**WAC 246-852-030 Transmittal of patient information and records.** The finalized prescription of the contact lens specifications shall be available to the patient or the patient's designated practitioner for replacement lenses and may be transmitted by telephone, facsimile or mail or provided directly to the patient in writing. The initial prescriber may request and receive the finalized contact lens

specifications, if the initial prescriber does not perform the fitting and follow-up evaluation.

#### NEW SECTION

**WAC 246-852-040 Retention of patient contact lens records.** (1) Practitioners shall maintain patient records for a minimum of five years. The records shall include the following which adequately reflects the level of care provided by the practitioners:

- (a) The written prescription.
- (b) Dioptic power.
- (c) Lens material, brand name and/or manufacturer.
- (d) Base curve (inside radius of curvature).
- (e) Diameter.
- (f) Color (when applicable).
- (g) Thickness (when applicable).
- (h) Secondary/peripheral curves (when applicable).
- (i) Special features equivalent to variable curves, fenestration or coating.

(j) Suggested wearing schedule and care regimen.

(2) Opticians' records shall additionally include the following if fitting contact lenses:

(a) Documentation of written advisement to the patient of the need to obtain a follow-up evaluation by a prescriber.

(3) Prescribers' records shall additionally include the following:

(a) Documentation of contraindications which would prohibit contact lens wear and documentation that contraindications were explained to the patient by the prescriber.

(b) Explanatory notation of the reasons why a prescription has an expiration date of less than two years, and documentation that the reasons were explained to the patient at the time of the eye examination.

#### **WSR 94-17-119 PERMANENT RULES FISH AND WILDLIFE COMMISSION**

[Order 94-60—Filed August 18, 1994, 4:55 p.m.]

Date of Adoption: August 13, 1994.

Purpose: To adopt WAC 232-28-418 1994-95 Migratory waterfowl seasons and regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-417 1993-94 Migratory waterfowl seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-14-092 on July 5, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-418 differs from the proposed version filed with the code reviser in the following specifics: On page one, the duck season dates for Western Washington were changed from 8 a.m. Oct. 15-23, 1994 and Nov. 13, 1994-Jan. 1, 1995 to 8 a.m. Oct. 15-23, 1994 and Nov. 12, 1994-Jan. 10, 1995; on page one, the duck season dates for Eastern Washington were changed from noon Oct. 15-23, 1994 and Nov. 6, 1994-Jan. 1, 1995 to noon Oct. 15-23, 1994 and Nov. 12, 1994-Jan. 10, 1995; on pages 2-4, daily bag limits for all geese were changed to

add the language "to include not more than 2 white-fronted geese"; and on pages 2-4, possession limits for all geese were changed to add the language "to include not more than 4 white-fronted geese."

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

August 18, 1994  
Bruce A. Crawford  
Assistant Director  
for John C. McGlenn  
Chairman

## NEW SECTION

### **WAC 232-28-418 1994-95 Migratory waterfowl seasons and regulations**

#### **DUCKS**

##### **Western Washington**

8:00 a.m. Oct. 15-23, 1994 and Nov. 12, 1994-Jan. 10, 1995

Daily bag limit: 4 ducks—to include not more than 3 mallards, not more than 1 hen mallard, not more than 1 pintail (either sex), not more than 2 redheads, and not more than 1 canvasback.

Possession limit: 8 ducks—to include not more than 6 mallards, not more than 2 hen mallards, not more than 2 pintails (either sex), not more than 4 redheads, and not more than 2 canvasbacks.

##### **Eastern Washington**

Noon Oct. 15-23, 1994 and Nov. 5, 1994-Jan. 10, 1995

Daily bag limit: 4 ducks—to include not more than 3 mallards, not more than 1 hen mallard, not more than 1 pintail (either sex), not more than 2 redheads, and not more than 1 canvasback.

Possession limit: 8 ducks—to include not more than 6 mallards, not more than 2 hen mallards, not more than 2 pintails (either sex), not more than 4 redheads, and not more than 2 canvasbacks.

##### **COOT (Mudhen)**

Same areas, dates, and shooting hours as the general duck season.

Daily bag limit: 25 coots.

Possession limit: 25 coots.

##### **COMMON SNIPE**

Same areas, dates, and shooting hours as the general duck season.

Daily bag limit: 8 snipe.

Possession limit: 16 snipe.

##### **GEESE (except Brant and Aleutian Canada Geese)**

##### **WESTERN WASHINGTON**

##### **Western Washington Goose Management Area 1 Island, Skagit, Snohomish counties**

8 a.m. Oct. 15, 1994-Jan. 1, 1995

Daily bag limit: 3 geese, to include not more than 2 white-fronted geese

Possession limit: 6 geese, to include not more than 4 white-fronted geese.

WRITTEN AUTHORIZATION REQUIRED TO HUNT SNOW GEESE. All persons hunting snow geese in this season are required to obtain a written authorization and Harvest Report from the Washington Department of Fish and Wildlife. Hunters who held a 1993 authorization and returned the Harvest Report prior to the deadline will be mailed a 1994 authorization in early October. Hunters who did not possess a 1993 authorization must fill out an application (available at Washington Department of Fish and Wildlife regional offices). Application forms must be delivered to a Department office no later than September 25 or postmarked on or before September 25, after which applicants will be mailed a 1994 authorization in early October. Immediately after taking a snow goose into possession, hunters must record in ink the information required on the Harvest Report. Return of the Harvest Report is mandatory. Those hunters not returning the Harvest Report to the Washington Department of Fish and Wildlife by January 15, 1995 will be ineligible to participate in the 1995 snow goose season.

##### **Western Washington Goose Management Area 2**

Clark, Cowlitz, Pacific, and Wahkiakum counties

Open in Clark and Cowlitz counties south of the Kalama River on the following dates from 8:00 a.m. to 4:00 p.m.:

Nov. 27, 29, 1994

Dec. 3, 7, 11, 13, 17, 21, 27, 31, 1994

Jan. 3, 7, 11, 15, 17, 21, 1995

Open in Cowlitz County north of the Kalama River, Pacific, and Wahkiakum counties on the following dates from 8:00 a.m. to 4:00 p.m.:

Saturdays, Sundays, and Wednesdays only, Nov. 26, 1994-Jan. 22, 1995, except closed Dec. 25, 1994 and Jan. 1, 1995.

Bag limits for all of Western Washington Goose Management Area 2:

Daily bag limit: 4 geese, to include not more than three Canada geese, not more than 3 white geese (snow, Ross', blue), not more than one dusky Canada goose, not more than one cackling Canada goose, and not more than 2 white-fronted geese.

Possession limit: 8 geese, to include not more than six Canada geese, not more than six white geese (snow, Ross', blue), not more than 2 cackling Canada geese, not more than one dusky Canada goose, and not more than 4 white-fronted geese.

Season limit: 1 dusky Canada goose.

The Canada goose season for Clark, Cowlitz, Pacific, and Wahkiakum counties will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 90 geese. The Washington Fish and Wildlife Commission has authorized the Director to implement emergency area closures in accordance with the following quotas: a total of 90 dusky, to be distributed 45 for Clark and south Cowlitz counties private lands, 20 for Ridgefield National Wildlife Refuge, and 25 for north Cowlitz, Wahkiakum, and Pacific counties.

Hunting only by written authorization from the Washington Department of Fish and Wildlife. Hunters who maintained a valid 1993 written authorization will be mailed a 1994

authorization card prior to the 1994 season. Hunters who did not maintain a valid 1993 authorization must attend a goose identification class at a Washington Department of Fish and Wildlife office to receive authorization. With the authorization, hunters will receive a hunter activity and Harvest Report. Hunters must carry the authorization card and Harvest Report while hunting. Immediately after taking a Canada goose into possession, hunters must record in ink the information required on the Harvest Report. Hunters must go directly to the nearest check station and have geese tagged when leaving a hunt site. If a hunter takes the season bag limit of one dusky Canada goose or does not comply with requirements listed above regarding checking of birds and recording harvest on the Harvest Report, written authorization will be revoked and the hunter will not be able to hunt Western Washington Goose Management Area 2 for the remainder of the season.

### Western Washington Goose Management Area 3

Includes all parts of western Washington not included in Western Washington Goose Management Areas 1 and 2.

8 a.m. Oct. 15, 1994-Jan. 22, 1995

Daily bag limit: 4 geese, to include not more than 3 white geese (snow, Ross', blue), and not more than 2 white-fronted geese.

Possession limit: 8 geese, to include not more than 6 white geese (snow, Ross', blue), and not more than 4 white-fronted geese.

### EASTERN WASHINGTON

(see area descriptions below)

#### Eastern Washington Goose Management Area 1

Saturdays, Sundays, and Wednesdays only, from noon Oct. 15, 1994-Jan. 15, 1995;

Nov. 11, 24, 25, Dec. 26, 1994, and Jan. 2, 1995; and every day Jan. 16-22, 1995.

#### Eastern Washington Goose Management Area 2

Saturdays, Sundays, Tuesdays, and Wednesdays only, from noon Oct. 15, 1994-Jan. 15, 1995; Nov. 11, 24, 25, Dec. 26, 27, 29, 30, 1994; and every day Jan. 16-22, 1995.

#### Eastern Washington Goose Management Area 3

Noon Oct. 15, 1994-Jan. 22, 1995.

Bag limits for all Eastern Washington Goose Management Areas:

Daily bag limit: 4 geese, to include not more than 3 white geese (snow, Ross', blue), and not more than 2 white-fronted geese.

Possession limit: 8 geese, to include not more than 6 white geese (snow, Ross', blue), and not more than 4 white-fronted geese.

### BRANT

Open in Skagit and Pacific counties only, on the following dates:

Dec. 10, 11, 12, 14, 16, 17, 18, 21, 23, 1994.

WRITTEN AUTHORIZATION REQUIRED: All hunters participating in this season are required to obtain a written authorization and Harvest Report from the Washington Department of

Fish and Wildlife. Hunters who held a 1993 authorization and returned the Harvest Report prior to the deadline will be mailed a 1994 authorization in early December. Hunters who did not possess a 1993 authorization must fill out an application (available at Washington Department of Fish and Wildlife regional offices). Application forms must be delivered to a Department office no later than 5:00 p.m. on November 10 or postmarked on or before November 10, after which applicants will be mailed a 1994 authorization in early December. Immediately after taking a brant into possession, hunters must record in ink the information required on the Harvest Report. Return of the Harvest Report is mandatory. Those hunters not returning the Harvest Report to the Washington Department of Fish and Wildlife by January 15, 1995 will be ineligible to participate in the 1995 brant season.

Daily bag limit: 2 brant.

Possession limit: 4 brant.

### ALEUTIAN CANADA GEESE AND SWANS

Season closed statewide.

### EASTERN WASHINGTON GOOSE MANAGEMENT AREA DESCRIPTIONS

#### Eastern Washington Goose Management Area 1

All of Lincoln, Spokane, and Walla Walla counties, and those parts of the following counties listed below:

Grant County: Those parts east of line beginning at the Douglas-Lincoln County line on State Highway 174, southwest on State Highway 174 to State Highway 155, south on State Highway 155 to U.S. Highway 2, southwest on U.S. Highway 2 to the Pinto Ridge Road, south on Pinto Ridge Road to State Highway 28, east on State Highway 28 to the Stratford Road, south on the Stratford Road to State Highway 17, south on State Highway 17 to the Grant-Adams County line.

Adams County: Those parts east of State Highway 17.

Franklin County: Those parts east and south of a line beginning at the Adams-Franklin County line on State Highway 17, south on State Highway 17 to U.S. Highway 395, south on U.S. Highway 395 to U.S. Interstate I-182, west on U.S. Interstate I-182 to the Franklin-Benton County line.

Benton County: Those parts south of U.S. Interstates I-182 and I-82.

Klickitat County: Those parts east of U.S. Highway 97.

#### Eastern Washington Goose Management Area 2

All of Okanogan, Douglas, and Kittitas counties and those parts of Grant, Adams, Franklin, and Benton counties not included in Eastern Washington Goose Management Area 1.

#### Eastern Washington Goose Management Area 3

All other parts of eastern Washington not included in Eastern Washington Goose Management Areas 1 and 2.

### STEEL SHOT REQUIREMENT

No person shall hunt waterfowl or coots while using or possessing shotshells or a muzzleloader shotgun loaded with metal other than steel.

#### SPECIAL CLOSURES AND REGULATIONS

##### Special Closures

###### Columbia River:

It is unlawful to hunt waterfowl, coot, or snipe on or within one-fourth mile of the Columbia River in the following areas:

—Between the railroad bridge at Wishram and east along the Columbia River to the grain elevator at Roosevelt.

—Between Rock Island Dam and the Chelan County substation at Winesap in Chelan County and between Rock Island Dam and a point in Douglas County perpendicular to the Chelan County substation at Winesap.

—Between Chief Joseph Dam and the mouth of Nespelem Creek in Okanogan and Douglas counties.

—From the old Hanford townsite (wooden tower) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge (Highway 24).

—On or within one-fourth mile of Badger and Foundation Islands in Walla Walla County.

It is unlawful to hunt game birds on the Columbia River or from any island in the Columbia River in the following areas:

—From the mouth of Glade Creek (River Marker 57) to the old townsite of Paterson (River Marker 67) in Benton County, except the hunting of game birds is permitted from the main shoreline of the Columbia River in this area. (Check with Umatilla National Wildlife Refuge for other federal regulations for this area.)

—Between the public boat launch at Sunland Estates in Grant County (Wanapum Pool) and a point perpendicular in Kittitas County; upstream to the posted marker 200 yards north of Quilomene Bay and a point perpendicular in Grant County, including islands.

The U.S. Department of Energy retains security closures on the Hanford Reservation along the Columbia River.

###### Snake River

It is unlawful to hunt waterfowl, coot, or snipe in the following areas:

—On or within one-half mile of the Snake River from the Highway 12 bridge upriver to Lower Monumental Dam.

—On or within one-fourth mile of the Snake River between the Interstate Highway 12 bridges at Clarkston, downstream to the Lower Granite Dam.

###### Yakima River

It is unlawful to hunt waterfowl, coot, or snipe within one-fourth mile of the Yakima River in the following areas:

—From the Sunnyside-Mabton Road bridge downstream to the Euclid Road bridge (4 miles).

—From the Grant Avenue bridge (steel bridge) north of Prosser downstream 2-1/2 miles, to the powerline.

###### I-82 Ponds

It is unlawful to hunt waterfowl, coot, or snipe in the following area:

—Those waters under Washington Department of Fish and Wildlife ownership known as Ponds 1, 2, 3, and 6 north and east of Interstate 82 and south and east of S.R. 12 from the city limits of Union Gap to the Zillah/Toppenish Road.

###### Padilla Bay

It is unlawful to hunt waterfowl, coot, or snipe in the following areas:

—Swinomish Spit Game Reserve—Beginning at the Burlington Northern railroad tracks on the west shoreline of the Swinomish Channel; then in a northwesterly direction along the west side of the Swinomish Channel to the red channel mark buoy N "20" (as indicated on Navigation Map #18427, 13th Ed., July 16, 1983); then 6,000 feet ENE (east-northeast); then 3,300 feet SSE (south-southeast); then 4,200 feet SW (southwest) to the dike at the south end of Padilla Bay; then continue westerly along said dike to the intersection of the Burlington Northern railroad tracks and the east shoreline of the Swinomish Channel; then continue along said railroad tracks (across swing bridge) to the west shore line of the Swinomish Channel and the point of beginning.

—Bayview Game Reserve—Beginning at a point on the Bayview-Edison Road 750 feet south of the intersection of the Bayview Cemetery Entrance road; then 4,000 feet WNW (west-northwest); then 5,750 feet NNW (north-northwest); then 3,750 feet ENE (east-northeast) to the northwest corner of Padilla Bay Tract No. 532; then east to the northeast corner of Padilla Bay Tract No. 532; then SSE (south-southeast) to the Bayview-Edison Road; then southerly along said road to the point of beginning.

##### Special Regulations

###### Skagit Wildlife Area Shotgun Shell Restriction

It is unlawful to have in possession more than 15 shotgun shells or to fire more than 15 shells in one day on the farmed island segment of the Skagit public hunting area, between the south fork of the Skagit River and Fresh Water Slough.

It is unlawful to hunt waterfowl from a moving boat or any free-floating device that is not in a fixed position which is either anchored or secured to shore in Port Susan Bay, Skagit Bay, Padilla Bay, and Samish Bay.

###### Belfair - Hood Canal

It is unlawful to hunt waterfowl in Lynch Cove and the Union River except in designated blinds. The western and southern boundaries of this closure are posted with red steel markers. (This includes all of the Washington Department of Fish and Wildlife and Thelar Wetlands lands.)

##### FALCONRY SEASONS

A falconry license and a current hunting license are required for hunting with a raptor. In addition, an Eastern Washington Upland Bird Permit or a Western Washington Upland

Bird Permit is required to hunt pheasant, quail, and partridge; and federal and state waterfowl stamps for hunting waterfowl are required. A 1995 hunting license, 1995 falconry license, and a 1995 Eastern or Western Washington Upland Bird Permit are required to hunt pheasant, partridge, and grouse after December 31.

#### Ducks and Coots

(Bag limits include geese, snipe, and mourning doves.)

Western Washington

Oct. 15-23; Nov. 13, 1994-Feb. 18, 1995

Daily bag limit: 3, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Eastern Washington

Oct. 15-23; Nov. 6, 1994-Jan. 1, 1995; Jan. 29-Mar. 10, 1995

Daily bag limit: 3, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

#### Geese

(Bag limits include ducks, coot, snipe, and mourning doves)

Oct. 15, 1994-Jan. 29, 1995, statewide.

Daily bag limit: 3, straight or mixed bag with ducks, coot, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with ducks, coot, snipe, and mourning doves during established seasons.

#### Snipe

(Bag limits include ducks, coots, geese, and mourning doves)

Oct. 1, 1994-Jan. 15, 1995, statewide

Daily bag limit: 3, straight or mixed bag with ducks, coots, geese and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with ducks, coots, geese and mourning doves during established seasons.

#### REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-417      1993-94 Migratory waterfowl seasons and regulations

**WSR 94-17-131**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Order 94-11—Filed August 22, 1994, 11:22 a.m.]

Date of Adoption: August 22, 1994.

Purpose: To prescribe the application, allowable expenditures, and funding process for instructional materials and technology related investments.

Statutory Authority for Adoption: RCW 28A.150.290.

Pursuant to notice filed as WSR 94-13-210 on June 22, 1994.

Changes Other than Editing from Proposed to Adopted Version: Clarified definition of instructional materials.

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

August 22, 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. Object 6 as defined in the accounting manual consists of those supplies and materials used for the instruction of students in the classroom and in learning resource areas. Instructional materials includes, but is not limited to, computer software and other computer-related materials used in instruction, kits and packets used in lieu of textbooks, library books, prerecorded audio and television tapes, records, sheet music, textbooks, workbooks, 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 94-17-136**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
[Filed August 22, 1994, 3:10 p.m.]

Date of Adoption: June 10, 1994.

Purpose: To implement legislative amendments.

Citation of Existing Rules Affected by this Order:

Repealing WAC 246-327-045, 246-327-055, 246-327-155 and 246-327-175; and amending WAC 246-327-001, 246-327-010, 246-327-025, 246-327-035, 246-327-065, 246-327-077, 246-327-085, 246-327-090, 246-327-095, 246-327-105, 246-327-115, 246-327-125, 246-327-135, 246-327-145, 246-327-165, 246-327-185, and 246-327-990.

Statutory Authority for Adoption: RCW 70.127.120.

Pursuant to notice filed as WSR 94-10-047 on May 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The rules were amended to reflect changes in the RCW. These included the need to allow for deemed status, changes in how volunteers were defined and regulated.

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

August 22, 1994

Bruce Miyahara  
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-327-001 Scope and purpose.** ~~((The purpose of these rules is to administratively implement))~~ (1) This chapter implements chapter 70.127 RCW by establishing minimum ((licensing)) standards for home health agencies ((related to safe and competent care for patients)).

(2) This chapter does not apply to:

(a) Hospice care agencies as defined by RCW 70.127.010;

(b) Home care agencies as defined by RCW 70.127.010;

or  
(c) Other persons, activities or entities specified in RCW 70.127.040.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-327-010 Definitions.** For the purpose of this chapter ~~((70.127 RCW and chapter 246-327 WAC, the following words and phrases shall have the following meaning)),~~ the definitions in RCW 70.127.010 and in this section apply unless the context clearly indicates otherwise.

(1) "Acute care" means, according to RCW 70.127.250, care provided by ~~((an))~~ a home health agency for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a health care professional in order to maintain their health status.

(2) "Administrator" means ~~((a person managing and))~~ an individual responsible for managing the day-to-day operation of ((each licensed)) an agency.

(3) ~~((("Advanced registered nurse practitioner" means a registered nurse with a ARNP recognition document under chapter 246-839 WAC.~~

(4) "Agency" means a home health agency defined under this section and chapter 70.127 RCW.

(5) "AIDS" means acquired immunodeficiency syndrome defined under WAC 246-100-011.

(6)) "Authorizing practitioner" means ~~((a person))~~ an individual authorized to sign a home health plan of treatment, including ((a physician licensed under chapter 18.57 or 18.71 RCW, a podiatrist licensed under chapter 18.22 RCW, or an advanced registered nurse practitioner as authorized by the board of nursing under chapter 18.88 RCW)):

(a) A physician, an individual licensed under chapter 18.57 or 18.71 RCW;

(b) A podiatric physician and surgeon, an individual licensed under chapter 18.22 RCW; or

(c) An advanced registered nurse practitioner (ARNP), a registered nurse with an ARNP recognition as authorized by the board of nursing under chapter 18.88 RCW.

~~((7))~~ (4) "Branch office" means, according to RCW 70.127.010, a location or site from which ~~((an))~~ a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency((, included in the license of the agency,)) and is located sufficiently close to share administration, supervision, and services.

~~((8))~~ "Bylaws" means a set of rules adopted by an agency for governing the agency operation.

(9) "Clinical note" means a written, signed, dated notation of each contact with a patient which may contain a description of signs and symptoms, treatments, medications given, the patient reaction, any changes in physical or emotional condition, and other pertinent information.

~~((10))~~ (5) "Contractor" means a person or agency who contracts with a licensee to provide patient care services or equipment.

(6) "Deemed status" means a designation assigned by the department for a licensee meeting the provisions of WAC 246-327-030 certified or accredited by organizations recognized by RCW 70.127.080.

(7) "Department" means, according to RCW 70.127.010, the Washington state department of health.

~~((11))~~ "Dietitian" means an individual certified under chapter 18.138 RCW, Dietitians and Nutritionists.

~~((12))~~ (8) "Document" means to record with signature or unique identifier, title and date.

(9) "Family" means an individual or individuals ~~((who are important to and designated)):~~

(a) Designated by the patient, ((and)) who may or may not be ((relatives)) related; or

(b) Legally appointed to represent the patient.

~~((13))~~ "Governing body" means the person, who may be the owner or a group, with responsibility and authority to establish policies related to operation of the agency.

(14) "HIV" means human immunodeficiency virus defined under RCW 70.24.017(7).

~~(15))~~ (10) "Health care professional" means an individual who provides health or health-related services within the individual's authorized scope of practice, who is:

- ~~(a)~~ Licensed or certified under Title 18 RCW;
- ~~(b)~~ Registered under chapter 18.19, or 18.88A RCW; or
- ~~(c)~~ A speech therapist as defined in this section.

~~(11)~~ "Home health agency" or "agency" means, according to RCW 70.127.010, a private or public agency or organization ~~((administering or providing))~~ that administers or provides home health aide services or two or more home health services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence. A private or public agency or organization that administers or provides nursing services only may elect to be designated a home health agency for purposes of licensure.

~~((16))~~ (12) "Home health ~~((aid))~~ aide" means an individual registered or certified ~~((as a nursing assistant))~~ under chapter 18.88A RCW.

~~((17))~~ "Home health aid services" means services provided by a home health agency under supervision of a registered nurse, physical therapist, occupational therapist, or speech therapist and as further defined under RCW 70.127.010(7).

~~(18))~~ (13) "Home health plan of care" ~~((or "plan of care"))~~ means, according to RCW 70.127.250, a written plan of care established by a home health agency by appropriate health care professionals ~~((, including comprehensive case assessment and management, and describing))~~ that describes maintenance care to be provided. A patient or ~~((the patient's))~~ his or her representative shall be allowed to participate in the development of the plan of care to the extent practicable.

~~((19))~~ (14) "Home health plan of treatment" ~~((or "plan of treatment"))~~ means, according to RCW 70.127.250, a written plan of care established by a physician licensed under chapter 18.57 or 18.71 RCW, a ~~((podiatrist))~~ podiatric physician and surgeon licensed under chapter 18.22 RCW, or an advanced registered nurse practitioner as authorized by the board of nursing under chapter 18.88 RCW, in consultation with appropriate health care professionals within the agency ~~((, including comprehensive case assessment and management, and describing))~~ that describes medically necessary acute care to be provided for treatment of illness or injury.

~~((20))~~ "Home health services" means health or medical services provided to ill, disabled, or infirm persons. Home health services of an acute or maintenance care nature include, but are not limited to:

- ~~(a)~~ Nursing services;
- ~~(b)~~ Home health aide services;
- ~~(c)~~ Physical therapy services;
- ~~(d)~~ Occupational therapy services;
- ~~(e)~~ Speech therapy services;
- ~~(f)~~ Respiratory therapy services;
- ~~(g)~~ Nutritional services;
- ~~(h)~~ Homemaker services;
- ~~(i)~~ Personal care services;
- ~~(j)~~ Medical social services;
- ~~(k)~~ Medical supplies or equipment services; and
- ~~(l)~~ Pharmacy services.

~~(21)~~ "Homemaker services" means services assisting ill, disabled, or infirm persons with household tasks essential to achieving adequate household and family management, including transportation, shopping, and maintenance of premises.

~~(22)~~ "Ill, disabled, or infirm persons" means persons needing home health, hospice, or home care services in order to maintain themselves in their places of temporary or permanent residence.

~~(23))~~ (15) "Licensed practical nurse" or "LPN" means an individual licensed as a practical nurse under chapter 18.78 RCW ~~((, Practical nurses))~~.

~~((24))~~ (16) "Licensee" means the person to whom the department issues the home health agency license.

(17) "Maintenance care" means, according to RCW 70.127.250, care provided by home health agencies that is necessary to support an existing level of health and to preserve a patient from further failure or decline.

~~((25))~~ (18) "Managed care plan" means a plan controlled by the terms of the reimbursement source.

~~((26))~~ "May" means permissive or discretionary on the part of the department.

~~(27)~~ "Medical social worker" means an individual with a bachelor's degree in social work, psychology, or a related field and having completed one year of social work experience and registered as a counselor under RCW 18.19.090.

~~(28)~~ "Nutritional services" means nutritional assessment and counseling, dietary teaching, and the monitoring and management of special diets and hyperalimentation provided by a dietitian or certified nutritionist under chapter 18.138 RCW.

~~(29)~~ "Occupational therapist" means an individual licensed as an occupational therapist under chapter 18.59 RCW.

~~(30)~~ "Owner" means the individual, partnership, or corporate entity legally responsible for the business requiring licensure as a home health agency under chapter 70.127 RCW.

~~(31)~~ "Personal care services" means services assisting ill, disabled, or infirm persons with dressing, feeding, and personal hygiene to facilitate self care.

~~(32))~~ (19) "Patient" means an individual receiving home health services.

(20) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

(21) "Personnel" means individuals ~~((providing patient care on behalf of an agency including employees and individuals under contract))~~ employed and compensated by the licensee.

~~((33))~~ "Pharmacist" means an individual licensed as a pharmacist under RCW 18.64.080.

(34) "Physical therapist" means an individual licensed as a physical therapist under chapter 18.74 RCW.

~~(35)~~ "Physician" means an individual licensed as a medical doctor under chapter 18.71 RCW or an osteopathic physician and surgeon licensed under chapter 18.57 RCW, or a podiatrist licensed under chapter 18.22 RCW.

(36) "Prehire screening" means checking of work references, appropriate registration, certification, licensure, and qualifications.

~~((37))~~ (22) "Registered nurse" or "RN" means an individual licensed under chapter 18.88 RCW~~((Registered nurses))~~.

~~((38))~~ "Respiratory therapist" means an individual certified under chapter 18.89 RCW, Respiratory care practitioners:

~~(39) "Shall" means compliance is mandatory.~~

~~(40) "Speech therapist" means a person meeting:~~

~~(a))~~ (23) "Social worker" means an individual registered or certified under chapter 18.19 RCW.

(24) "Therapist" means an individual who is:

(a) A physical therapist, licensed under chapter 18.74 RCW;

(b) A respiratory therapist, certified under chapter 18.89 RCW;

(c) An occupational therapist, licensed under chapter 18.59 RCW; or

(d) Speech therapist meeting the education and experience requirements for a certificate of clinical competence in ((the)) an appropriate area of speech pathology or audiology, granted by the American Speech, Language, and Hearing Association as described in *The ASLHA Directory*, American Speech, Language, and Hearing Association, 10801 Rockville Pike, Rockville, Maryland 20852, 1983; or ((b) The education requirements)) for a certificate of clinical competence and in the process of accumulating the supervised experience, as specifically prescribed in *The ASLHA Directory*, 1983.

~~((41))~~ "Supervision" means authoritative procedural guidance by a qualified person who assumes the responsibility for the accomplishment of a function or activity and who provides direction and ongoing monitoring and evaluation of the actual act of accomplishing the function or activity.

~~(42)~~ "Therapist" means a physical therapist, occupational therapist, speech therapist, or respiratory therapist defined under this section or other therapist licensed or certified under Title 18 RCW and providing health or medical care or treatment within their defined scope of practice.

~~((43))~~ (25) "Therapy assistant" means a licensed occupational therapy assistant defined under chapter 18.59 RCW or physical therapist assistant defined under chapter 246-915 WAC.

~~((44))~~ "Therapy services" means those services delivered by a therapist defined under this section.

~~(45))~~ (26) "Volunteer" means an individual ((providing assistance)) who provides direct care to ((the home health agency)) a patient and who:

(a) ((Oriented, trained, and supervised to perform specific assigned tasks; and

(b) Working without compensation.

(46) "Without compensation" means:

(a) A recipient of care is not charged a fee for any service delivered by the volunteer; and

(b) An individual delivering care receives no pay, except reimbursement for personal mileage incurred to deliver home health services)) Is not compensated by the agency; and

(b) May be reimbursed for personal mileage incurred to deliver home health services.

(27) "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 224, filed 12/23/91, effective 1/23/92)

WAC 246-327-025 Licensure ((of the home health agency))—Initial, renewal, transfer. ~~((1) After June 30, 1989, persons operating home health agencies defined under chapter 70.127 RCW shall submit applications and fees to the department:~~

~~(2) After July 1, 1990, no person shall:~~

~~(a) Advertise, operate, manage, conduct, open, or maintain a home health agency without first obtaining an appropriate license from the department; or~~

~~(b) Use the words "home health agency," "home health care services," or "visiting nurse services" in its corporate or business name, or advertise using such words unless licensed as a home health agency under chapter 70.127 RCW.~~

~~(3) Applicants for a home health agency license shall:~~

~~(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner;~~

~~(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:~~

~~(i) Evidence of current insurance including:~~

~~(A) Professional liability insurance coverage specified under RCW 70.127.080; and~~

~~(B) Public liability and property damage insurance coverage specified under RCW 70.127.080.~~

~~(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;~~

~~(iii) A list of counties where the applicant will operate;~~

~~(iv) A list of branch offices; and~~

~~(v) A list of services provided or offered.~~

~~(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.~~

~~(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency.~~

~~(6) The department shall:~~

~~(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:~~

~~(i) Establish, maintain, or administer an agency; or~~

~~(ii) Provide care in the home of another.~~

~~(b) Provide a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;~~

~~(c) Establish fees to be paid under RCW 43.70.110 and WAC 246-327-990, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;~~

~~(d) Prohibit transfer or reassignment of a license without thirty day prior notice to the department and department approval;~~

~~(e) Issue a license following approval of a new or current owner's application;~~

~~(f) Conduct on-site reviews of the agency, which may include in-home visits with consent of the patient, to determine compliance;~~

~~(g) Examine and audit records of the agency if the department has reason to believe persons are providing care without an appropriate license;~~

~~(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;~~

~~(i) Give written notice of any violations, including a statement of deficiencies observed;~~

~~(j) Inform the owner or applicant of the requirement to:~~

~~(i) Present a plan of correction to the department within ten working days; and~~

~~(ii) Comply within a specified time not to exceed sixty days.~~

~~(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:~~

~~(i) The deficiency is an immediate threat to life, health, or safety; or~~

~~(ii) The owner fails to comply with any of the provisions under WAC 246-327-045 (3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j):~~

~~(1) Initiate disciplinary action, under RCW 70.127.170 and this chapter, if the owner or applicant fails to comply.~~

~~(7) The department may:~~

~~(a) Issue a license effective for one year or less unless the license is suspended or revoked;~~

~~(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter;~~

~~(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW or this chapter.~~

~~(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:~~

~~(a) Full name and address of the current owner and prospective new owner;~~

~~(b) Name and address of the agency and new name under which the agency will be operating, if known; and~~

~~(c) The date of the proposed change of ownership.~~

~~(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.~~

~~(10) The agency shall inform the department, in writing, at the time of opening or closing the agency or branch offices included in the agency license.)~~ (1) A person shall have a current license issued by the department before operating or advertising a home health agency.

(2) An applicant for initial licensure shall submit to the department:

(a) A completed application on forms provided by the department;

(b) Evidence of current professional liability, public liability, and property damage insurance coverage in accordance with RCW 70.127.080;

(c) A criminal history background check in accordance with WAC 246-327-090(2);

(d) The following information:

(i) Name of officers, managing personnel, directors, and partners or individuals owning ten percent or more of the applicant's assets;

(ii) A description of the organizational structure;

(iii) A description of the services to be offered;

(iv) Name and address of branch offices;

(v) Counties where applicant will provide home health services; and

(vi) Other information as required by the department; and

(e) Fees specified in WAC 246-327-990.

(3) A licensee shall apply for license renewal 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 246-327-090(2);

(c) Documentation according to the provisions of WAC 246-327-030, if applying for deemed status;

(d) Fees specified in WAC 246-327-990; and

(e) Other information as required by the department.

(4) At least thirty days prior to transferring ownership of a currently licensed agency:

(a) The licensee shall submit to the department:

(i) The full name and address of the current licensee and prospective owner;

(ii) The name and address of the currently licensed agency and the name under which the transferred agency will operate; and

(iii) Date of the proposed change of ownership; and

(b) The prospective new owner shall submit the transfer fee specified in WAC 246-327-990, and:

(i) Apply for licensure according to subsection (2) of this section; or

(ii) If planning to add the transferred agency as a branch office provide notification to the department according to WAC 246-327-035 (1)(b).

#### NEW SECTION

**WAC 246-327-030 Deemed status.** (1) The department shall grant deemed status to licensees meeting the requirements in this section and otherwise qualified for licensure.

(2) The department shall renew a license without conducting an on-site survey for licensees with deemed status.

(3) A licensee certified by the federal Medicare program, 42 CFR Part 418, Conditions of Participation, Home Health Agencies, applying for initial deemed status shall indicate certification on the renewal application.

(4) A licensee accredited by the Joint Commission on Accreditation of Health Care Organizations or the Community Health Accreditation Program, Inc. applying for initial deemed status shall submit to the department with the renewal application:

(a) Verification of accreditation; and

(b) A copy of the decisions and findings of an on-site survey conducted by the accrediting organization within the twenty-four month period preceding the renewal due date.

(5) A licensee granted deemed status pursuant to subsection (4) of this section shall submit to the department:

(a) A copy of the decisions and findings of each survey conducted by the accrediting organization within ninety days of the survey date; and

(b) All decisions and findings, including any changes in accreditation status, from the accrediting organization within ten days of receipt.

(6) The department shall grant deemed status to a licensee when:

(a) The licensee meets the requirements in this section;

(b) The licensee verifies an on-site survey has been conducted by an organization specified in this section within the twenty-four month period preceding the renewal due date; and

(c) The department determines, using a liberal interpretation, the survey standards used at the time of survey are substantially equivalent to chapter 70.127 RCW and this chapter.

(7) Upon determining survey standards used by an organization specified in this section are not substantially equivalent with chapter 70.127 RCW and this chapter, the department shall send affected licensees:

(a) A detailed description of the deficiencies in the alternate survey process; and

(b) An explanation concerning the risk to the consumer.

(8) The department shall conduct verification surveys according to RCW 70.127.085.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-327-035** (~~License denials—Suspensions—Modifications—Revocations.~~) **Responsibilities and rights—Licensee and department.** ((1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:

(a) ~~Fails or refuses to comply with the provisions under chapter 70.127 RCW or this chapter;~~

(b) ~~Continues to operate after the license is revoked or suspended for cause without subsequent reinstatement by the department;~~

(c) ~~Makes a false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;~~

(d) ~~Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;~~

(e) ~~Willfully prevents or interferes with, or attempts to impede in any way, the work of a representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;~~

(f) ~~Willfully prevents or interferes with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;~~

(g) ~~Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 246-327-045, Civil fines;~~

(h) ~~Uses false, fraudulent, or misleading advertising;~~

~~(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or~~  
~~(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.~~

~~(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action.)~~ (1) A licensee shall:

(a) Comply with the provisions of chapter 70.127 RCW and this chapter;

(b) Notify the department in writing:

(i) Thirty or more days before beginning or ceasing operation of an agency;

(ii) Upon beginning or ceasing operation of a branch office; and

(iii) Within ten working days of changing the geographical area served by the agency;

(c) Cooperate with the department during on-site surveys and investigations which may include reviewing agency records and in-home visits with patient consent;

(d) 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 has the right to:

(a) Discuss with the surveyor deficiencies found during an on-site survey or investigation at the conclusion of the survey or investigation;

(b) A written statement of deficiencies found during the survey or investigation;

(c) Discuss the statement of deficiencies with the department's program manager; and

(d) Contest a disciplinary action or decision of the department to deny a license according to the provisions of RCW 43.70.115, chapter 34.05 RCW and chapter 246-10 WAC.

(3) The department shall:

(a) Issue an initial license for one year;

(b) Issue a renewal license for two years;

(c) Issue a transfer license to the new licensee for the remainder of the current license period;

(d) Investigate any entity suspected of advertising or providing home health care without a license;

(e) Investigate an agency suspected of providing insufficient, inadequate or inappropriate care;

(f) Provide for combined surveys for licensees with more than one license under chapter 70.127 RCW, in accordance with RCW 70.127.110;

(g) Conduct unannounced on-site surveys and investigations at any time to determine compliance with chapter 70.127 RCW and this chapter;

(h) Provide a period of time for a licensee or applicant to correct deficiencies cited by the department during an on-site survey or investigation, according to the plan of correction;

(i) Reserve the right, according to the provisions of RCW 70.127.170, 43.70.095, chapter 34.05 RCW and chapter 246-10 WAC, to:

(i) Deny, suspend, modify or revoke a license; and

(ii) Assess a civil monetary penalty, not to exceed one thousand dollars per deficiency, based on the preventive and remedial action of the licensee and threat to patient health or safety, for deficiencies including but not limited to:

(A) Failing to provide agreed-upon patient care services without appropriate notice;

(B) Actions resulting in the injury or death of a patient;

(C) Compromising the health or safety of a patient, including a pattern of incidents of personnel performing services beyond their authorized scope of practice;

(D) Knowingly making a false statement of a material fact concerning information requested in this chapter or in any matter under department investigation;

(E) Conducting business or advertising in a misleading or fraudulent manner;

(F) Refusing to allow the department to examine records or willfully interfering with an on-site survey or investigation;

(G) Failing to pay a fine within ten days after the assessment becomes final or as agreed to by the department and the licensee; and

(H) Continuing to operate after license revocation or suspension or operating outside the parameters of a modified or restricted license.

(4) 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 patient's health, safety or welfare.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-327-065 General requirements. ((1) The agency shall have a written plan of operation including:

(a) An organizational chart showing ownership and lines for delegation of responsibility to the patient care level;

(b) The services offered including hours of operation and service availability;

(c) Admission discharge, referral, and transfer criteria;

(d) Evidence of administrative and supervisory control and responsibility for all services including services provided by branch offices;

(e) An annual budget approved by the governing body; and

(f) Provisions for ongoing care in the event the agency ceases operation.

(2) The agency shall provide services consistent with an authorized plan of treatment or plan of care and:

(a) Admit patients consistent with agency admission criteria, services provided, and capability of agency to provide the appropriate level of care; and

(b) Inform the patient of alternate services, if available, if the agency is unable to meet identified needs of the patient.

(3) Agency personnel shall communicate in a language or form of communication the patient can reasonably be expected to understand. Whenever possible, the agency shall assist in obtaining:

(a) Special devices;

(b) Interpreters; or

(c) Other aids to facilitate communication.)) The licensee shall:

(1) Have a written plan of operation describing the:

(a) Delegation of responsibility;

(b) Services to be provided;

(c) Counties or portions of counties served; and

(d) Availability of services and hours of operation;

(2) Provide management and supervision of services throughout the service delivery area;

(3) Assure the scope of services are consistent with each authorized home health plan of care or plan of treatment;

(4) Prior to accepting a patient, determine the services to be provided in consultation with the patient or family;

(5) Develop and use set criteria for:

(a) Admitting patients;

(b) Discharging patients;

(c) Referring patients; and

(d) Transferring patients;

(6) Inform each patient of alternate services prior to ceasing business or when the licensee is unable to meet the patient's needs;

(7) Review contracts annually for conformance with the agency's patient care policies and procedures, and document review; and

(8) Develop policies and procedures as required by WAC 246-327-115.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-327-077 Patient bill of rights. ((Home health agencies shall provide each patient and family with a written bill of rights affirming each patient's rights to:

(1) Be informed of aspects of his or her condition necessary to make decisions regarding his or her home health care;

(2) Refuse treatment or services to the extent permitted by law and be informed of the potential consequences of such action;

(3) Be informed of the services offered by the agency, including those services provided in his or her home;

(4) Participate in development of plan of care and/or plan of treatment to the extent practical;

(5) Be informed of any responsibilities he or she may have in the care process, including the requirement for medical supervision when required for the home health plan of treatment;

(6) Be informed of the name of the person supervising the care and how to contact that person;

(7) Be informed of the process for submitting and addressing complaints to both the agency and department;

(8) Receive an explanation of the agency's charges and policy concerning billing and payment for services including, to the extent possible, insurance coverage and other methods for payment, unless services are reimbursed through a managed care plan;

(9) Upon request, receive a fully itemized billing statement at least monthly including the date of each service and the charge, unless service is reimbursed through a managed care plan;

(10) Access the department's directory of licensed agencies;

(11) Upon request, be informed of who owns and controls the agency;

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- ~~(12) Personnel properly trained to perform assigned tasks;~~
- ~~(13) Coordinated services;~~
- ~~(14) Courteous and respectful treatment, privacy, and freedom from abuse and discrimination;~~
- ~~(15) Confidential management of patient records and information;~~
- ~~(16) Access information in the patient's own record upon request;~~
- ~~(17) Be informed of the nature and purpose of care, as well as name and discipline of the person performing the care;~~
- ~~(18) Be informed of any care provided by the agency which has experimental or research aspects with documentation of voluntary informed consent; and~~
- ~~(19) Be informed of the reason for impending discharge, transfer to another agency and/or level of care, ongoing care requirements, and other available services and options if needed.)~~ The licensee shall comply with RCW 70.127.140, Bill of rights—Billing statements.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-327-085 ((Governing body—)) **Organization and administration.** (1) The ~~((governing body of the agency))~~ licensee shall establish a mechanism to:

- ~~(a) ((Approve a quality assurance plan whereby problems are identified, monitored, and corrected))~~ Oversee the management and fiscal affairs of the agency;
- ~~(b) Approve and review, at least every two years, written policies and procedures related to safe, adequate patient care, and operation of the home health agency;~~
- ~~(c) ((Assure an annual review of the agency by health professionals to evaluate the scope and quality of the services provided;~~
- ~~(d) Appoint an administrator and provide for an alternate in the administrator's absence;~~
- ~~(e) Adopt and periodically review written bylaws;~~
- ~~(f) Oversee the management and fiscal affairs of the agency; and~~
- ~~(g) Obtain regular reports on patient satisfaction.~~
- ~~(2) Each agency shall have an administrator to:~~
  - ~~(a) Organize and direct the agency's ongoing functions;~~
  - ~~(b) Arrange for professional services;~~
  - ~~(c) Maintain ongoing liaison between the governing body and personnel;~~
  - ~~(d) Employ qualified personnel and ensure adequate education and supervision of personnel and volunteers;~~
  - ~~(e) Ensure the accuracy of public information materials and activities;~~
  - ~~(f) Implement a budget and accounting system;~~
  - ~~(g) Ensure the presence of an alternate to act in the administrator's absence.)~~ Approve and implement a quality assurance plan, which includes; but is not limited to:
    - (i) A complaint process;
    - (ii) A method to identify, monitor, evaluate and correct problems identified by patients, families, personnel, contractors, and volunteers; and
    - (iii) A system to assess patient satisfaction.
- (2) The licensee shall appoint an administrator who shall:

- (a) Implement the provisions of subsection (1) of this section;
- (b) Designate an alternate to act in the administrator's absence;
- (c) Organize and direct the ongoing functions of the agency;
- (d) Arrange for necessary professional services;
- (e) Serve as a liaison between the licensee and personnel;
- (f) Assure personnel, contractors and volunteers comply with this chapter;
- (g) Assure the complaint process is explained to the patient and the patient's family; and
- (i) Assure the accuracy of public information materials and activities.

AMENDATORY SECTION (Amending Order 381, filed 7/26/93, effective 8/26/93)

WAC 246-327-090 **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 home health agency 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:
  - (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 background inquiry as specified in RCW 43.43.842(1) for each:
    - (i) ((Employee)) Personnel, volunteer, contractor, student, and any other ((person)) individual currently associated with the licensed home health agency((-) having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and
    - (ii) Prospective ((employee)) personnel, volunteer, contractor, student, and ((person)) any other individual applying for association with the licensed ((facility)) agency 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))

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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~~(-)~~; 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 an agency; and

(ii) At least two years following termination of employment or association with an agency.

(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))~~ agency 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 121, filed 12/27/90, effective 1/31/91)

**WAC 246-327-095 Personnel, contractors and volunteers.** ~~((1))~~ The agency shall establish written personnel and volunteer policies including, but not limited to:

(a) Personnel and volunteer qualifications commensurate with anticipated job responsibilities;

~~(b) Employment criteria without regard to sex, race, age, creed, handicap, national origin, or sexual orientation;~~

~~(c) Orientation and in-service training related to safe care, appropriate to each classification of personnel and volunteer and the tasks he or she is expected to perform;~~

~~(d) Evidence of prehire screening; and~~

~~(e) Annual or more frequent performance evaluations including:~~

~~(i) Assessment of safe performance of job responsibilities; and~~

~~(ii) Conformance with agency policies and procedures.~~

~~(2) The agency shall maintain records including:~~

~~(a) Qualifications of personnel and direct patient care volunteers;~~

~~(b) Evidence of current licensure, certification, or registration when applicable to job requirements;~~

~~(c) Evidence of current cardiopulmonary resuscitation training at least every two years for all personnel providing services in the home, except volunteers and delivery personnel;~~

~~(d) Evidence of review of agency policy and procedures related to abuse and neglect of children and adults for all personnel and volunteers providing services in the home consistent with chapters 26.44 and 74.34 RCW;~~

~~(e) Performance evaluations and evidence of prehire screening; and~~

~~(f) Health records including evidence of at least one tuberculin skin test by the Mantoux method at the time of employment unless medically contraindicated, and meeting specifications under subsection (3) of this section.~~

~~(3) The agency shall ensure personnel and volunteers expected to provide direct patient care have a tuberculin skin test by the Mantoux method prior to patient contact and meeting the following requirements:~~

~~(a) When a skin test is negative, less than ten millimeters of induration read at forty-eight to seventy-two hours:~~

~~(i) Personnel and volunteers under thirty-five years of age require no further testing; and~~

~~(ii) Personnel and volunteers thirty-five years of age or over require a second test in one to three weeks.~~

~~(b) Positive reactors, reaction of ten millimeters or more of induration, shall have a chest x ray within ninety days of the first day of employment. Exceptions and specific requirements are as follows:~~

~~(i) The home health agency shall maintain results of skin tests, report of x ray findings, or exemptions to such in the agency; and~~

~~(ii) New personnel and volunteers providing documentation of a significant Mantoux skin test reaction in the past are excluded from screening.~~

~~(c) New personnel and volunteers currently and consistently employed by or volunteering in another agency or facility with similar required screening, meeting the requirements under this subsection, may use the previous screening as documentation; and~~

~~(d) In the event of personnel or volunteer exposure to an infectious case of tuberculosis, the agency shall supply the names and identifying information to the local health department sufficient for screening to occur.~~

~~(4) The agency shall assure observance of appropriate precautions when personnel and volunteers show signs or~~

~~report symptoms of communicable disease in an infectious stage.~~

~~(5) The agency shall assume responsibility for personnel providing agency services included in the plan of care or treatment.)~~ (1) For agency personnel the licensee shall:

~~(a) Establish employment criteria consistent with chapter 49.60 RCW, Discrimination—Human rights commission;~~

~~(b) Develop and maintain job descriptions commensurate with responsibilities and consistent with health care professional credentialing standards when appropriate;~~

~~(c) Conduct criminal history background checks in accordance with WAC 246-327-090;~~

~~(d) Verify work references and document verification;~~

~~(e) Maintain documentation that health care professional credentials are current and in good standing;~~

~~(f) Provide and document:~~

~~(i) Orientation;~~

~~(ii) Ongoing training on current agency policies and procedures; and~~

~~(iii) Cardiopulmonary resuscitation training, consistent with policies and procedures for direct patient care personnel at least biennially;~~

~~(g) Provide the equipment necessary to implement the agency infection control policies and procedures, respiratory protection program and patients' plans of treatment or plans of care;~~

~~(h) Document compliance with WAC 246-327-115 (1)(e); and~~

~~(i) Conduct annual performance evaluations of all personnel, including on-site observation of personnel providing direct patient care.~~

~~(2) For direct care volunteers the licensee shall:~~

~~(a) Develop and maintain work descriptions commensurate with responsibilities;~~

~~(b) Conduct criminal history background checks in accordance with WAC 246-327-090;~~

~~(c) Provide and document orientation on patient care policies and procedures; and~~

~~(d) For volunteer health care professionals contributing services within their scope of practice:~~

~~(i) Maintain documentation credentials are current and in good standing; and~~

~~(ii) Provide and document ongoing training, on agency patient care policies and procedures;~~

~~(e) Provide the equipment necessary to implement the agency infection control policies and procedures, respiratory protection program and patients' plans of treatment or plans of care; and~~

~~(f) Document compliance with WAC 246-327-115 (1)(e).~~

~~(3) For contracted services, the licensee shall, directly or by contract:~~

~~(a) Comply with chapter 49.60 RCW, Discrimination—Human rights commission;~~

~~(b) Develop and maintain job descriptions commensurate with responsibilities and consistent with health care professional credentialing standards when appropriate;~~

~~(c) Conduct criminal history background checks as required by WAC 246-327-090;~~

~~(d) Verify work references and document verification;~~

~~(e) Maintain documentation that health care professional credentials are current and in good standing;~~

(f) Provide and document:

(i) Orientation;

(ii) Ongoing training on current agency policies and procedures; and

(iii) Cardiopulmonary resuscitation training, consistent with policies and procedures for direct patient care personnel at least biennially;

(g) Provide the equipment necessary to implement the agency infection control policies and procedures, respiratory protection program and patients' plans of treatment or plans of care;

(h) Document compliance with WAC 246-327-115 (1)(e); and

(i) Assure that direct patient care services provided are reviewed and evaluated on an ongoing basis and documented at least annually.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-327-105 HIV/AIDS education and training. ~~((Home health agencies))~~ The licensee shall:

~~(1) ((Verify or arrange for appropriate education and training of personnel and volunteers on the prevention, transmission, and treatment of HIV and AIDS consistent with RCW 70.24.310; and~~

~~(2)) Verify or arrange for two hours or more of appropriate education and training of nonlicensed personnel, volunteers and direct-care contractors within thirty days of direct patient contact 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 aids~~)) KNOW - HIV/AIDS Prevention Education for Health Care Facility Employees, January 1991, or subsequent editions published by the department ((~~office on HIV/AIDS~~)); and~~

~~(b) WAC 296-62-08001, Bloodborne pathogens, implementing WISHA.~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-327-115 Patient care policies and procedures. ~~((1) The agency shall:~~

~~(a) Establish and implement written policies and procedures appropriate to the services offered by the agency; and~~

~~(b) Make policies and procedures available to all personnel and volunteers including:~~

~~(i) Treatments and procedures used in providing patient services;~~

~~(ii) Any special qualifications of persons performing the services;~~

~~(iii) Infection control principles and practices;~~

~~(iv) Emergency care, patient safety, and death;~~

~~(v) Maintenance of supplies and equipment;~~

~~(vi) Admission, transfer, and discharge of patients;~~

~~(vii) Abuse and neglect consistent with chapters 26.44 and 74.34 RCW;~~

~~(viii) Coordination of services;~~

~~(ix) Clinical records; and  
(x) Management and handling of patient-owned drugs consistent with applicable state laws.~~

~~(2) The agency shall provide patient family teaching:~~

~~(a) Consistent with agency policies and procedures; and~~

~~(b) Including demonstration, supervision, and evaluation.)) (1) A licensee shall establish and implement the following written policies and procedures, consistent with this chapter and the services provided:~~

~~(a) Admitting, transferring and discharging patients;~~

~~(b) Services to be provided to patients and qualifications of the individuals performing the services;~~

~~(c) Coordinating interagency and intra-agency services;~~

~~(d) Techniques for communicating with the patient and family, and steps to take when communication is not possible, including but not limited to:~~

~~(i) Assistance with obtaining special communication devices;~~

~~(ii) Use of translated material, interpreters or interpreter services; or~~

~~(iii) Referral to community services;~~

~~(e) Infection control principles and practices, including:~~

~~(i) Bloodborne pathogens in accordance with WAC 296-62-08001; and~~

~~(ii) Tuberculosis control program consistent with WISHA.~~

~~(f) Actions to take when an individual exhibits or reports symptoms of a communicable disease in an infectious stage in accordance with chapter 246-100 WAC;~~

~~(g) Maintaining supplies;~~

~~(h) Equipment maintenance program;~~

~~(i) Managing records consistent with WAC 246-327-165;~~

~~(j) Managing and handling patient-owned drugs consistent with state law;~~

~~(k) Managing abuse and neglect situations consistent with chapters 26.44 and 74.34 RCW;~~

~~(l) Emergency care, identifying the responsible agency when more than one agency provides care, including:~~

~~(i) Addressing chapter 70.122 RCW, Natural Death Act and advanced directives; and~~

~~(ii) Actions to take upon the death of a patient.~~

~~(2) A licensee shall document:~~

~~(a) Approval of policies and procedures; and~~

~~(b) Review of policies and procedures every two years.~~

~~(3) The licensee shall make the policies and procedures specified in subsection (1) of this section available to direct-care personnel and contractors, and volunteers during the hours of operation.~~

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-327-125 Supervision and coordination of ~~(clinical)~~ patient services.** ~~((1) The agency shall employ a supervisor of clinical services who:~~

~~(a) Is a registered nurse if nursing services are provided;~~

~~(b) May be a therapist if no nursing services are provided;~~

~~(c) Is available, or can be replaced, by a similarly qualified person, during service hours;~~

~~(d) Participates in the development and revision of written patient care policies related to each service provided; and~~

~~(e) Is responsible for assignment and supervision of all patient care personnel and volunteers.~~

~~(2) The agency shall designate a coordinator of clinical services who:~~

~~(a) Coordinates interdisciplinary services and interagency services; and~~

~~(b) Provides for continuity of care within disciplines.))~~

~~(1) A licensee providing nursing services shall employ a RN as the supervisor of clinical services.~~

~~(2) A licensee not providing nursing services shall employ an appropriate health care professional as the supervisor of clinical services.~~

~~(3) The clinical supervisor shall:~~

~~(a) Designate a similarly qualified alternate to act in the clinical supervisor's absence;~~

~~(b) Coordinate or participate in, developing and revising written patient care policies related to each service provided;~~

~~(c) Assign and monitor all patient care personnel and contractors, and volunteers;~~

~~(d) Coordinate interdisciplinary services;~~

~~(e) Establish primary personnel or contractor responsibility for the plan of treatment or plan of care; and~~

~~(f) Assure compliance with the patient's home health plan of treatment or plan of care.~~

~~(4) The clinical supervisor or alternate shall be available during all hours of patient service according to hours described in WAC 246-327-065(1).~~

~~(5) The licensee shall provide supervision, including but not limited to:~~

~~(a) RN supervision when using the services of a LPN, in accordance with chapter 18.78 RCW;~~

~~(b) Supervision by an appropriate therapist when using the services of a therapy assistant; and~~

~~(c) Supervision of home health aides in accordance with RCW 70.127.010(7).~~

~~(6) The licensee using home health aides shall:~~

~~(a) Provide written instructions and orientation for each patient consistent with the home health plan of care or plan of treatment prior to initiating care;~~

~~(b) Provide supervision by a health care professional or the clinical supervisor, and document:~~

~~(i) A monthly in-home visit for patients needing acute care;~~

~~(ii) A quarterly in-home visit for patients needing maintenance care; and~~

~~(iii) A biannual in-home visit to directly observe the home health aide's performance;~~

~~(c) Develop written guidelines to assure each aide:~~

~~(i) Assists only with those medications ordinarily self-administered by the patient, and limits assistance to the patient to:~~

~~(A) Communicating appropriate information regarding self-administration;~~

~~(B) Reminding to take a medication as prescribed;~~

~~(C) Reading the medication label;~~

~~(D) Handing the medication container to the patient;~~

~~(E) Opening the medication container; and~~

~~(F) Applying or installing skin, rectal, nose, eye, and ear preparations under specific direction of the supervisor;~~

- (ii) Records pertinent information in the patient's clinical record;
- (iii) Observes and recognizes changes in the patient's condition, and reports any changes to the supervisor; and
- (iv) Initiates emergency procedures according to agency policy.

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-327-135 Home health plan of treatment.**

~~((1) The agency shall develop an individualized plan of treatment for patients receiving acute care services.~~

- ~~(2) The agency shall ensure:~~
  - ~~(a) Patient care personnel and volunteers follow a written plan of treatment approved and reviewed by an authorizing practitioner;~~
  - ~~(b) Services other than assessment are provided only with the approval of an authorizing practitioner;~~
  - ~~(c) The plan of treatment covers all pertinent diagnoses and current problems pertaining to the health of the patient with specific objectives and plans for implementation;~~
  - ~~(d) Personnel consult with the authorizing practitioner to approve additions and modifications to the original plan of treatment in the event the patient was referred under an incomplete plan of treatment;~~
  - ~~(e) Inclusion of specific services and modalities, with frequency and duration in the plan of treatment;~~
  - ~~(f) Personnel and the authorizing practitioner review the total plan of treatment:~~
    - ~~(i) Whenever changes in the patient's condition require a change in the plan; and~~
    - ~~(ii) At least once every sixty days.~~
  - ~~(g) The authorizing practitioner receives timely reports including:~~
    - ~~(i) Any changes suggesting a need to alter the plan of treatment;~~
    - ~~(ii) Suspected drug allergies; and~~
    - ~~(iii) Adverse reactions to drugs.~~
  - ~~(h) An authorizing practitioner orders drugs and treatments and:~~
    - ~~(i) Orders are verified by a registered nurse, licensed practical nurse, therapist, or pharmacist;~~
    - ~~(ii) The drugs and treatments are administered by legally authorized agency personnel or volunteers;~~
    - ~~(iii) Orders are recorded in a patient record as soon as possible; and~~
    - ~~(iv) The authorizing practitioner countersigns the orders within a reasonable length of time.))~~ The licensee shall:
      - (1) Assure each patient is assessed by a health care professional appropriate to supervise the services to be provided prior to initiating treatment;
      - (2) Develop a written home health plan of treatment for each patient requiring acute care services based on an individual assessment, including, but not limited to:
        - (a) Current diagnoses and information on health status;
        - (b) Goals or outcome measures;
        - (c) Type of services, treatment and equipment to be provided or contracted by the licensee;
        - (d) Treatments and frequency of visits;
        - (e) Special dietary or nutritional needs;
        - (f) Medications and drug allergies;

- (g) Physical, mental and functional limitations;
- (h) Written approval by the authorizing practitioner;
- (i) Verification of drug and of treatment orders by the appropriate health care professional;
  - (j) Discharge and referral plan;
- (3) Include the home health plan of treatment in the patient's health record.
  - (4) Develop and implement a system to:
    - (a) Document the home health plan of treatment was:
      - (i) Submitted to the authorizing practitioner for signature in a timely manner not to exceed fourteen days; and
      - (ii) Returned signed in a timely manner not to exceed forty-five days;
    - (b) Assure direct care personnel and contractors, and volunteers, follow the home health plan of treatment;
    - (c) Inform the patient's physician regarding initial and ongoing assessment;
    - (d) Review and update the plan by personnel and the authorizing practitioner every two months or more often as warranted by the patient's condition;
    - (e) Obtain approval from the authorizing practitioner for additions and modifications; and
    - (f) Teach and counsel the patient and family to meet the patient's needs, as appropriate;
  - (5) Assure drugs and treatments are:
    - (a) Ordered by the authorizing practitioner, and a verbal order is countersigned in a timely manner not to exceed forty-five days;
    - (b) Verified by the appropriate health care professional;
    - (c) Administered by authorized agency personnel, contractors or volunteers according to state law; and
    - (d) Documented in the patient record as soon as possible.

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-327-145 Home health plan of care.**

~~((The agency shall develop individualized plans of care:~~

- ~~(1) Current and reflective of a patient's present health status;~~
- ~~(2) Reviewed and revised at least every three months;~~
- ~~(3) Supervised by a registered nurse or appropriate therapist; and~~
- ~~(4) Containing specific objectives and plans for implementation.))~~ The licensee shall:
  - (1) Assure each patient is assessed by a health care professional appropriate to supervise the services to be provided prior to initiating care;
  - (2) Develop a written home health plan of care for each patient requiring maintenance care services, based on the individual assessment, and including the types of services and equipment needed;
  - (3) Include the home health plan of care in the patient's health record;
    - (4) Develop and implement a system to:
      - (a) Assure direct care personnel and contractors, and volunteers, follow the home health plan of care;
      - (b) Review and update the plan every three months or more often as warranted by the patient's condition; and
      - (c) Teach and counsel the patient and family to meet the patient's needs as appropriate.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

~~WAC 246-327-165 Clinical records. ((1) The agency shall maintain clinical records under agency policies and procedures. Records shall be:~~

- ~~(a) Legibly written in ink suitable for photocopying;~~
- ~~(b) On standardized agency forms;~~
- ~~(c) Written in a legally acceptable manner;~~
- ~~(d) In chronological order in entirety or by service;~~
- ~~(e) Fastened together to avoid loss of pages;~~
- ~~(f) Considered as property of the agency;~~
- ~~(g) Available in one integrated document in one place,~~

~~except:~~

~~(i) A copy may be kept in the home or in the agency office; and~~

~~(ii) More than one volume may be necessary.~~

~~(h) Available and retrievable during operating hours either in the agency or by electronic means; and~~

~~(i) Stored following discharge from service:~~

~~(i) Preventing loss of information;~~

~~(ii) Protecting the record from damage due to water, mildew, or fire; and~~

~~(iii) Preventing access by unauthorized persons.~~

~~(2) The agency shall include as contents of the clinical record:~~

~~(a) Patient identifying information;~~

~~(b) Patient service/treatment consent and agreement;~~

~~(c) Pertinent past and current clinical findings including:~~

~~(i) Assessment of patient's physical and mental status as well as social and environmental problems affecting care; and~~

~~(ii) Clinical notes describing specific observations including, but not limited to, observations of patient condition.~~

~~(d) The home health plan of care and plan of treatment.~~

~~(3) Agencies shall maintain, retain, and preserve records:~~

~~(a) For adults, a period of no less than five years following the date of termination of services; and~~

~~(b) For minors, a period of no less than three years following attainment of eighteen years of age, or five years following discharge, whichever is longer.~~

~~(4) Agencies shall establish policies and procedures specific to retention and disposition of clinical records including:~~

~~(a) A method of disposal of clinical records or patient care data assuring prevention of retrieval and subsequent use of information; and~~

~~(b) A means to transmit a copy of the clinical record or an abstract and copy of most recent summary report with the patient in the event of patient transfer to another agency or health care facility. When patients are transferred without notification of the receiving agency, a copy of the abstract shall be forwarded upon notification and as soon as possible.~~

~~(5) Agencies shall safeguard clinical record information and patient care data against loss or unauthorized use including:~~

~~(a) Adherence to written procedures governing use and removal of records and conditions for release of information; and~~

~~(b) Requirement for prior written consent of the patient for release of information unless authorized by law.~~

~~(6) Agencies discontinuing operation shall:~~

~~(a) Notify the department prior to cessation of operation; and~~

~~(b) Obtain department approval of a plan to preserve or destroy clinical records prior to disposition.) The licensee shall:~~

~~(1) Develop and implement procedures for maintaining a current clinical record for each patient consistent with chapter 70.02 RCW, Medical records—Health care information access and disclosure act, which is:~~

~~(a) Accessible, in an integrated document, in the licensee's main or branch office for review by appropriate direct care personnel, volunteers and contractors, and the department;~~

~~(b) Written legibly or retrievable by electronic means:~~

~~(i) On the licensee's standardized forms; and~~

~~(ii) In a legally acceptable manner;~~

~~(c) Kept confidentially;~~

~~(d) Chronological in its entirety or by service; and~~

~~(e) Kept together to avoid loss of records;~~

~~(2) Include the following in each record:~~

~~(a) Patient's name, age, current address and phone number;~~

~~(b) Patient's consent for care and treatment;~~

~~(c) Home health plan of treatment in accordance with WAC 246-327-135 and home health plan of care in accordance with WAC 246-327-145;~~

~~(d) Dated and signed clinical notes for each contact with the patient describing;~~

~~(e) Past and current clinical findings pertinent to WAC 246-327-135 or 246-327-145:~~

~~(i) Specific observations;~~

~~(ii) Changes in condition;~~

~~(iii) Factors that may impact the patient's physical and mental health;~~

~~(iv) Signs and symptoms of illness;~~

~~(v) Treatments; and~~

~~(vi) Medications given and adverse reactions to any medication;~~

~~(f) Instructions given to patients and family; and~~

~~(g) Document services when other licensed home health, home care or hospice agency's are caring for a patient.~~

~~(3) Consider the records as property of the licensee;~~

~~(4) Develop and implement policies and procedures for:~~

~~(a) Transferring patient information or a summary, when the patient is relocated to another agency or facility to assure continuity of care;~~

~~(b) Retaining records for:~~

~~(i) Adults no less than three years following the date of termination of services;~~

~~(ii) Minors no less than three years after attaining the age of eighteen years of age, or five years following discharge, whichever is longer;~~

~~(c) Storing records to:~~

~~(i) Prevent loss of information;~~

~~(ii) Maintain the integrity of the records; and~~

~~(iii) Protect against unauthorized access according to chapter 70.02 RCW, Medical records—Health care information access and disclosure;~~

(d) Obtaining department approval to preserve or dispose of records prior to ceasing operation; and

(e) Disposing of records to protect confidentiality when ceasing operation or releasing of medical records after a patient's death.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-327-185 Medical supplies ~~((or))~~— Equipment services. ~~(((1) An agency providing medical supplies or equipment services shall provide:~~

~~(a) A written description of the scope of the services including:~~

~~(i) The types of supplies and/or equipment provided; and~~

~~(ii) Policies and procedures for cleaning, maintenance, calibration, or replacement of equipment.~~

~~(b) Records of the services provided, date, time, and by whom; and~~

~~(c) Documentation of approval of patient for service, cost, and method of payment unless under a managed care plan.~~

~~(2) If provided, the agency shall maintain immediate availability of replacement supplies or equipment essential for the life or safety of the patient.~~

~~(3) The agency shall provide knowledgeable, trained personnel to:~~

~~(a) Initiate service;~~

~~(b) Maintain supplies and equipment; and~~

~~(c) Instruct patients or caregivers in the use and maintenance of supplies and equipment. Instructions shall be given:~~

~~(i) In writing;~~

~~(ii) Verbally; and~~

~~(iii) By demonstration and redemonstration as necessary.~~

~~(4) The agency shall document the training and qualifications of personnel.)~~ Licensee's providing or contracting for medical supplies or equipment services shall:

(1) Develop and implement, for the scope of services provided, a system for:

(a) Maintaining supplies;

(b) Cleaning, inspecting, repairing and calibrating equipment, and documenting with:

(i) Date;

(ii) Time; and

(iii) Name of the individual who conducted the activity;

(c) Informing the patient of the cost and method of payment for equipment repairs or replacement, unless under a managed care plan, and for documenting the patient's prior approval; and

(d) Replacing supplies or equipment essential for the health or safety of the patient;

(2) Provide knowledgeable and trained personnel capable of:

(a) Initiating the scope of services;

(b) Maintaining supplies and equipment; and

(c) Instructing each patient or family to use and maintain supplies and equipment in a language or format the patient or family understands, using one or more of the following:

(i) Written instruction;

(ii) Verbal instruction; or

(iii) Demonstration.

AMENDATORY SECTION (Amending WSR 93-21-034, filed 10/15/93, effective 10/28/93)

WAC 246-327-990 Fees. (1) ~~((An applicant or))~~ A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency ~~((employees))~~ personnel or contractors, as follows:

(i) A base fee of three hundred sixty dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, seven hundred fifty dollars;

(B) Sixteen through fifty FTEs, nine hundred dollars; or

(C) Fifty-one or more FTEs, one thousand two hundred thirty dollars;

(b) A fee of one-half the renewal fee specified in (a) of this subsection for an initial twelve-month license for:

(i) New firms;

(ii) Businesses not currently licensed to provide home health care in Washington state; or

(iii) Currently licensed businesses which have had statement of charges filed against them; and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional hospice and/or home care license.

(3) The department may charge and collect from a licensee a fee of one-half the base fee specified in subsection (1)(a) of this section for:

(a) A second on-site visit resulting from ~~((a licensee's))~~ failure of the licensee or applicant to adequately respond to a statement of deficiencies;

(b) A complete on-site ~~((inspection))~~ survey resulting from a substantiated complaint ~~((investigation));~~ or

(c) A follow-up compliance survey.

(4) A licensee with deemed status ~~((under WAC 246-327-030,))~~ shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-327-045 Civil fines.

WAC 246-327-055 License action and/or civil fine—Notice—Adjudicative proceeding.

WAC 246-327-155 Functions, duties, and responsibilities of direct care personnel.

WAC 246-327-175 Parenteral product services.

**WSR 94-17-137**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed August 22, 1994, 3:16 p.m.]

Date of Adoption: June 10, 1994.

Purpose: To implement legislative amendments.

Citation of Existing Rules Affected by this Order:

Repealing WAC 246-336-045 and 246-336-055; and amending WAC 246-336-001, 246-336-010, 246-336-025, 246-336-035, 246-336-065, 246-336-077, 246-336-085, 246-336-095, 246-336-100, 246-336-105, 246-336-115, 246-336-125, 246-336-135, 246-336-165, and 246-336-990.

Statutory Authority for Adoption: RCW 70.127.120.

Pursuant to notice filed as WSR 94-10-046 on May 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The rules were amended to reflect changes in the RCW. These included the need to allow for deemed status, changes in how volunteers were defined and regulated.

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

August 22, 1994

Bruce Miyahara  
 Secretary

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-336-001 Purpose and scope.** ~~((The purpose of these rules is to administratively implement chapter 70.127 RCW by establishing minimum licensing standards related to safety and well-being of participants in home care agencies.))~~ (1) This chapter implements chapter 70.127 RCW by establishing minimum standards for home care agencies.

(2) This chapter does not apply to:

(a) Hospice care agencies as defined by RCW 70.127.010;

(b) Home health agencies as defined by RCW 70.127.010; or

(c) Other persons, activities or entities specified in RCW 70.127.040.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-336-010 Definitions.** For the purpose of this chapter ~~((70.127 RCW and chapter 246-336 WAC, the following words and phrases shall have the following meaning)),~~ the definitions in RCW 70.127.010 and in this section apply unless the context clearly indicates otherwise.

(1) "Administrator" means ~~((a person managing and responsible for))~~ an individual responsible for managing the day-to-day operation of ~~((each licensed))~~ an agency.

(2) ("Agency" means a home care agency as defined under this section and chapter 70.127 RCW.

(3) "AIDS" means acquired immunodeficiency syndrome defined under WAC 246-100-011.

(4) "AAA" means the area agency on aging designated by the aging and adult services administration to contract for home care services in the department of social and health services regions I through VI.

(3) "Branch office" means, according to RCW 70.127.010, a location or site from which ~~((an))~~ a home care

agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency ~~((, included in the license of the agency.))~~ and is located sufficiently close to share administration, supervision, and services.

~~((5))~~ "Bylaws" means a set of rules adopted by an agency for governing the agency operation.)) (4) "Contractor" means a person or agency who contracts with a licensee to provide participant care services or equipment.

(5) "Deemed status" means a designation assigned by the department for a licensee meeting the provisions of WAC 246-336-030 with a current contract to provide home care services with the department of social and health services or AAA.

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

(7) "Document" means to record with signature or unique identifier, title and date.

(8) "Family" means an individual or individuals ~~((who are important to and designated by the participant, and who may or may not be relatives))~~;

(a) Designated by the participant, who may or may not be related; or

(b) Legally appointed to represent the participant.

~~((8))~~ "Governing body" means the person, who may be the owner or a group, with responsibility and authority to establish policies related to operation of the agency.))

(9) ("HIV" means human immunodeficiency virus as defined under RCW 70.24.017(7).

(10) "Home care agency" or "agency" means, according to RCW 70.127.010, a private or public agency or organization ~~((administering))~~ that administers or ~~((providing))~~ provides home care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence ~~((unless:~~

~~(a) Included as an exclusion under RCW 70.127.040; or~~

~~(b) A licensed home health agency or hospice agency delivers home care as an integral part of delivery of home health or hospice care; or~~

~~(c) The organization provides home care through volunteers without compensation as defined in this section; or~~

~~(d) An individual provides home care through direct agreement with the recipient of care; or~~

~~(e) An individual provides home care through a direct agreement with a third party payor where comparable services are not readily available through a home care agency)).~~

~~((11))~~ (10) "Home care plan of care" ~~((or "care plan"))~~ means, according to RCW 70.127.270, a written ~~((personalized))~~ plan of care established and periodically reviewed by a home care agency ~~((describing))~~ that describes the home care to be provided ~~((and requiring consent of the participant or the participant's designated representative)).~~

~~((12))~~ "Home care services" means personal care services, homemaker services, respite care services, or any other nonmedical services provided to ill, disabled, or infirm persons enabling these persons to remain in their own residences consistent with their desires, abilities, and safety.

(13) "Homemaker services" means services assisting ill, disabled, or infirm persons with household tasks essential to achieving adequate household and family management,

including transportation, shopping, and maintenance of premises.

(14) "Ill, disabled, or infirm persons" means persons needing home health, hospice, or home care services in order to maintain themselves in their places of temporary or permanent residence.

(15)) (11) "Licensee" means the person to whom the department issues the home care agency license.

(12) "Managed care plan" means a plan controlled by the terms of the reimbursement source.

((16) "May" means permissive or discretionary on the part of the department.

(17) "Other nonmedical services" means noninvasive procedures, such as assistance with toileting, applying nonsterile dry dressing, ambulation, transfer, positioning, bathing, reminding about medication, or other services unless such service must be delivered by a licensed or certified individual under Washington state law.

(18) "Owner" means the individual, partnership, or corporate entity legally responsible for the business requiring licensure as a home care agency under chapter 70.127 RCW.

(19)) (13) "Participant" means an individual receiving home care services.

((20) "Personal care services" means services assisting ill, disabled, or infirm persons with dressing, feeding, and personal hygiene to facilitate self care.

(21)) (14) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

(15) "Personnel" means individuals employed ((or under contract in a home care agency)) and compensated by the licensee.

((22) "Respite care services" means services assisting or supporting the primary caregiver on a scheduled basis.

(23) "Shall" means compliance is mandatory.

(24) "Supervisor" means an individual qualified by training, education, and demonstrated skills and/or experience in home care service delivery who assumes the responsibility for the accomplishment of a function or activity and who provides initial direction and ongoing monitoring of performance.

(25)) (16) "Volunteer" means an individual ((providing assistance to the home care agency)) who provides direct care to a participant, and who:

(a) ((Oriented, trained, and supervised to perform specific assigned tasks; and

(b) Working without compensation.

(26) "Without compensation" means:

(a) A recipient of care is not charged a fee for any service delivered by the volunteer)) Is not compensated by the agency; and

(b) ((An individual delivering care receives no pay, except reimbursement)) May be reimbursed for personal mileage incurred to deliver home care services.

(17) "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 224, filed 12/23/91, effective 1/23/92)

WAC 246-336-025 Licensure ((of the home care agency))—Initial, renewal, transfer. (((1) After June 30, 1989, persons operating home care agencies as defined under chapter 70.127 RCW, shall submit application and fees to the department.

(2) After July 1, 1990, no person shall:

(a) Advertise, operate, manage, conduct, open, or maintain a home care agency without first obtaining an appropriate license from the department; or

(b) Use the words "home care agency" or "home care services" in its corporate or business name, or advertise using such words unless licensed as a home care agency under chapter 70.127 RCW.

(3) Applicants for a home care agency license shall:

(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner; and

(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:

(i) Evidence of current insurance including:

(A) Professional liability insurance coverage specified under RCW 70.127.080; and

(B) Public liability and property damage insurance coverage as specified under RCW 70.127.080.

(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(iii) A list of counties where the applicant will operate;

(iv) A list of branch offices; and

(v) A list of services provided or offered.

(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.

(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency, including branch offices.

(6) The department shall:

(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:

(i) Establish, maintain, or administer an agency; or

(ii) Provide care in the home of another.

(b) Provide a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;

(c) Establish fees to be paid as required under RCW 43.70.110 and WAC 246-336-990, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;

~~(d) Prohibit transfer or reassignment of a license without a thirty day prior notice to the department and department approval;~~

~~(e) Issue a license following approval of a new or current owner's application;~~

~~(f) Conduct on-site reviews of the agency, which may include in-home visits with the consent of the participant, in order to determine compliance;~~

~~(g) Examine and audit records of the agency if the department has reason to believe persons are providing care without an appropriate license;~~

~~(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;~~

~~(i) Give written notice of any violations, including a statement of deficiencies observed;~~

~~(j) Inform the owner or applicant of the requirement to:~~

~~(i) Present a plan of correction to the department within ten working days; and~~

~~(ii) Comply within a specified time not to exceed sixty days.~~

~~(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:~~

~~(i) The deficiency is an immediate threat to life, health, or safety; or~~

~~(ii) The owner fails to comply with any of the provisions of WAC 246-336-045 (3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j).~~

~~(l) Initiate disciplinary action, under RCW 70.127.170 and this chapter, if the owner or applicant fails to comply.~~

~~(7) The department may:~~

~~(a) Issue a license effective for one year unless the license is suspended or revoked;~~

~~(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter; and~~

~~(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW or this chapter.~~

~~(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:~~

~~(a) Full name and address of the current owner and prospective new owner;~~

~~(b) Name and address of the agency and new name under which the agency will be operating, if known; and~~

~~(c) The date of the proposed change of ownership.~~

~~(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.~~

~~(10) The agency shall inform the department in writing at the time of opening or closing of the agency or branch offices:))~~

(1) A person shall have a current license issued by the department before operating or advertising a home care agency.

(2) An applicant for initial licensure shall submit to the department:

(a) A completed application on forms provided by the department;

(b) Evidence of current professional liability, public liability, and property damage insurance coverage in accordance with RCW 70.127.080;

(c) A criminal history background check in accordance with WAC 246-336-100(2);

(d) The following information:

(i) Name of officers, managing personnel, directors, and partners or individuals owning ten percent or more of the applicant's assets;

(ii) A description of the organizational structure;

(iii) A description of the services to be offered;

(iv) Name and address of branch offices;

(v) Counties where applicant will provide home care services;

(vi) Other information as required by the department; and

(e) Fees specified in WAC 246-336-990.

(3) A licensee shall apply for license renewal 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 246-336-100(2);

(c) Documentation according to the provisions of WAC 246-336-030, if the applicant is applying for deemed status;

(d) Fees specified in WAC 246-336-990; and

(e) Other information as required by the department.

(4) At least thirty days prior to transferring ownership of a currently licensed agency:

(a) The licensee shall submit to the department:

(i) The full name and address of the current licensee and prospective owner;

(ii) The name and address of the currently licensed agency, and the name under which the transferred agency will operate; and

(iii) Date of the proposed change of ownership; and

(b) The prospective owner shall submit the transfer fee specified in WAC 246-336-990; and

(i) Apply for licensure according to subsection (2) of this section; or

(ii) If planning to add the transferred agency as a branch office, provide notification to the department according to WAC 246-336-035 (1)(b).

#### NEW SECTION

**WAC 246-336-030 Deemed status.** (1) The department shall grant deemed status to licensees meeting the requirements in this section, and otherwise qualified for licensure.

(2) The department shall renew a license without conducting an on-site survey for licensees with deemed status.

(3) A licensee applying for initial deemed status shall submit to the department, with the renewal application, verification of a current contract with the department of social and health services or AAA.

(4) The department shall grant deemed status to a licensee when:

(a) The licensee meets the requirements in this section;

(b) The licensee verifies an on-site survey has been conducted by a contracting agency within the twenty-four month period preceding the renewal due date; and

(c) The department determines, using a liberal interpretation, the monitoring standards used at the time of survey are substantially equivalent to chapter 70.127 RCW and this chapter.

(5) Upon determining monitoring standards used by a contracting agency are not substantially equivalent with chapter 70.127 RCW and this chapter, the department shall send affected licensees:

(a) A detailed description of the deficiencies in the alternate survey process; and

(b) An explanation concerning the risk to the consumer.

(6) The department shall conduct verification surveys according to RCW 70.127.085.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-336-035** (~~License denials—Suspensions—Modifications—Revocations.~~) **Responsibilities and rights—Licensee and department.** ~~((1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:~~

~~(a) Fails or refuses to comply with the provisions of chapter 70.127 RCW or this chapter;~~

~~(b) Continues to operate after the license is revoked or suspended for cause and not subsequently reinstated by the department;~~

~~(c) Makes false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;~~

~~(d) Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;~~

~~(e) Willfully prevents or interferes with or attempts to impede in any way the work of any representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;~~

~~(f) Willfully prevents or interferes with any representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;~~

~~(g) Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 246-336-045, Civil fines;~~

~~(h) Uses false, fraudulent, or misleading advertising;~~

~~(i) Has repeated incidents of personnel performing services beyond those authorized by the agency or law; or~~

~~(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.~~

~~(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action.)~~ (1) A licensee shall:

(a) Comply with the provisions of chapter 70.127 RCW and this chapter;

(b) Notify the department in writing:

(i) Thirty or more days before beginning or ceasing operation of an agency;

(ii) Upon beginning or ceasing operation of a branch office; and

(iii) Within ten working days of changing the geographical area served by the agency;

(c) Cooperate with the department during on-site surveys and investigations which may include reviewing agency records and in-home visits with participant consent;

(d) 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 has the right to:

(a) Discuss with the surveyor deficiencies found during an on-site survey or investigation at the conclusion of the survey or investigation;

(b) A written statement of deficiencies found during the survey or investigation;

(c) Discuss the statement of deficiencies with the department's program manager; and

(d) 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 an initial license for one year;

(b) Issue a renewal license for two years;

(c) Issue a transfer license to the new licensee for the remainder of the current license period;

(d) Investigate any entity suspected of advertising or providing home care without a license;

(e) Investigate an agency suspected of providing insufficient, inadequate or inappropriate care;

(f) Provide for combined surveys for licensees with more than one license under chapter 70.127 RCW, in accordance with RCW 70.127.110;

(g) Conduct unannounced on-site surveys and investigations at any time to determine compliance with chapter 70.127 RCW and this chapter;

(h) Provide a period of time for a licensee or applicant to correct deficiencies cited by the department during an on-site survey or investigation, according to the plan of correction;

(i) Reserve the right, according to the provisions of RCW 70.127.170, 43.70.095, chapter 34.05 RCW and chapter 246-10 WAC, to:

(i) Deny, suspend, modify or revoke a home care license; and

(ii) Assess a civil monetary penalty, not to exceed one thousand dollars per deficiency, based on the preventive and remedial action of the licensee and threat to participant health or safety, for deficiencies including but not limited to:

(A) Failing to provide agreed-upon participant care services without appropriate notice;

(B) Actions resulting in the injury or death of a participant;

(C) Compromising the health or safety of a participant;

(D) Knowingly making a false statement of a material fact concerning information requested in this chapter or in any matter under department investigation;

(E) Conducting business or advertising in a misleading or fraudulent manner;

(F) Refusing to allow the department to examine records or wilfully interfering with an on-site survey or investigation;

(G) Failing to pay a fine within ten days after the assessment becomes final or as agreed to by the department and the licensee; and

(H) Continuing to operate after license revocation or suspension or operating outside the parameters of a modified or restricted license.

(4) 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 participant's health, safety or welfare.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-336-065 General requirements. The licensee shall:

(1) ((The agency shall)) Have a written plan of operation ((including)) describing the:

(a) ((An organizational chart showing ownership and lines of)) Delegation of responsibility ((to the participant care level));

(b) ((The)) Services ((offered, including hours of operation and service availability)) to be provided;

(c) ((Criteria for participant acceptance, referral, transfer, and termination;

(d) Evidence of direct administrative and supervisory control and responsibility for all services including services provided by branch offices;

(e) An annual budget approved by the governing body; and

(f) Provisions for informing each participant of other community resources if the agency ceases operation.

(2) The agency shall provide services for the participant consistent with the care plan and:

(a) Accept participants only when the agency is capable of providing the specific services or level of care requested by the participant or the participant's authorized representative and appropriate to the participant needs; and

(b) Inform the participant of other services when the home care agency is unable to meet identified needs.

(3) Agency personnel shall communicate in a language or form of communication the participant and family can reasonably be expected to understand. Whenever possible, the agency shall assist in obtaining:

(a) Special devices;

(b) Interpreters; or

(c) Other aids to facilitate communication.)) Counties or portions of counties served; and

(d) Availability of services, hours of operations, and staffing;

(2) Provide management and supervision of services throughout the service delivery area;

(3) Assure services are consistent with each authorized home care plan of care;

(4) Prior to accepting a participant, determine the services to be provided in consultation with the participant, family, and case manager in managed care plans;

(5) Develop and use set criteria for:

(a) Accepting participants;

(b) Discontinuing services;

(c) Referring participants; and

(d) Transferring participants;

(6) Inform the participant of alternate services prior to ceasing business or when the licensee is unable to meet the participant's needs;

(7) Review contracts annually for conformance with the agency's participant care policies and procedures, and document review; and

(8) Develop policies and procedures as required by WAC 246-336-115.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-336-077 Participant bill of rights. ((The agency shall provide each participant and family with a written bill of rights affirming each participant's right to:

(1) Be informed of the services offered by the agency and those being provided;

(2) Refuse services;

(3) Request a change of service;

(4) Participate in development of the care plan;

(5) Receive an explanation of any responsibilities the participant may have in the care process;

(6) Be informed of the name of the person supervising the care and how to contact that person;

(7) Be informed of the process for submitting and addressing complaints to the agency and department;

(8) Receive an explanation of the agency's charges and policy concerning billing and payment for services, including, to the extent possible, insurance coverage and other payment options unless services are reimbursed through a managed care plan;

(9) Receive, upon request, a fully itemized billing statement at least monthly, including the date of each service and the charge unless service is reimbursed through a managed care plan;

(10) Have access to the department's registry of licensed agencies and who to contact in the community for financial resource information;

(11) Upon request, be informed of who owns and controls the agency;

(12) Personnel properly trained to perform assigned tasks;

(13) Coordinated services;

(14) Courteous and respectful treatment, privacy, and freedom from abuse and discrimination;

(15) Confidential management of participant records and information;

(16) Access information in the participant's own record upon request; and

(17) Receive prior notice and an explanation for reasons of termination, referral, transfer, discontinuance of service, or change in the care plan.)) The licensee shall comply with RCW 70.127.140, Bill of rights—Billing statements.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-336-085 (~~((Governing body—Administration))~~) Organization and administration. (1) The ~~((governing body of the agency))~~ licensee shall establish a mechanism to:

- ~~(a) ((Approve a quality assurance plan whereby problems are identified, monitored, and corrected;~~
- ~~(b) Adopt and periodically review written bylaws or an acceptable equivalent;~~
- ~~(c) Approve written policies and procedures related to safe, adequate services and operation of the agency with annual or more frequent review by administrative and supervisory personnel;~~
- ~~(d) Appoint an administrator and approve a plan for an alternate in the administrator's absence;~~
- ~~(e) Oversee the management and fiscal affairs of the agency; and~~
- ~~(f) Approve a method of obtaining regular reports on participant satisfaction.~~
- ~~(2) Each agency shall have an administrator to:~~
  - ~~(a) Organize and direct the agency's ongoing functions;~~
  - ~~(b) Maintain ongoing liaison between the governing body and the personnel;~~
  - ~~(c) Employ qualified personnel and ensure appropriate ongoing education and supervision of personnel and volunteers;~~
  - ~~(d) Ensure the accuracy of public information materials and activities;~~
  - ~~(e) Implement a budgeting and accounting system; and~~
  - ~~(f) Ensure the presence of an alternate administrator to act in the administrator's absence.))~~ Oversee the management and fiscal affairs of the agency;
    - (b) Approve and implement a quality assurance plan, which includes but is not limited to:
      - (i) A complaint process;
      - (ii) A method to identify, monitor, evaluate and correct problems identified by participants, families, personnel, contractors, and volunteers; and
      - (iii) A system to assess participant satisfaction.
    - (2) The licensee shall appoint an administrator who shall:
      - (a) Implement the provisions of subsection (1) of this section;
      - (b) Designate an alternate to act in the administrator's absence;
      - (c) Organize and direct the ongoing functions of the agency;
      - (d) Arrange for necessary professional services;
      - (e) Serve as a liaison between the licensee and personnel;
      - (f) Assure personnel, contractors and volunteers comply with this chapter;
      - (g) Assure the complaint process is explained to the participant and the participant's family; and
      - (h) Assure the accuracy of public information materials and activities.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-336-095 Personnel, contractors and volunteers. (~~(((1) The agency shall establish written personnel and volunteer policies including, but not limited to:~~

- ~~(a) Personnel and volunteer qualifications commensurate with anticipated job responsibilities;~~
- ~~(b) Employment criteria without regard to sex, race, age, creed, handicap, national origin, or sexual orientation;~~
- ~~(c) Orientation and in-service training appropriate to each classification of personnel and volunteer and the tasks he or she is expected to perform, including information about safety and emergency procedures;~~
- ~~(d) Evidence of pre-hire screening; and~~
- ~~(e) Annual or more frequent performance evaluations including:~~
  - ~~(i) Knowledge of safety pertinent to job assignment;~~
  - ~~(ii) Conformance with agency policies and procedures; and~~
  - ~~(iii) Observation of performance of personnel in the environment appropriate to job expectations.~~
- ~~(2) The agency shall maintain records including:~~
  - ~~(a) Qualifications of personnel and direct participant care volunteers;~~
  - ~~(b) Evidence of current licensure, certification, or registration when applicable to job requirements;~~
  - ~~(c) Documentation of orientation and training required to perform assigned tasks, consistent with this chapter;~~
  - ~~(d) Evidence of review of agency policy and procedures related to reporting any suspected abuse and neglect of children and adults consistent with chapters 26.44 and 74.34 RCW;~~
  - ~~(e) Performance evaluations;~~
  - ~~(f) Evidence of pre-hire screening prior to working with the agency; and~~
  - ~~(g) Evidence of notification of the local health department when personnel are exposed to an infectious case of tuberculosis, as required in subsection (3) of this section.~~
- ~~(3) In the event of personnel or volunteer exposure to an infectious case of tuberculosis, the agency shall supply the names and identifying information to the local health department sufficient for screening to occur.~~
- ~~(4) The agency shall:~~
  - ~~(a) Assure observance of appropriate precautions when personnel and volunteers are known to have a communicable disease in an infectious stage; and~~
  - ~~(b) Assume responsibility for personnel providing all services included in the care plan.))~~ (1) For agency personnel the licensee shall:
    - (a) Establish employment criteria consistent with chapter 49.60 RCW, Discrimination—Human rights commission;
    - (b) Develop and maintain job descriptions commensurate with responsibilities;
    - (c) Conduct criminal history background checks in accordance with WAC 246-336-100;
    - (d) Verify work references and document verification;
    - (e) Provide and document:
      - (i) Orientation; and
      - (ii) Ongoing training on current agency policies and procedures;

(f) Provide the equipment necessary to implement agency infection control policies and procedures and participants' plans of care; and

(g) Conduct annual performance evaluations of all personnel, including on-site observation of personnel providing direct participant care.

(2) For direct care volunteers the licensee shall:

(a) Develop and maintain work descriptions commensurate with responsibilities;

(b) Conduct criminal history background checks in accordance with WAC 246-336-100;

(c) Provide and document orientation on participant care policies and procedures; and

(d) Provide the equipment necessary to implement agency infection control policies and procedures and participants' plans of care.

(3) For contracted services, the licensee shall, directly or by contract:

(a) Comply with chapter 49.60 RCW, Discrimination—Human rights commission;

(b) Develop and maintain work descriptions commensurate with responsibilities;

(c) Conduct criminal history background checks in accordance with WAC 246-336-100;

(d) Verify work references and document verification;

(e) Provide and document:

(i) Orientation; and

(ii) Ongoing training on the agency's current participant care policies and procedures;

(f) Provide the equipment necessary to implement agency infection control policies and procedures and participants' plans of care; and

(g) Assure that direct participant care services provided are reviewed and evaluated on an ongoing basis and documented at least annually.

**AMENDATORY SECTION** (Amending Order 381, filed 7/26/93, effective 8/26/93)

**WAC 246-336-100 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))~~ personnel, volunteer, contractor, student, and any other ~~((person))~~ individual associated with the home care agency 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:

(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 background inquiry as specified in RCW 43.43.842(1) for each:

(i) ~~((Employee))~~ Personnel, volunteer, contractor, student, and any other ~~((person))~~ individual currently

associated with the licensed home care agency~~(=)~~ having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective ~~((employee))~~ personnel, volunteer, contractor, student, and ~~((person))~~ any other individual applying for association with the licensed ~~((facility))~~ agency 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~~(=)~~; and

(d) Retained and available for department review:

(i) During ~~((and))~~ the individual's employment or association with an agency; and

(ii) At least two years following termination of employment or association with an agency.

(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))~~ agency 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 224, filed 12/23/91, effective 1/23/92)

**WAC 246-336-105 HIV/AIDS education and training.** ~~((Home care agencies))~~ The licensee shall:

(1) ~~((Verify or arrange for appropriate education and training of personnel and volunteers on the prevention, transmission, and treatment of HIV and AIDS consistent with RCW 70.24.310; and~~

~~((2) Use infection control standards and educational material consistent with the approved curriculum manual *Know AIDS Education for Health Care Facility Employees*, January 1991, published by the department office on HIV/AIDS))~~ Verify or arrange for two hours or more of appropriate education and training of nonlicensed personnel, volunteers and direct-care contractors within ninety days of direct patient contact 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 121, filed 12/27/90, effective 1/31/91)

**WAC 246-336-115 Participant care policies and procedures.** ~~((1) The home care agency shall establish and implement policies and procedures appropriate to the specific services provided and available in writing to all personnel and volunteers, including:~~

~~((a) All tasks carried out in providing services and implementing the care plan;~~

~~((b) Observations to be reported to the supervisor;~~

~~((c) Coping with difficult situations;~~

~~((d) Transporting of participants by licensed insured drivers;~~

~~((e) Any special qualifications of persons performing the services;~~

~~((f) Infection control principles and practices;~~

~~((g) Emergency procedures, participant safety, and death;~~

~~((h) Safe handling and use of supplies, equipment, and toxic or hazardous substances;~~

~~((i) Safe handling and preparation of food products;~~

~~((j) Abuse and neglect consistent with chapters 26.44 and 74.34 RCW;~~

~~((k) Coordination of inter and intra agency services;~~

~~((l) Participant records; and~~

~~((m) Restriction on personnel assisting with participant-owned medications only as provided in the care plan and restricted to:~~

~~((i) Reminding the participant of when it is time to take a prescribed medication;~~

~~((ii) Handing the medication container to the participant;~~

~~((iii) Opening the medication container; and~~

~~((iv) Assistance with application of skin, nose, eye, and ear preparations according to label when a participant is mentally oriented and able to supervise application.~~

~~((n) Limitations regarding handling of participant-owned money and property.~~

~~((2) Agencies shall review participant care policies and procedures annually and revise as necessary.))~~ (1) A licensee shall establish and implement the following written policies and procedures, consistent with this chapter and the services provided:

(a) Accepting, referring and discontinuing participants, including specific policies, as needed, for accepting or discontinuing participants under managed care plans;

(b) Coordinating interagency and intra-agency services;

(c) Techniques for communicating with the participant and family, and steps to take when communication is not possible, including but not limited to:

(i) Assistance with obtaining special communication devices;

(ii) Use of translated material, interpreters or interpreter services; or

(iii) Referral to community services;

(d) Infection control principles and practices, including:  
(i) Bloodborne pathogens in accordance with WAC 296-62-08001;

(ii) Food storing, preparing and handling; and

(iii) A tuberculosis control program consistent with WISHA;

(e) Actions to take when an individual exhibits or reports symptoms of a communicable disease in an infectious stage;

(f) Managing records consistent with WAC 246-336-165;

(g) Restricting medication assistance:

(i) As provided for in the home care plan of care and consistent with state law;

(ii) To participant-owned medications ordinarily self-administered; and

(iii) To the extent of:

(A) Communicating appropriate information regarding self-administration;

(B) Reminding to take a medication as prescribed;

(C) Reading the medication label;

(D) Handing the medication container to the participant;

(E) Opening the medication container; and

(F) Assisting with application of skin, rectal, nose, eye, and ear preparations under specific direction of the participant; and

(h) Managing abuse and neglect situations consistent with chapters 26.44 and 74.34 RCW; and

- (1) Emergency care, identifying the responsible agency when more than one agency provides care; and
- (j) Actions to take upon the death of a participant.
- (2) A licensee shall document:
  - (a) Approval of policies and procedures; and
  - (b) Review of policies and procedures every two years.
- (3) The licensee shall make the policies and procedures specified in subsection (1) of this section available to direct-care personnel and contractors, and volunteers during the hours of operation.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-336-125 Supervision and coordination of services.** ((The agency shall employ a supervisor responsible for:

- ~~(1) Assessment of participant/family needs except under managed care plans;~~
- ~~(2) Development of care plan, except under managed care plans;~~
- ~~(3) Implementing the care plan;~~
- ~~(4) Referral to other community resources;~~
- ~~(5) Explaining resources the participant may access;~~
- ~~(6) Performance evaluations as indicated under WAC 246-336-095, Personnel and volunteers;~~
- ~~(7) Regular monitoring of effectiveness of the care plan, including:~~
  - ~~(a) The participant's satisfaction with care received;~~
  - ~~(b) Participant's health and safety;~~
  - ~~(c) Periodic contact with participant to re-assess effectiveness and appropriateness of home care plan of care;~~
  - ~~(d) Participating in development and review of agency policies for coordination; and~~
  - ~~(e) Coordination or arrangement of home care services.)~~

(1) The licensee shall employ a supervisor of direct care services.

(2) The supervisor of direct care services shall:

- (a) Designate a similarly qualified alternate to act in the supervisor's absence;
- (b) Coordinate or develop and revise participant care policies;
- (c) Coordinate intra- and inter-agency services to:
  - (i) Develop the home care plan of care, except under managed care; and
  - (ii) Implement the home care plan of care;
- (d) Supervise direct care personnel and contractors, and volunteers; and
- (e) Assure compliance with the participant's home care plan of care.
- (3) The supervisor or alternate shall be available during all hours of agency operation.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-336-135 Home care plan of care.** ((Agencies shall:

- ~~(1) Ensure personnel follow an approved written care plan;~~
- ~~(2) Include all services to be provided in the care plan; and~~

~~(3) Ensure review and revision of care plan, as necessary:~~

- ~~(a) Whenever reports by the participant, family, or caregiver indicate substantial change in services needed;~~
- ~~(b) Based upon assessment by the supervisor, unless done through a managed care plan; and~~
- ~~(c) At least every six months for personal care services.)~~

(1) Develop and implement a written home care plan of care for each participant:

- (a) Prior to initiating care;
- (b) Based on an assessment of participant and family needs; and
- (c) With approval of participant, family, and case manager, in managed care plans;

(2) The home care plan of care shall include:

- (a) Types of services and equipment required;
- (b) Frequency of services;
- (c) Any special dietary or nutritional needs; and
- (d) Medication assistance according to agency policy and procedures;

(3) Develop a system to assure compliance with the home care plan of care;

(4) Document the review and update of the home care plan of care every six months, or more often as necessary; and

(5) Include the home care plan of care in the participant's record.

AMENDATORY SECTION (Amending Order 121), filed 12/27/90, effective 1/31/91)

**WAC 246-336-165 ((Records and documentation of) Participant care records.** (((1) The home care agency shall maintain records which are orderly, intact, and:

- ~~(a) Legibly written in ink suitable for photocopying;~~
- ~~(b) In an agency approved format;~~
- ~~(c) Written in a legally acceptable manner;~~
- ~~(d) Considered as property of the home care agency;~~
- ~~(e) Include observations about the participant's physical condition;~~

~~(f) Available and retrievable either in the agency or by electronic means during business hours; and~~

~~(g) Stored following discontinuance from service in a manner which:~~

- ~~(i) Prevents loss or manipulation of information;~~
- ~~(ii) Protects the record from damage; and~~
- ~~(iii) Prevents access by unauthorized persons.~~

~~(2) Records shall include:~~

- ~~(a) Appropriate participant identifying information;~~
- ~~(b) Appropriate service consent and agreement, including payment source;~~
- ~~(c) Pertinent past and current information, including:~~

~~(i) Documentation of a participant assessment by a supervisor on acceptance and when conditions change extensively;~~

~~(ii) Notation of all services provided and recorded in the record or in another file maintained by the agency; and~~

~~(iii) Documentation of significant observations.~~

~~(d) Care plan; and~~

~~(e) Termination statement.~~

~~(3) Agencies shall ensure documentation, including:~~

~~(a) Recording of the service on the day it is provided;~~  
~~(b) Immediate incorporation of reports of unusual events or incidents with date, time, and signature or valid initials of the recorder; and~~

~~(c) Entries incorporated within a month from the day service is rendered if the record is maintained in the agency.~~

~~(4) Agencies shall maintain, retain, and preserve records:~~

~~(a) For adults, a period of no less than five years following the date of discontinuation of service; and~~

~~(b) For minors, a period of no less than three years following attainment of eighteen years of age or five years following discontinuance of agency services, whichever is longer.~~

~~(5) Agencies shall establish policies and procedures specific to retention and disposition of records, including:~~

~~(a) Arrangements for preservation of participant records if the agency discontinues operation with a plan approved by the department; and~~

~~(b) A method of disposal of records assuring prevention of retrieval and subsequent use of information.~~

~~(6) Agencies shall safeguard recorded participant information against loss or unauthorized use, including:~~

~~(a) Adherence to written procedures governing use and removal of records and conditions for release of information; and~~

~~(b) Requirement for prior written consent of the participant for release of information unless authorized by law.)~~

~~The licensee shall:~~

~~(1) Maintain a current record for each participant consistent with chapter 70.02 RCW, Medical records—Health care information access and disclosure act, which is:~~

~~(a) Accessible, in an integrated document, in the licensee's main or branch office for review by appropriate direct care personnel and contractors and the department;~~

~~(b) Written legibly or retrievable by electronic means:~~

~~(i) On the licensee's standardized forms; and~~

~~(ii) In a legally acceptable manner;~~

~~(c) Kept confidentially;~~

~~(d) Chronological in its entirety or by service; and~~

~~(e) Kept together to avoid loss of records;~~

~~(2) Include the following in each record:~~

~~(a) Participant's name, age, current address and phone number;~~

~~(b) Participant's consent for service, care and payment source;~~

~~(c) Initial assessment;~~

~~(d) Home care plan of care;~~

~~(e) Notation of services provided; and~~

~~(f) Documentation of significant observations on changes in the participant's health or needs;~~

~~(3) Consider the records as property of the licensee;~~

~~(4) Transfer participant information or a summary when the participant:~~

~~(a) Requests agency administrator to send the information; and~~

~~(b) Is relocated to another agency or facility;~~

~~(5) Retain records for:~~

~~(a) Adults no less than three years following the date of termination of services; and~~

~~(b) Minors no less than three years after attaining the age of eighteen years of age, or five years following discharge, whichever is longer;~~

~~(6) Store records to:~~

~~(a) Prevent loss of information and maintain integrity; and~~

~~(b) Protect against unauthorized access according to chapter 70.02 RCW; and~~

~~(7) Dispose of records to protect confidentiality when ceasing operation, or releasing medical records after a participant's death, according to chapter 70.02 RCW; and~~

~~(8) Obtain department approval to preserve or dispose of records prior to ceasing operation.~~

AMENDATORY SECTION (Amending WSR 93-21-034, filed 10/15/93, effective 10/28/93)

WAC 246-336-990 Fees. (1) ~~((An applicant or))~~ A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency employees or contractors, as follows:

(i) A base fee of three hundred sixty dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred ninety dollars;

(B) Sixteen through fifty FTEs, two hundred thirty dollars; or

(C) Fifty-one or more FTEs, three hundred thirty dollars;

(b) A fee of one-half the renewal fee specified in (a) of this subsection for an initial twelve-month license for:

(i) New firms;

(ii) Businesses not currently licensed to provide home care in Washington state; or

(iii) Currently licensed businesses which have had statement of charges filed against them; and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional home health and/or hospice license.

(3) The department may charge and collect from a licensee a fee of one-half the base fee specified in subsection (1)(a) of this section for:

(a) A second on-site visit resulting from ~~((a licensee's))~~ failure of the licensee or applicant to adequately respond to a statement of deficiencies; and

(b) A complete on-site ~~((inspection))~~ survey resulting from a substantiated complaint ~~((investigation))~~; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status ~~((under WAC 246-336-030,))~~ shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed the cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 246-336-045	Civil fines.
WAC 246-336-055	License action and/or civil fine—Notice—Adjudicative proceeding.

**WSR 94-17-138**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed August 22, 1994, 3:21 p.m.]

Date of Adoption: June 10, 1994.

Purpose: To implement legislative amendments.

Citation of Existing Rules Affected by this Order:

Repealing WAC 246-331-045, 246-331-055, 246-331-155 and 246-331-175; and amending WAC 246-331-001, 246-331-010, 246-331-025, 246-331-035, 246-331-065, 246-331-077, 246-331-085, 246-331-095, 246-331-100, 246-331-105, 246-331-115, 246-331-125, 246-331-135, 246-331-165, 246-331-185, and 246-331-990.

Statutory Authority for Adoption: RCW 70.127.120.

Pursuant to notice filed as WSR 94-10-045 on May 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The rules were amended to reflect changes in the RCW. These included the need to allow for deemed status, changes in how volunteers were defined and regulated.

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

August 22, 1994

Bruce Miyahara

Secretary

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-331-001 Purpose and scope.** ~~((The purpose of these rules is to administratively))~~ (1) This chapter implements chapter 70.127 RCW by establishing minimum ~~((licensing))~~ standards for hospice ~~((care))~~ agencies ~~((related to safe and competent care of patients and the well-being of the patient unit)).~~

(2) This chapter does not apply to:

(a) Home health agencies as defined by RCW 70.127.010;

(b) Home care agencies as defined by RCW 70.127.010;

(c) Other persons, activities or entities specified in RCW 70.127.040; or

(d) Volunteer hospices meeting the requirements in RCW 70.127.050.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-331-010 Definitions.** For the purpose of this chapter ~~((70.127 RCW and chapter 246-331 WAC, the following words and phrases shall have the following meaning)),~~ the definitions in RCW 70.127.010 and in this section apply unless the context clearly indicates otherwise.

(1) "Administrator" means ~~((a person))~~ an individual responsible for managing ~~((and responsible for))~~ the day-to-day operation of ~~((each licensed))~~ an agency.

~~((2))~~ "Agency" means a hospice agency defined under this section and chapter 70.127 RCW.

~~(3)~~ "AIDS" means acquired immunodeficiency syndrome defined under WAC 246-100-011.

~~((4))~~ (2) "Bereavement care" means care provided to the patient's family with the goal of alleviating the emotional and spiritual discomfort associated with the patient's death.

(3) "Branch office" means according to RCW 70.127.010, a location or site from which ~~((an))~~ a hospice agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency ~~((, included in the license of agency,))~~ and is located sufficiently close to share administration, supervision, and services.

~~((5))~~ "Bereavement care" means care provided to the family of a patient with the goal of alleviating the emotional and spiritual discomfort associated with the death of the patient.

(6) "Bylaws" means a set of rules adopted by an agency for governing the agency operation.

(7) "Clinical note" means a written, signed, dated notation of each contact with a patient which may contain a description of signs and symptoms, treatments, medications given, the patient reaction, any changes in physical or emotional condition, and other pertinent information.

~~((8))~~ (4) "Contractor" means a person or agency who contracts with a licensee to provide patient care services or equipment.

(5) "Deemed status" means a designation assigned by the department for a licensee meeting the provisions of WAC 246-331-030, certified or accredited by organizations recognized by RCW 70.127.080.

(6) "Department" means, according to RCW 70.127.010, the Washington state department of health.

~~((9))~~ "Dietitian" means an individual certified under chapter 18.138 RCW, Dietitians and nutritionists.

~~((10))~~ (7) "Document" means to record with signature or unique identifier, title and date.

(8) "Family" means an individual or individuals ~~((who are important to and designated by the patient, and who may or may not be relatives.~~

~~((11))~~ "Governing body" means the person, who may be the owner or a group, with responsibility and authority to establish policies related to operation of the agency);

~~((a))~~ Designated by the patient, who may or may not be related; or

~~((b))~~ Legally appointed to represent the patient.

~~((12))~~ "HIV" means human immunodeficiency virus defined under RCW 70.24.017(7).

(13) "Home health aide" means an individual registered or certified as a nursing assistant under chapter 18.88A RCW.

(14) "Home health aide services" means services provided by a hospice under supervision of a registered nurse, physical therapist, occupational therapist, or speech therapist and as further defined under RCW 70.127.010(7).

(15) "Homemaker services" means services assisting ill, disabled, or infirm persons with household tasks essential to achieving adequate household and family management,

including transportation, shopping, and maintenance of premises.

~~(16))~~ (9) "Health care professional" means an individual who provides health or health-related services within the individual's authorized scope of practice, who is:

- (a) Licensed or certified under Title 18 RCW;
- (b) Registered under chapters 18.19 or 18.88A RCW; or
- (c) A speech therapist as defined in this section.

(10) "Home health aide" means an individual registered or certified under chapter 18.88A RCW.

(11) "Hospice agency" (~~means~~) or "agency" means, according to RCW 70.127.010, a private or public agency or organization (~~administering or providing~~) that administers or provides hospice care services directly or through a contract arrangement to terminally ill persons in places of temporary or permanent residence by using an interdisciplinary team composed of at least nursing, social work, physician, and pastoral or spiritual counseling.

~~((17))~~ "Hospice care" means:

(a) Palliative care provided to a terminally ill person in a place of temporary or permanent residence with the goal of alleviating physical symptoms, including pain, the emotional and spiritual discomfort associated with dying; and

(b) Bereavement care; and

(c) May include health and medical services, personal care, respite care, or homemaker services.

~~(18))~~ (12) "Hospice plan of care" means, according to RCW 70.127.260, a written plan of care established by (~~the interdisciplinary team~~) a physician and (~~periodically~~) reviewed by (~~a physician~~) other members of the interdisciplinary team describing hospice care to be provided (~~to a terminally ill patient for palliation or medically necessary treatment of an illness or injury~~).

~~((19))~~ "Ill, disabled, or infirm persons" means persons who need home health, hospice, or home care service in order to maintain themselves in their places of temporary or permanent residence.

~~(20))~~ (13) "Interdisciplinary team" means (~~all disciplines~~) the group of individuals involved in patient care (~~minimally~~) including, at a minimum, a physician, registered nurse, (~~medical~~) social worker, and spiritual counselor and may include additional health care professionals and who may be volunteers.

~~((21))~~ (14) "Licensed practical nurse" or "LPN" means an individual licensed as a practical nurse under chapter 18.78 RCW (~~Practical Nurses~~).

~~((22))~~ (15) "Licensee" means the person to whom the department issues the hospice agency license.

(16) "Managed care plan" means a plan controlled by the terms of the reimbursement source.

~~((23))~~ "May" means permissive or discretionary on the part of the department.

(24) "Medical social worker" means an individual with a bachelor's degree in social work, psychology, or a related field having completed one year of social work experience and registered as a counselor under RCW 18.19.090.

(25) "Occupational therapist" means an individual licensed as an occupational therapist under chapter 18.59 RCW.

(26) "Owner" means the individual, partnership, or corporate entity legally responsible for the business requiring licensure as a hospice agency under chapter 70.127 RCW.

~~(27))~~ (17) "Patient" means (~~the terminally ill~~) an individual with a terminal condition who is receiving care from the agency.

~~((28))~~ (18) "Patient unit" means the patient and family who together (~~form the unit of care in hospice~~) are the recipients of hospice care.

~~((29))~~ "Personal care services" means services assisting ill, disabled, or infirm persons with dressing, feeding, and personal hygiene to facilitate self care.

~~(30))~~ (19) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association and the legal successor thereof.

(20) "Personnel" means individuals (~~providing patient care on behalf of an agency including employees and individuals under contract~~) employed and compensated by the licensee.

~~((31))~~ "Pharmacist" means an individual licensed as a pharmacist under RCW 18.64.080.

~~(32)~~ "Physical therapist" means an individual licensed as a physical therapist under chapter 18.74 RCW.

~~(33))~~ (21) "Physician" means an individual licensed (~~as a medical doctor~~) under chapter 18.57 or 18.71 RCW (~~or an osteopathic physician and surgeon licensed under chapter 18.57 RCW~~).

~~((34))~~ "Prehire screening" means checking of work references, appropriate registration, licensure or certification, and qualifications.

~~(35))~~ (22) "Registered nurse" or "RN" means an individual licensed under chapter 18.88 RCW (~~Registered nurses~~).

~~((36))~~ "Respite care services" means services assisting or supporting the primary caregiver on a scheduled basis.

~~(37)~~ "Respiratory therapist" means an individual certified under chapter 18.89 RCW, Respiratory care practitioners.

~~(38)~~ "Shall" means compliance is mandatory.

~~(39)~~ "Speech therapist" means a person meeting:

(a) The education and experience requirements for a certificate of clinical competence in the appropriate area of speech pathology or audiology, granted by the American Speech, Language, and Hearing Association, as described in *The ASLHA Directory*, American Speech, Language and Hearing Association, 10801 Rockville Pike, Rockville, Maryland 20852, 1983; or

(b) The education requirements for a certificate of clinical competence and in the process of accumulating the supervised experience, as specifically prescribed in *The ASLHA Directory*, 1983.

~~(40))~~ (23) "Social worker" means an individual registered or certified under chapter 18.19 RCW.

(24) "Spiritual counseling services" means services:

(a) Coordinated by an individual with knowledge of theology, pastoral counseling, or an allied field(~~);~~ (~~an individual authorized by a spiritual organization to provide counseling services~~).

(41) "Supervision" means authoritative procedural guidance by a qualified person who assumes the responsibility for the accomplishment of a function or activity and who provides direction and ongoing monitoring and evaluation of the actual act of accomplishing the function or activity.

(42) "Therapist" means a physical therapist, occupational therapist, speech therapist, or respiratory therapist as defined

in this section or other therapist licensed or certified under Title 18 RCW and providing health or medical care or treatment within their defined scope of practice.

~~(43)) (b) Authorized by a spiritual organization to provide counseling services.~~

~~(25) "Therapist" means an individual who is:~~

~~(a) A physical therapist, licensed under chapter 18.74 RCW;~~

~~(b) A respiratory therapist, certified under chapter 18.89 RCW;~~

~~(c) An occupational therapist, licensed under chapter 18.59 RCW; or~~

~~(d) A speech therapist meeting the education and experience requirements for a certificate of clinical competence in an appropriate area of speech pathology or audiology, granted by the American Speech, Language, and Hearing Association as described in The ASLHA Directory, American Speech, Language, and Hearing Association, 10801 Rockville Pike, Rockville, Maryland 20852, 1983; or for a certificate of clinical competence and in the process of accumulating the supervised experience, as specifically prescribed in The ASLHA Directory, 1983.~~

~~(26) "Therapy assistant" means a licensed occupational therapy assistant defined under chapter 18.59 RCW or physical therapist assistant defined under chapter 246-915 WAC.~~

~~((44) "Therapy services" means those services delivered by therapists as defined in this section.~~

~~(45)) (27) "Volunteer" means an individual ((providing assistance)) who provides direct care to the ((hospice agency)) patient unit, and who:~~

~~(a) ((Oriented, trained, and supervised to perform specific assigned tasks; and~~

~~(b) Working without compensation.~~

~~(46) "Without compensation" means:~~

~~(a) A recipient of care is not charged a fee for any service delivered by the volunteer; and~~

~~(b) An individual delivering care receives no pay, except reimbursement for personal mileage incurred to deliver hospice services.) Is not compensated by the agency; and~~

~~(b) May be reimbursed for personal mileage incurred to deliver hospice services.~~

~~(28) "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 224, filed 12/23/91, effective 1/23/92)

**WAC 246-331-025 Licensure ((of the hospice agency))—Initial, renewal, transfer.** ~~((1) After June 30, 1989, persons operating hospice agencies defined under chapter 70.127 RCW shall submit applications and fees to the department.~~

~~(2) After July 1, 1990, no person shall:~~

~~(a) Advertise, operate, manage, conduct, open, or maintain a hospice agency without first obtaining an appropriate license from the department; or~~

~~(b) Use the words "hospice agency" or "hospice care" in its corporate or business name, or advertise using such words unless licensed as a hospice agency under chapter 70.127 RCW.~~

~~(3) Applicants for a hospice agency license shall:~~

~~(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner;~~

~~(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:~~

~~(i) Evidence of current insurance including:~~

~~(A) Professional liability insurance coverage specified under RCW 70.127.080; and~~

~~(B) Public liability and property damage insurance coverage specified under RCW 70.127.080.~~

~~(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;~~

~~(iii) A list of counties where the applicant will operate;~~

~~(iv) A list of branch offices; and~~

~~(v) A list of services provided or offered.~~

~~(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.~~

~~(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency.~~

~~(6) The department shall:~~

~~(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:~~

~~(i) Establish, maintain, or administer an agency; or~~

~~(ii) Provide care in the home of another.~~

~~(b) Provide for a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;~~

~~(c) Establish fees to be paid under chapter 43.70 RCW and WAC 246-331-990, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;~~

~~(d) Prohibit transfer or reassignment of a license without thirty days prior notice to the department and department approval;~~

~~(e) Issue a license following approval of a new or current owner's application;~~

~~(f) Conduct on-site reviews of the agency, which may include in-home visits with the consent of the patient, to determine compliance;~~

~~(g) Examine and audit records of the agency if the department believes a person is providing care without an appropriate license;~~

~~(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;~~

~~(i) Give written notice of any violations, including a statement of deficiencies observed;~~

~~(j) Inform the owner or applicant of the requirement to:~~

~~(i) Present a plan of correction to the department within ten working days; and~~

- ~~(ii) Comply within a specified time not to exceed sixty days;~~
- ~~(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:~~
- ~~(i) The deficiency is an immediate threat to life, health, or safety; or~~
- ~~(ii) The owner fails to comply with any of the provisions of WAC 246-331-045 (3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j);~~
- ~~(l) Initiate disciplinary action, under RCW 70.127.170 and this chapter, if the owner or applicant fails to comply.~~
- ~~(7) The department may:~~
- ~~(a) Issue a license effective for one year or less unless the license is suspended or revoked;~~
- ~~(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter; and~~
- ~~(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW and this chapter.~~
- ~~(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:~~
- ~~(a) Full name and address of the current owner and prospective new owner;~~
- ~~(b) Name and address of the agency and new name under which the agency will be operating, if known; and~~
- ~~(c) The date of the proposed change of ownership.~~
- ~~(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.~~
- ~~(10) The agency shall inform the department, in writing, at the time of opening or closing the agency or branch offices included in the agency license:)) (1) A person shall have a current license issued by the department before operating or advertising a hospice agency.~~
- (2) An applicant for initial licensure shall submit to the department:
- (a) A completed application on forms provided by the department;
- (b) Evidence of current professional liability, public liability, and property damage insurance coverage in accordance with RCW 70.127.080;
- (c) A criminal history background check in accordance with WAC 246-331-100(2);
- (d) The following information:
- (i) Names of officers, managing personnel, directors, and partners or individuals owning ten percent or more of the applicant's assets;
- (ii) A description of the organizational structure;
- (iii) A description of the services to be offered;
- (iv) Name and address of branch offices;
- (v) Counties where applicant will provide hospice services; and
- (vi) Other information as required by the department; and
- (e) Fees specified in WAC 246-331-990.
- (3) A licensee shall apply for license renewal 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 246-331-100(2);
- (c) Documentation according to the provisions of WAC 246-331-030, if applying for deemed status;
- (d) Fees specified in WAC 246-331-990; and
- (e) Other information as required by the department.
- (4) At least thirty days prior to transferring ownership of a currently licensed agency:
- (a) The licensee shall submit to the department:
- (i) The full name and address of the current licensee and prospective owner;
- (ii) The name and address of the currently licensed agency and the name under which the transferred agency will operate; and
- (iii) Date of the proposed change of ownership; and
- (b) The prospective new owner shall submit the transfer fee specified in WAC 246-331-990, and:
- (i) Apply for licensure according to subsection (2) of this section; or
- (ii) If planning to add the transferred agency as a branch office provide notification to the department according to WAC 246-331-035 (1)(b).
- (5) An owner wishing to license a volunteer hospice as defined in RCW 70.127.050 is exempt from subsection (2)(b) of this section.

#### NEW SECTION

**WAC 246-331-030 Deemed status.** (1) The department shall grant deemed status to licensees meeting the requirements in this section and otherwise qualified for licensure.

(2) The department shall renew a license without conducting an on-site survey for licensees with deemed status.

(3) A licensee certified by the federal Medicare program, 42 CFR Part 418, conditions of participation, home health agencies, applying for initial deemed status shall indicate certification on the renewal application.

(4) A licensee accredited by the joint commission on accreditation of health care organizations or the community health accreditation program, Inc. applying for initial deemed status shall submit to the department with the renewal application:

(a) Verification of accreditation; and

(b) A copy of the decisions and findings of an on-site survey conducted by the accrediting organization within the twenty-four month period preceding the renewal due date.

(5) A licensee granted deemed status pursuant to subsection (4) of this section shall submit to the department:

(a) A copy of the decisions and findings of each survey conducted by the accrediting organization within ninety days of the survey date; and

(b) All decisions and findings, including any changes in accreditation status, from the accrediting organization within ten days of receipt.

(6) The department shall grant deemed status to a licensee when:

(a) The licensee meets the requirements in this section;

(b) The licensee verifies an on-site survey has been conducted by an organization specified in this section within the twenty-four month period preceding the renewal due date; and

(c) The department determines, using a liberal interpretation, the survey standards used at the time of survey are substantially equivalent to chapter 70.127 RCW and this chapter.

(7) Upon determining survey standards used by an organization specified in this section are not substantially equivalent with chapter 70.127 RCW and this chapter, the department shall send affected licensees:

(a) A detailed description of the deficiencies in the alternate survey process; and

(b) An explanation concerning the risk to the consumer.

(8) The department shall conduct verification surveys according to RCW 70.127.085.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-331-035** (~~License denials—Suspensions—Modifications—Revocations.~~) **Responsibilities and rights—Licensee and department.** (~~((1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:~~

~~(a) Fails or refuses to comply with the provisions under chapter 70.127 RCW or this chapter;~~

~~(b) Continues to operate after the license is revoked or suspended for cause without subsequent reinstatement by the department;~~

~~(c) Makes a false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;~~

~~(d) Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;~~

~~(e) Willfully prevents or interferes with, or attempts to impede in any way, the work of a representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;~~

~~(f) Willfully prevents or interferes with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;~~

~~(g) Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 246-331-045, Civil fines;~~

~~(h) Uses false, fraudulent, or misleading advertising;~~

~~(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or~~

~~(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.~~

~~(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action:)) (1) A licensee shall:~~

~~(a) Comply with the provisions of Chapter 70.127 RCW and this chapter;~~

~~(b) Notify the department in writing:~~

~~(i) Thirty or more days before beginning or ceasing operation of an agency;~~

~~(ii) Upon beginning or ceasing operation of a branch office; and~~

~~(iii) Within ten working days of changing the geographical area served by the agency;~~

~~(c) Cooperate with the department during on-site surveys and investigations which may include reviewing agency records and in-home visits with patient consent;~~

~~(d) 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 has the right to:~~

~~(a) Discuss with the surveyor deficiencies found during an on-site survey or investigation at the conclusion of the survey or investigation;~~

~~(b) A written statement of deficiencies found during the survey or investigation;~~

~~(c) Discuss the statement of deficiencies with the department's program manager; and~~

~~(d) Contest a disciplinary action or decision of the department to deny a license according to the provisions of RCW 43.70.115, chapter 34.05 RCW and chapter 246-10 WAC.~~

~~(3) The department shall:~~

~~(a) Issue an initial license for one year;~~

~~(b) Issue a renewal license for two years;~~

~~(c) Issue a transfer license to the new licensee for the remainder of the current license period;~~

~~(d) Investigate any entity suspected of advertising or providing hospice care without a license;~~

~~(e) Investigate an agency suspected of providing insufficient, inadequate or inappropriate care;~~

~~(f) Provide for combined surveys for licensees with more than one license under Chapter 70.127 RCW, in accordance with RCW 70.127.110;~~

~~(g) Conduct unannounced on-site surveys and investigations at any time to determine compliance with Chapter 70.127 RCW and this chapter;~~

~~(h) Provide a period of time for a licensee or applicant to correct deficiencies cited by the department during an on-site survey or investigation, according to the plan of correction;~~

~~(i) Reserve the right, according to the provisions of RCW 70.127.170, RCW 43.70.095, Chapter 34.05 RCW and Chapter 246-10 WAC, to:~~

~~(i) Deny, suspend, modify or revoke a license; and~~

~~(ii) Assess a civil monetary penalty, not to exceed one thousand dollars per deficiency, based on the preventive and remedial action of the licensee and threat to patient health or safety, for deficiencies including but not limited to:~~

~~(A) Failing to provide agreed-upon patient care services without appropriate notice;~~

~~(B) Actions resulting in the injury or death of a patient;~~

~~(C) Compromising the health or safety of a patient, including a pattern of incidents of personnel performing services beyond their authorized scope of practice;~~

(D) Knowingly making a false statement of a material fact concerning information requested in this chapter or in any matter under department investigation;

(E) Conducting business or advertising in a misleading or fraudulent manner;

(F) Refusing to allow the department to examine records or willfully interfering with an on-site survey or investigation;

(G) Failing to pay a fine within ten days after the assessment becomes final or as agreed to by the department and the licensee; and

(H) Continuing to operate after license revocation or suspension or operating outside the parameters of a modified or restricted license.

(4) 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 patient's health, safety or welfare.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-331-065 General requirements. ((1) The agency shall have a written plan of operation including:

(a) An organizational chart showing ownership and lines for delegation of responsibility to the patient care level;

(b) The services offered including hours of operation and service availability;

(c) Admission discharge, referral, and transfer criteria;

(d) Evidence of administrative and supervisory control and responsibility for all services including services provided by branch offices;

(e) An annual budget approved by the governing body; and

(f) Provisions for ongoing care in the event the agency ceases operation.

(2) Hospice agencies shall:

(a) Arrange for one or more physicians to:

(i) Provide medical direction;

(ii) Advise the agency on policies and procedures;

(iii) Serve as liaison with the patient's attending physicians;

(iv) Provide patient care and approve modifications of the hospice plan of care if the attending physician does not provide care or approve modifications in the plan; and

(v) Participate regularly in hospice care planning conferences with staff.

(b) Provide medical social services with at least one medical social worker available;

(c) Provide spiritual counseling services, either directly or in coordination with an individual of the patient's choice, if the patient or family desires;

(d) Provide nursing consultation and in-home visits as needed twenty-four hours per day, seven days per week, either directly or by arrangement with another agency;

(e) Provide or make available volunteer services to assist in provision of hospice care;

(f) Provide a bereavement care program, either directly or by arrangement for the family of patients, including:

(i) Referral of family members to other resources as needed;

(ii) Group and/or individual support opportunities as appropriate for bereavement care education and support;

(iii) Documented training and supervision of all personnel involved in bereavement care program; and

(iv) Follow-up available for at least one year, after death of the patient.

(g) Provide scheduled support for staff.

(3) The agency shall provide services consistent with an authorized plan of treatment or plan of care and:

(a) Accept the patient unit only if the agency is capable of providing or arranging for needed hospice care at the level of intensity required by the patient unit; and

(b) Inform the patient unit of alternate services, if available, if the agency is unable to meet identified needs of the patient.

(4) Agency personnel shall communicate in a language or form of communication the patient can reasonably be expected to understand. Whenever possible, the agency shall assist in obtaining:

(a) Special devices;

(b) Interpreters; or

(c) Other aids to facilitate communication.) The licensee shall:

(1) Have a written plan of operation describing the:

(a) Delegation of responsibility;

(b) Services to be provided;

(c) Counties or portions of counties served; and

(d) Availability of services;

(2) Provide management and supervision of services throughout the service delivery area;

(3) Assure the scope of services are consistent with each authorized hospice plan of care;

(4) Arrange for one or more physicians to coordinate medical direction including:

(a) Advising the agency on policies and procedures;

(b) Serving as liaison with a patient's attending physician;

(c) Providing patient care;

(d) Approving modifications in individual plans of care; and

(e) Participating in care planning conferences as required by WAC 246-331-135;

(5) Make nursing consultation available twenty-four hours per day, seven days per week;

(6) Provide nursing in-home visits as needed twenty-four hours per day, seven days per week;

(7) Assure the following services are available to the patient unit, including, but not limited to:

(a) Social services;

(b) Spiritual counseling;

(c) Bereavement care;

(d) Volunteer services; and

(e) Respite care;

(8) Continue bereavement care, if requested, for up to one year after a patient's death;

(9) Develop and use set criteria for:

(a) Accepting patients;

(b) Discontinuing service;

(c) Referring patients; and

(d) Transferring patients;

(10) Inform each patient of alternate services prior to ceasing business or when the licensee is unable to met the patient's needs;

(11) Review contracts annually for conformance with the agency's patient care policies and procedures, and document review; and

(12) Develop policies and procedures as required by WAC 246-331-115.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-331-077 Patient bill of rights. (~~Hospice agencies shall provide each patient unit with a written bill of rights affirming each patient's rights to:~~

~~(1) Be informed of aspects of his or her condition necessary to make decisions regarding his or her care;~~

~~(2) Refuse treatment or services to the extent permitted by law and be informed of the potential consequences of such action;~~

~~(3) Be informed of the services offered by the agency, including those services provided in his or her home;~~

~~(4) Participate in development of the hospice plan of care;~~

~~(5) Be informed of any responsibilities the patient may have in the care process, including the requirement for medical supervision when required for the hospice plan of care;~~

~~(6) Be informed of the name of the person supervising the hospice care and how to contact that person;~~

~~(7) Be informed of the process for submitting and addressing complaints to both the agency and department;~~

~~(8) Receive an explanation of the agency's charges and policy concerning billing and payment for services including, to the extent possible, insurance coverage and other methods for payment, unless services are reimbursed through a managed care plan;~~

~~(9) Upon request, receive a fully itemized billing statement at least monthly including the date of each service and the charge, unless service is reimbursed through a managed care plan;~~

~~(10) Access the department's directory of licensed agencies;~~

~~(11) Upon request, be informed of who owns and controls the agency;~~

~~(12) Personnel properly trained to perform assigned tasks;~~

~~(13) Coordinated services;~~

~~(14) Courteous and respectful treatment, privacy, and freedom from abuse and discrimination;~~

~~(15) Confidential management of patient records and information;~~

~~(16) Access information in the patient's own record upon request;~~

~~(17) Be informed of the nature and purpose of care, as well as name and discipline of the person performing the care;~~

~~(18) Be informed of any care provided by the agency which has experimental or research aspects with documentation of voluntary informed consent; and~~

~~(19) Be informed of the reason for impending discharge, transfer to another agency and/or level of care, ongoing care~~

~~requirements, and other available services and options if needed.)) The licensee shall comply with RCW 70.127.140, Bill of rights—Billing statements.~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-331-085 ((Governing body—)) Organization and administration. (1) The ~~((governing body of the agency))~~ licensee shall establish a mechanism to:

~~(a) ((Approve a quality assurance plan whereby problems are identified, monitored, and corrected;))~~ Oversee the management and fiscal affairs of the agency;

~~(b) Approve and review, at least every two years, written policies and procedures related to safe, adequate patient care, and operation of the hospice agency;~~

~~(c) ((Assure an annual review of the agency by health professionals to evaluate the scope and quality of the services provided;~~

~~(d) Appoint an administrator and provide for an alternate in the administrator's absence;~~

~~(e) Adopt and periodically review written bylaws;~~

~~(f) Oversee the management and fiscal affairs of the agency; and~~

~~(g) Obtain regular reports on patient unit satisfaction.~~

~~(2) Each agency shall have an administrator to:~~

~~(a) Organize and direct the agency's ongoing functions;~~

~~(b) Arrange for professional services;~~

~~(c) Maintain ongoing liaison between the governing body and personnel;~~

~~(d) Employ qualified personnel and ensure adequate education and supervision of personnel and volunteers;~~

~~(e) Ensure the accuracy of public information materials and activities;~~

~~(f) Implement a budget and accounting system;~~

~~(g) Ensure the presence of an alternate to act in the administrator's absence.))~~ Approve and implement a quality assurance plan, which includes but is not limited to:

(i) A complaint process;

(ii) A method to identify, monitor, evaluate and correct problems identified by the patient unit, personnel, contractors, and volunteers; and

(iii) A system to assess patient unit satisfaction.

(2) The licensee shall appoint an administrator who shall:

(a) Implement the provisions of subsection (1) of this section;

(b) Designate an alternate to act in the administrator's absence;

(c) Organize and direct the ongoing functions of the agency;

(d) Arrange for necessary professional services;

(e) Serve as a liaison between the licensee and personnel;

(f) Assure personnel, contractors and volunteers comply with this chapter;

(g) Assure the complaint process is explained to the patient unit; and

(h) Assure the accuracy of public information materials and activities.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-331-095 Personnel, contractors and volunteers.** ~~((1) The agency shall establish minimal written personnel and volunteer policies including, but not limited to:~~

- ~~(a) Personnel and volunteer qualifications commensurate with anticipated job responsibilities;~~
- ~~(b) Employment criteria without regard to sex, race, age, creed, handicap, national origin, or sexual orientation;~~
- ~~(c) Orientation and in-service training related to safe care, appropriate to each classification of personnel and volunteer and the tasks he or she is expected to perform;~~
- ~~(d) Evidence of prehire screening; and~~
- ~~(e) Annual or more frequent performance evaluations including:~~
- ~~(i) Assessment of safe performance of job responsibilities; and~~
- ~~(ii) Performance with agency policies and procedures.~~
- ~~(2) The agency shall maintain records including:~~
- ~~(a) Qualifications of personnel and direct patient care volunteers;~~
- ~~(b) Evidence of current licensure, certification, or registration when applicable to job requirements;~~
- ~~(c) Evidence of review of agency policy and procedures related to abuse and neglect of children and adults for all personnel and volunteers providing services in the home consistent with chapters 26.44 and 74.34 RCW;~~
- ~~(d) Performance evaluations and evidence of pre-hire screening; and~~
- ~~(e) Health records including evidence of at least one tuberculin skin test by the Mantoux method at the time of employment unless medically contraindicated, and meeting specifications under subsection (3) of this section.~~
- ~~(3) The agency shall ensure personnel and volunteers expected to provide direct patient care have a tuberculin skin test by the Mantoux method prior to patient contact and meeting the following requirements:~~
- ~~(a) When a skin test is negative, less than ten millimeters of induration read at forty-eight to seventy-two hours:~~
- ~~(i) Personnel and volunteers under thirty-five years of age require no further testing; and~~
- ~~(ii) Personnel and volunteers thirty-five years of age or over require a second test in one to three weeks.~~
- ~~(b) Positive reactors, reaction of ten millimeters or more of induration, shall have a chest x-ray within ninety days of the first day of employment. Exceptions and specific requirements are as follows:~~
- ~~(i) The hospice agency shall maintain results of skin tests, report of x-ray findings, or exemptions to such in the agency; and~~
- ~~(ii) New personnel and volunteers providing documentation of a significant Mantoux skin test reaction in the past are excluded from screening.~~
- ~~(c) New personnel and volunteers currently and consistently employed by or volunteering in another agency or facility with similar required screening, meeting the requirements under this subsection, may use the previous screening as documentation; and~~
- ~~(d) In the event of personnel or volunteers exposure to an infectious case of tuberculosis, the agency shall supply~~

~~the names and identifying information to the local health department sufficient for screening to occur.~~

~~(4) The agency shall assure observance of appropriate precautions when personnel and volunteers show signs or report symptoms of a communicable disease.~~

~~(5) The agency shall assume responsibility for personnel providing agency services included in the hospice plan of care.)~~ (1) For agency personnel the licensee shall:

~~(a) Establish employment criteria consistent with chapter 49.60 RCW, Discrimination—Human rights commission;~~

~~(b) Develop and maintain job descriptions commensurate with responsibilities and consistent with health care professional credentialing standards when appropriate;~~

~~(c) Conduct criminal history background checks in accordance with WAC 246-331-100;~~

~~(d) Verify work references and document verification;~~

~~(e) Maintain documentation that health care professional credentials are current and in good standing;~~

~~(f) Provide and document:~~

~~(i) Orientation;~~

~~(ii) Ongoing training on current agency policies and procedures;~~

~~(iii) Cardiopulmonary resuscitation training, consistent with policies and procedures, for direct patient care personnel at least biennially; and~~

~~(iv) Scheduled support and counseling for personnel providing bereavement care;~~

~~(g) Provide the equipment necessary to implement the agency infection control policies and procedures, respiratory protection program and patients' plans of treatment or plans of care;~~

~~(h) Document compliance with WAC 246-331-115 (1)(f); and~~

~~(i) Conduct annual performance evaluations of all personnel, including on-site observation of personnel providing direct patient care.~~

~~(2) For direct care volunteers the licensee shall:~~

~~(a) Develop and maintain work descriptions commensurate with responsibilities;~~

~~(b) Conduct criminal history background checks in accordance with WAC 246-331-100;~~

~~(c) Provide and document orientation on patient care policies and procedures; and~~

~~(d) For volunteer health care professionals contributing services within their scope of practice:~~

~~(i) Maintain documentation credentials are current and in good standing; and~~

~~(ii) Provide and document on-going training, on agency patient care policies and procedures;~~

~~(e) Provide scheduled support and counseling for volunteers providing bereavement care;~~

~~(f) Provide the equipment necessary to implement the agency infection control policies and procedures, respiratory protection program and patients' plans of treatment or plans of care; and~~

~~(g) Document compliance with WAC 246-331-115 (1)(f).~~

~~(3) For contracted services, the licensee shall, directly or by contract:~~

~~(a) Comply with chapter 49.60 RCW, Discrimination—Human rights commission;~~

(b) Develop and maintain job descriptions commensurate with responsibilities and consistent with health care professional credentialing standards when appropriate;

(c) Conduct criminal history background checks as required by WAC 246-331-100;

(d) Verify work references and document verification;

(e) Maintain documentation that health care professional credentials are current and in good standing;

(f) Provide and document:

(i) Orientation;

(ii) Ongoing training on current agency policies and procedures;

(iii) Cardiopulmonary resuscitation training, consistent with policies and procedures for direct patient care personnel at least biennially; and

(iv) Access to scheduled support and counseling for contractors who provide bereavement care;

(g) Provide the equipment necessary to implement the agency infection control policies and procedures, respiratory protection program and patients' plans of treatment or plans of care;

(h) Document compliance with WAC 246-331-115 (1)(f); and

(i) Assure that direct patient care services provided are reviewed and evaluated on an ongoing basis and documented at least annually.

**AMENDATORY SECTION** (Amending Order 381, filed 7/26/93, effective 8/26/93)

**WAC 246-331-100 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 hospice agency 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:

(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 background inquiry as specified in RCW 43.43.842(1) for each:

(i) ~~((Employee))~~ Personnel, volunteer, contractor, student, and any other ((person)) individual currently associated with the licensed hospice agency(~~s)~~ having direct contact with vulnerable adults, when engaged on or since July 22, 1989; and

(ii) Prospective ~~((employee))~~ personnel, volunteer, contractor, student, and ((person)) any other individual applying for association with the licensed ((facility)) agency 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(~~-~~); 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 an agency; and

(ii) At least two years following termination of employment or association with an agency.

(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)) agency having direct contact with vulnerable adults if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since comple-

tion of the previous disclosure statement or background inquiry.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-331-105 AIDS education and training.** ~~((Hospice agencies))~~ The licensee shall:

~~(1) ((Verify or arrange for appropriate education and training of personnel and volunteers on the prevention, transmission, and treatment of HIV and AIDS consistent with RCW 70.24.310; and~~

~~(2)) Verify or arrange for two hours or more of appropriate education and training of nonlicensed personnel, volunteers and direct-care contractors within thirty days of direct patient contact 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)) **KNOW - HIV/AIDS Prevention Education for Health Care Facility Employees**, January 1991, or subsequent editions published by the department ((office on HIV/AIDS)); and~~

~~(b) WAC 296-62-08001, Bloodborne pathogens, implementing WISHA.~~

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-331-115 Patient care policies and procedures.** ~~((1) The agency shall:~~

~~(a) Establish and implement written policies and procedures appropriate to the services offered by the agency; and~~

~~(b) Make policies and procedures available to all personnel and volunteers including:~~

~~(i) Treatments, procedures, and services carried out in providing patient unit care;~~

~~(ii) Any special qualifications of persons performing the services;~~

~~(iii) Infection control principles and practices;~~

~~(iv) Emergency care, patient safety, and death;~~

~~(v) Maintenance of supplies and equipment;~~

~~(vi) Admission, transfer, and discharge of patients;~~

~~(vii) Abuse and neglect consistent with chapters 26.44 and 74.34 RCW;~~

~~(viii) Coordination of services;~~

~~(ix) Clinical records; and~~

~~(x) Management and handling of patient owned drugs consistent with applicable state laws;~~

~~(xi) Spiritual counseling services;~~

~~(xii) Bereavement care counseling;~~

~~(xiii) Volunteer services; and~~

~~(xiv) Respite care services.~~

~~(2) The agency shall provide patient unit teaching:~~

~~(a) Consistent with agency policies and procedures; and~~

~~(b) Including demonstration, supervision, and evaluation.) (1) A licensee shall establish and implement the following written policies and procedures, consistent with this chapter and the services provided:~~

~~(a) Admitting, transferring and discharging patients;~~

~~(b) Services to be provided to the patient unit and qualifications of the individuals performing the services;~~

~~(c) Coordinating interagency and intra-agency services;~~

~~(d) Techniques for communicating with the patient and family, and steps to take when communication is not possible, including but not limited to:~~

~~(i) Assistance with obtaining special communication devices;~~

~~(ii) Use of translated material, interpreters or interpreter services; or~~

~~(iii) Referral to community services;~~

~~(e) Providing a bereavement care program;~~

~~(f) Infection control principles and practices, including:~~

~~(i) Bloodborne pathogens in accordance with WAC 296-62-08001; and~~

~~(ii) Tuberculosis control program consistent with WISHA.~~

~~(g) Actions to take when an individual exhibits or reports symptoms of a communicable disease in an infectious stage in accordance with chapter 246-100 WAC;~~

~~(h) Maintaining supplies;~~

~~(i) Equipment maintenance program;~~

~~(j) Managing records consistent with WAC 246-331-165;~~

~~(k) Managing and handling patient-owned drugs consistent with state law;~~

~~(l) Managing abuse and neglect situations consistent with chapters 26.44 and 74.34 RCW; and~~

~~(m) Emergency care, identifying the responsible agency when more than one agency provides care, including:~~

~~(i) Addressing chapter 70.122 RCW, Natural Death Act and advanced directives; and~~

~~(ii) Actions to take upon the death of a patient.~~

~~(2) The licensee shall document:~~

~~(a) Approval of policies and procedures; and~~

~~(b) Review of policies and procedures every two years.~~

~~(3) The licensee shall make the policies and procedures specified in subsection (1) of this section available to direct care personnel and contractors, and volunteers during the hours of operation.~~

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-331-125 Supervision and coordination of patient ((care)) services.** ~~((The hospice agency shall employ a registered nurse to supervise and coordinate patient care services who:~~

~~(1) Is available, or replaced by a similarly qualified person, at all times;~~

~~(2) Participates in the development and revision of written patient care policies and procedures related to each service provided;~~

~~(3) Is responsible for assignment and supervision of all personnel and volunteers providing direct patient care services; and~~

~~(4) Participates in coordination of interdisciplinary services and interagency services.) (1) A licensee shall employ a RN as a supervisor of clinical services.~~

~~(2) The clinical supervisor shall:~~

~~(a) Designate a similarly qualified alternate to act in the clinical supervisor's absence;~~

(b) Coordinate or participate in, developing and revising written patient care policies related to each service provided;

(c) Assign and monitor all patient care personnel and contractors, and volunteers;

(d) Coordinate interdisciplinary services;

(e) Establish primary personnel or contractor responsibility for the plan of care;

(f) Monitor a patient's plan of care to assure it is followed; and

(g) Assure compliance with the patient's hospice plan of care.

(3) The clinical supervisor or alternate shall be available twenty-four hours per day, seven days per week.

(4) The licensee shall provide supervision, including, but not limited to:

(a) RN supervision when using the services of a LPN, in accordance with chapter 18.78 RCW;

(b) Supervision by an appropriate therapist when using the services of a therapy assistant; and

(c) Supervision of home health aides in accordance with RCW 70.127.010(7).

(5) The licensee using home health aides shall:

(a) Provide written instructions and orientation for each patient consistent with the hospice plan of care prior to initiating care;

(b) Provide supervision by a health care professional or the clinical supervisor, and document:

(i) An in-home visit every two weeks; and

(ii) An in-home visit to directly observe the aide's performance at least every two months; and

(c) Develop written guidelines to assure each aide:

(i) Assists only with those medications ordinarily self-administered by the patient, and limits assistance to the patient to:

(A) Communicating appropriate information regarding self-administration;

(B) Reminding to take a medication as prescribed;

(C) Reading the medication label;

(D) Handing the medication container to the patient;

(E) Opening the medication container; and

(F) Applying or installing skin, rectal, nose, eye, and ear preparations under specific direction of the supervisor;

(ii) Records pertinent information in the patient's clinical record;

(iii) Observes and recognizes changes in the patient's condition, and reports any changes to the supervisor; and

(iv) Initiates emergency procedures according to agency policy.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-331-135 Hospice plan of care. ((1) The agency shall provide an individualized plan of care for every hospice patient unit which:

(a) Includes identification of current problems pertaining to the health of the patient with specific interventions and expected outcomes; and

(b) Is reviewed and revised in a case planning conference as necessary and every two weeks by three or more members of the interdisciplinary team including:

(i) Registered nurse, social worker, and one other discipline; and

(ii) Documented contact with all disciplines involved with hospice care of the patient unit.

(2) The agency shall ensure drugs and treatments are:

(a) Ordered by a physician;

(b) Verified by a registered nurse, licensed practical nurse, therapist, or pharmacist with:

(i) Recording of the order documented in the patient record as soon as possible; and

(ii) Countersignature by physician within a reasonable length of time.

(c) Administered by legally authorized agency personnel or volunteers.

(3) The agency shall ensure prompt reporting of suspected drug allergies, adverse reactions to drugs, or other problems related to patient use of drugs to the physician.))

The licensee shall:

(1) Develop a written hospice plan of care for each patient unit including, but not limited to:

(a) Current health problems pertaining to the health of the patient;

(b) Resuscitation status of the patient according to the Natural Death Act and advanced directives, chapter 70.122 RCW;

(c) Specific interventions and expected outcomes;

(d) Responsibilities of interdisciplinary team members; and

(e) Methods for implementing and evaluating the plan;

(2) Include the hospice plan of care in the patient's health record;

(3) Develop and implement a system to:

(a) Document the hospice plan of care was reviewed within the first week of admission, and every two weeks thereafter by members of the interdisciplinary team in a case planning conference, as necessary, and periodically by a physician;

(b) Assure drugs and treatments are:

(i) Ordered by the authorizing practitioner and a verbal order is countersigned in a timely manner not to exceed forty-five days;

(ii) Verified by an appropriate health care professional;

(iii) Administered by authorized agency personnel, contractors or volunteers according to state law; and

(iv) Documented in the patient record as soon as possible; and

(c) Teach and counsel the patient unit on meeting the patient's needs.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-331-165 Clinical records. ((1) The agency shall maintain clinical records under agency policies and procedures. Records shall be:

(a) Legibly written in ink suitable for photocopying;

(b) On standardized agency forms;

(c) Written in a legally acceptable manner;

(d) In chronological order in entirety or by service;

(e) Fastened together to avoid loss of pages;

(f) Considered as property of the agency;

~~(g) Available in one integrated document in one place, except:~~

~~(i) A copy may be kept in the home or in the agency office; and~~

~~(ii) More than one volume may be necessary.~~

~~(h) Available and retrievable during operating hours either in the agency or by electronic means; and~~

~~(i) Stored following discharge from service:~~

~~(i) Preventing loss of information;~~

~~(ii) Protecting the record from damage due to water, mildew, or fire; and~~

~~(iii) Preventing access by unauthorized persons.~~

~~(2) The agency shall include as contents of the clinical record:~~

~~(a) Patient identifying information;~~

~~(b) Patient service/treatment consent and agreement;~~

~~(c) Pertinent past and current clinical findings including:~~

~~(i) Assessment of patient's physical and mental status as well as social and environmental problems affecting care; and~~

~~(ii) Clinical notes describing specific observations including, but not limited to, observations of patient condition.~~

~~(d) The hospice plan of care; and~~

~~(e) Physician orders.~~

~~(3) Agencies shall maintain, retain, and preserve records:~~

~~(a) For adults, a period of no less than five years following the date of termination of services; and~~

~~(b) For minors, a period of no less than three years following attainment of eighteen years of age, or five years following discharge, whichever is longer.~~

~~(4) Agencies shall establish policies and procedures specific to retention and disposition of clinical records including:~~

~~(a) A method of disposal of clinical records or patient care data assuring prevention of retrieval and subsequent use of information; and~~

~~(b) A means to transmit a copy of the clinical record or an abstract and copy of most recent summary report with the patient in the event of patient transfer to another agency or health care facility. When patients are transferred without notification of the receiving agency, a copy of the abstract shall be forwarded upon notification and as soon as possible.~~

~~(5) Agencies shall safeguard clinical record information and patient care data against loss or unauthorized use including:~~

~~(a) Adherence to written procedures governing use and removal of records and conditions for release of information; and~~

~~(b) Requirement for prior written consent of the patient for release of information unless authorized by law.~~

~~(6) Agencies discontinuing operation shall:~~

~~(a) Notify the department prior to cessation of operation; and~~

~~(b) Obtain department approval of a plan to preserve or destroy clinical records prior to disposition.)) The licensee shall:~~

(1) Develop and implement procedures for maintaining a current clinical record for each patient consistent with chapter 70.02 RCW, Medical records—Health care information access and disclosure act, which is:

(a) Accessible, in an integrated document, in the licensee's main or branch office for review by appropriate direct care personnel, volunteers and contractors, and the department;

(b) Written legibly or retrievable by electronic means:

(i) On the licensee's standardized forms; and

(ii) In a legally acceptable manner;

(c) Kept confidentially;

(d) Chronological in its entirety or by service; and

(e) Kept together to avoid loss of records;

(2) Include the following in each record:

(a) Patient units' name's, ages, current addresses and phone numbers;

(b) Patient's consent for care;

(c) Hospice plan of care in accordance with WAC 246-331-145;

(d) Past and current clinical findings pertinent to WAC 246-331-145;

(e) Dated and signed clinical notes for each contact with the patient describing:

(i) Specific observations;

(ii) Changes in condition; and

(iii) Medications given and adverse reactions to any medication;

(f) Instructions given to the patient unit; and

(g) Document services when other home health, home care or hospice agency's are caring for a patient;

(3) Consider the records as property of the licensee;

(4) Develop and implement policies and procedures for:

(a) Transferring patient information or a summary, when the patient is relocated to another agency or facility to assure continuity of care;

(b) Retaining records for:

(i) Adults no less than three years following the date of termination of services;

(ii) Minors no less than three years after attaining the age of eighteen years of age, or five years following discharge, whichever is longer;

(c) Storing records to:

(i) Prevent loss of information;

(ii) Maintain the integrity of the records; and

(iii) Protect against unauthorized access according to chapter 70.02 RCW, Medical records—Health care information access and disclosure act;

(d) Obtaining department approval to preserve or dispose of records prior to ceasing operation; and

(e) Disposing of records to protect confidentiality when ceasing operation or releasing of medical records after a patient's death.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-331-185 Medical supplies ((~~OR~~))—Equipment services. ((~~1~~)) An agency providing medical supplies or equipment services shall provide:

(a) A written description of the scope of the services including:

(i) The types of supplies and/or equipment provided; and

(ii) Policies and procedures for cleaning, maintenance, calibration, or replacement of equipment.

~~(b) Records of the services provided, date, time, and by whom; and~~

~~(c) Documentation of approval of patient unit for service, cost, and method of payment unless under a managed care plan.~~

~~(2) If provided, the agency shall maintain immediate availability of replacement supplies or equipment essential for the comfort and safety of the patient.~~

~~(3) The agency shall provide knowledgeable, trained personnel to:~~

~~(a) Initiate service;~~

~~(b) Maintain supplies and equipment; and~~

~~(c) Instruct patients or caregivers in the use and maintenance of supplies and equipment. Instructions shall be given:~~

~~(i) In writing;~~

~~(ii) Verbally; and~~

~~(iii) By demonstration and redemonstration as necessary.~~

~~(4) The agency shall document the training and qualifications of personnel.) Licensee's providing or contracting for medical supplies or equipment services shall:~~

~~(1) Develop and implement, for the scope of services provided a system for:~~

~~(a) Maintaining supplies;~~

~~(b) Cleaning, inspecting, repairing and calibrating equipment, and documenting with:~~

~~(i) Date;~~

~~(ii) Time; and~~

~~(iii) Name of the individual who conducted the activity;~~

~~(c) Informing the patient of the cost and method of payment for equipment repairs or replacement, unless under a managed care plan, and for documenting the patient's prior approval; and~~

~~(d) Replacing supplies or equipment essential for the health or safety of the patient;~~

~~(2) Provide knowledgeable and trained personnel capable of:~~

~~(a) Initiating the scope of services;~~

~~(b) Maintaining supplies and equipment; and~~

~~(c) Instructing each patient unit to use and maintain supplies and equipment in a language or format the patient unit understands, using one or more of the following:~~

~~(i) Written instruction;~~

~~(ii) Verbal instruction; or~~

~~(iii) Demonstration.~~

AMENDATORY SECTION (Amending WSR 93-21-034, filed 10/15/93, effective 10/28/93)

**WAC 246-331-990 Fees.** (1) ~~((An applicant or))~~ A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency ~~((employees))~~ personnel or contractors, as follows:

(i) A base fee of three hundred sixty dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred ninety dollars;

(B) Sixteen through fifty FTEs, four hundred sixty dollars; or

(C) Fifty-one or more FTEs, nine hundred fifty dollars;

(b) A fee of one-half the renewal fee specified in (a) of this subsection for an initial twelve-month license for:

(i) New firms;

(ii) Businesses not currently licensed to provide hospice care in Washington state; or

(iii) Currently licensed businesses which have had statement of charges filed against them; and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional home health and/or home care license.

(3) The department may charge and collect from a licensee a fee of one-half the base fee specified in subsection (1)(a) of this section for:

(a) A second on-site visit resulting from ~~((a licensee's))~~ failure of the licensee or applicant to adequately respond to a statement of deficiencies;

(b) A complete on-site inspection resulting from a substantiated complaint ~~((investigation))~~; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status ~~((under WAC 246-331-030,))~~ shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day from the renewal date until the date of mailing the fee, as evidenced by the postmark.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-331-045	Civil fines.
WAC 246-331-055	License action and/or civil fine—Notice—Adjudicative proceeding.
WAC 246-331-155	Functions, duties, and responsibilities of direct care personnel.
WAC 246-331-175	Parenteral product services.

**WSR 94-17-142**  
**PERMANENT RULES**  
**BENTON FRANKLIN COUNTIES**  
**CLEAN AIR AUTHORITY**  
 [Filed August 23, 1994, 11:03 a.m.]

Date of Adoption: August 18, 1994.

Purpose: Update Article 4, "Air Operating Permits" which is currently inconsistent with the state rule.

Citation of Existing Rules Affected by this Order: Amending Regulation 1, Article 4 of the Benton Franklin Walla Walla Counties Air Pollution Control Authority.

Statutory Authority for Adoption: Chapter 70.94 RCW. Pursuant to notice filed as WSR 94-13-135 on June 20, 1994.

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

August 19, 1994

David A. Lauer

Control Officer

## ARTICLE 4

## Air Operating Permits

ADOPTED: August 18, 1994

EFFECTIVE:

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.

**WSR 94-17-144**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

(Board of Pharmacy)

[Filed August 23, 1994, 11:12 a.m.]

Date of Adoption: July 20, 1994.

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.

Citation of Existing Rules Affected by this Order: None. New section WAC 246-856-001 and 246-856-020.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 94-13-053 on June 8, 1994.

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

August 1, 1994

Maureen Sandison  
Board ChairNEW 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 WAC, including subsequent amendments.

**WSR 94-17-167**  
**PERMANENT RULES**  
**WASHINGTON STATE PATROL**

[Filed August 24, 1994, 9:36 a.m.]

Date of Adoption: August 24, 1994.

Purpose: To add the definition for "search and rescue teams" to help warn motorists of search and rescue vehicles used to respond to emergency situations.

Citation of Existing Rules Affected by this Order: Amending WAC 204-38-030, adding subsection (8).

Statutory Authority for Adoption: RCW 46.37.300.

Pursuant to notice filed as WSR 94-15-007 on July 7, 1994.

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

August 24, 1994

Roger W. Bruett  
Chief

AMENDATORY SECTION (Amending WSR 92-11-032, filed 5/15/92, effective 6/15/92)

**WAC 204-38-030 Definitions.** (1) "Flashing" lamps shall include those lamps which emit a beam of light which is broken intermittently and regularly by use of an electronic or electric switch, a rotating reflector, a rotating lamp, or a strobe lamp.

(2) "Other construction and maintenance vehicles" shall mean those vehicles owned or operated by a private company which is in the process of providing highway construction or maintenance services or is working in conjunction with any public utility.

(3) "Pilot cars" shall mean those vehicles which are used to provide escort for overlegal size loads upon the roadways of this state.

(4) "Public utilities vehicles" shall mean those vehicles used for construction, operations, and maintenance, and which are owned or operated by a public or private utility, including, but not limited to, companies providing water, electricity, natural gas, telephone, and television cable services, and railroads.

(5) "Tow trucks" shall mean those vehicle engaged in removing disabled or abandoned vehicles from the roadway and which are used primarily for that purpose.

(6) "Animal control vehicles" shall mean those vehicles, either publicly or privately owned, which are used primarily for transportation of animals to or from animal shelters, humane society facilities, or veterinary medicine facilities.

(7) "Hazardous materials response team vehicles" shall mean those vehicles either publicly or privately owned which are used for responding to hazardous materials incidents.

(8) "Search and rescue teams" shall mean those vehicles either publicly or privately owned which are used for responding to search and rescue situations.

**WSR 94-17-171**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3773—Filed August 24, 1994, 10:19 a.m., effective October 1, 1994]

Date of Adoption: August 24, 1994.

Purpose: Conform to federal Administrative Notices 94-30 and 94-53 and Section 5(e) of the Food Stamp Act of 1977, as amended. Deletes subsection (3) which previously required elderly or disabled food stamp recipients to report changes in medical expenses of \$25 or more. According to Administrative Notice 94-53, after the household has anticipated and verified medical expenses for the certification period, no further reporting of medical expenses is required.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-630 Changes—Reporting requirements.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: Administrative Notices 94-30, 94-53, Section 5(e) of the Food Stamp Act of 1977.

Pursuant to notice filed as WSR 94-15-057 on July 18, 1994.

Effective Date of Rule: October 1, 1994.

August 24, 1994  
Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3427, filed 7/23/92, effective 9/1/92)

**WAC 388-49-630 Changes—Reporting requirements.** The department shall require a household certified for more than one month and not subject to mandatory monthly reporting to report the following changes within ten days of the date the change becomes known to the household:

- (1) Change in the source of income;
- (2) Change in the amount of gross monthly income of more than twenty-five dollars, except for public assistance income;
- (3) ~~((Change in medical expenses of more than twenty-five dollars;~~
- ~~((4))~~ (4) Change in the household composition, such as the addition or loss of a household member;
- ~~((5))~~ (4) Change in residence and resulting change in shelter cost;
- ~~((6))~~ (5) The acquisition of licensed vehicles;
- ~~((7))~~ (6) The end of a temporary disability when the temporary disability is the reason for exempting the value of a vehicle; and
- ~~((8))~~ (7) When nonexempt liquid resources exceed two thousand dollars or three thousand dollars for households with one or more members sixty years of age or older.

**WSR 94-17-173**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3774—Filed August 24, 1994, 10:22 a.m.]

Date of Adoption: August 24, 1994.

Purpose: Administrative Notice 94-53 provides a simplified means for eligible food stamp households to claim the excess medical expense deduction. At food stamp certifications, the department shall verify incurred and anticipated medical expenses and the reimbursement amounts resulting in a deduction. Medical expense verification will no longer be required for monthly reporting households. Updates cross-reference to WAC 388-49-500 Medical care expenses.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-49-110 Verification.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: CFR 273.21(i) and Administrative Notices 94-53 and 94-30.

Pursuant to notice filed as WSR 94-15-032 on July 13, 1994.

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

August 24, 1994

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3368, filed 4/7/92, effective 5/8/92)

**WAC 388-49-110 Verification.** (1) The department shall verify household eligibility from the following sources:

- (a) Documentary evidence;
  - (b) Collateral contacts; and
  - (c) Scheduled home visits.
- (2) The household has primary responsibility for providing documentary evidence. The department shall offer to assist in obtaining documentary evidence if it would be difficult or impossible for the household to obtain in a timely manner.
- (3) At initial application, the department shall verify:
- (a) Identity of:
    - (i) The person making the application; or
    - (ii) The authorized representative and the head of household.
  - (b) Immigration status of all alien household members;
  - (c) Residency;
  - (d) Gross nonexempt income;
  - (e) Actual utility expenses in excess of the standard utility allowance as specified in WAC 388-49-505;
  - (f) Medical care expenses as specified under WAC 388-49-500 (6)~~((b))~~ and (7);
  - (g) Dependent care expenses as specified under WAC 388-49-500 (6)(a);
  - (h) Disability;
  - (i) Resources of an alien's sponsor; and
  - (j) Actual shelter costs for households where all members are homeless as specified under WAC 388-49-020(36), if the shelter costs exceed the shelter amount as specified under WAC 388-49-500.
- (4) At recertification, the department shall verify:
- (a) A change in income~~((, medical expenses,))~~ or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than twenty-five dollars since the verification was completed; and
  - (b) Medical care expenses as specified under WAC 388-49-500(6) and (7).
- (5) The department shall verify for monthly reporting households the following factors on a monthly basis:
- (a) Gross nonexempt income;
  - (b) Utility expenses unless the standard utility allowance is used;
  - (c) ~~((Medical expenses per WAC 388-49-500(6);~~
  - ~~((d))~~ Alien status, Social Security number, and residency, ~~((and citizenship))~~ if changed;
  - ~~((e))~~ (d) All other questionable information.
  - (6) The department shall verify questionable information.

**WSR 94-17-174**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3776—Filed August 24, 1994, 10:23 a.m., effective October 1, 1994]

Date of Adoption: August 24, 1994.

Purpose: Updates 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.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-49-505 Utility allowances.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 7 CFR 273.9 (d)(6)(v) and (vi).

Pursuant to notice filed as WSR 94-15-048 on July 15, 1994.

Effective Date of Rule: October 1, 1994.

August 24, 1994  
Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3626, filed 8/25/93, effective 10/1/93)

**WAC 388-49-505 Utility allowances.** (1) The department shall:

(a) Establish an annualized standard utility allowance for use in calculating shelter costs;

(b) Obtain FNS approval of the methodology used to establish the standard utility allowance;

(c) Establish a separate annualized telephone allowance;

(d) Obtain FNS approval of the methodology used to establish the telephone allowance.

(2) The annual standard utility allowance shall be two hundred (~~seven~~) twelve dollars.

(3) The monthly telephone standard shall be (~~twenty-seven~~) twenty-eight dollars.

**WSR 94-17-175**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3777—Filed August 24, 1994, 10:25 a.m., effective October 1, 1994]

Date of Adoption: August 24, 1994.

Purpose: Eligible student status shall be granted to students who are parents of a child at least six, but under twelve, years of age for whom adequate child care is not available to enable the student to attend class and satisfy the twenty-hour work requirement or participate in a state or federally financed work study program.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-49-330 Student.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: Public Law 102-237 Section 1727.

Pursuant to notice filed as WSR 94-15-047 on July 15, 1994.

Effective Date of Rule: October 1, 1994.

August 24, 1994  
Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3387, filed 5/19/92, effective 6/19/92)

**WAC 388-49-330 Student.** (1) A student, as defined under WAC 388-49-020, shall meet one of the following criteria to receive food stamps:

(a) Work and receive payment for a minimum of twenty hours per week. A self-employed student's minimum weekly earnings shall at least be equal to the federal minimum hourly wage multiplied by twenty hours;

(b) Work and receive money from a federal or state work study program;

(c) Be responsible for the care of a dependent household member under six years of age;

(d) Participate in the Job Opportunities and Basic Skill Training (JOBS) program;

(e) Be responsible for the care of a dependent household member at least six years of age, but under twelve years of age, and the department has determined adequate child care is not available(+) during the regular school year to allow the student to:

(i) Attend class and satisfy the twenty hour work requirement; or

(ii) Participate in a state or federally financed work study program.

(f) Be a single parent responsible for the care of a dependent child twelve years of age or under regardless of the availability of adequate child care;

(g) Receive benefits from the aid to families with dependent children program; or

(h) Attend an institution of higher education through:

(i) The Job Training Partnership Act (JTPA);

(ii) A food stamp act employment and training program;

(iii) Section 236 of the Trade Act of 1974; or

(iv) An approved employment and training program operated by state or local government.

(2) Student status begins the first day of the school term.

(3) Student status continues through normal periods of class attendance, vacation, and recess.

(4) Student status is lost when a student:

(a) Graduates;

(b) Is suspended;

(c) Is expelled;

(d) Drops out; or

(e) Does not intend to register for the next normal school term excluding summer school.



**WSR 94-17-005  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-70—Filed August 5, 1994, 3:12 p.m., effective August 6, 1994, 12:01 a.m.]

Date of Adoption: August 5, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-47-501.

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: Openings in Areas 7 and 7A are regulated by the Washington Department of Fish and Wildlife as per provisions of the United States Section of the Fraser Panel, Pacific Salmon Commission. Openings provide opportunity to harvest the nontreaty share of the United States allocation of Fraser River origin sockeye salmon. Mesh restrictions provide protection for United States and Canadian origin chinook stocks. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian allocation of chinook destined for the Nooksack-Samish region of origin, as per preseason plan. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: August 6, 1994, 12:01 a.m.

August 5, 1994  
Bruce A. Crawford  
for Robert Turner  
Director

NEW SECTION

**WAC 220-47-502 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:01 a.m. Saturday August 6th, 1994 until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* Areas 7 and 7A - Reef nets may fish from 6 AM to 9 PM daily Saturday and Sunday August 6 and 7, and gill nets using .5-inch minimum, 6-inch maximum mesh may fish from 7 PM Tuesday August 9 to 9 AM Wednesday August 10 and from 7 PM Wednesday August 10 to 12 Noon Thursday August 11, and purse seines may fish from 7 AM to 9 PM Tuesday August 9 and from 6 AM to 9 PM Wednesday August 10.
- \* Areas 7B and 7C - Gill nets using 7-inch minimum mesh may fish from 7 PM to 7 AM nightly, Monday, Tuesday and Wednesday nights, August 8, 9 and 10.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12,

12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 except as modified herein - Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 5, 1994:

WAC 220-47-501 Puget Sound all-citizen commercial salmon fishery. (94-69)

**WSR 94-17-021  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-71—Filed August 9, 1994, 4:40 p.m., effective August 9, 1994, 5:00 p.m.]

Date of Adoption: August 9, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-47-502.

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: Openings in Areas 7 and 7A are regulated by the Washington Department of Fish and Wildlife as per provisions of the United States Section of the Fraser Panel, Pacific Salmon Commission. Openings provide opportunity to harvest the nontreaty share of the United States allocation of Fraser River origin sockeye salmon. Mesh restrictions provide protection for United States and Canadian origin chinook stocks. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian allocation of chinook destined for the Nooksack-Samish region or origin, as per preseason plan. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: August 9, 1994, 5:00 p.m.

August 9, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-47-503 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective 5:00 p.m. Tuesday August 9th, 1994 until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon

EMERGENCY

Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* Areas 7 and 7A - Reef nets may fish from 6 AM to 9 PM daily Wednesday, Thursday and Friday August 10, 11 and 12, and gill nets using 5-inch minimum, 6-inch maximum mesh may fish from 7 PM Tuesday August 9 to 9 AM Wednesday August 10 and from 7 PM Wednesday August 10 to 9 AM Friday August 12, and purse seines may fish from 7 AM to 9 PM Tuesday August 9, from 6 AM to 9 PM Wednesday August 10 and from 7 AM - 8 PM Friday August 12.
- \* Areas 7B and 7C - Gill nets using 7-inch minimum mesh may fish from 7 PM to 7 AM nightly, Tuesday and Wednesday nights, August 9 and 10.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 except as modified herein - Closed.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-47-502 Puget Sound all citizen commercial salmon fishery. (94-70)

**WSR 94-17-054**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 [Filed August 11, 1994, 10:50 a.m.]

Date of Adoption: August 11, 1994.

Purpose: To interpret and administer chapter 19.146 RCW. More specifically, to provide and amend rules regarding the education and testing requirements, the bonding requirements, the fees, and the penalties and fines applicable to mortgage brokers, and interim licensing by the Department of Financial Institutions.

Citation of Existing Rules Affected by this Order: Amending WAC 50-60-040, 50-60-060, 50-60-080, and 50-60-170.

Statutory Authority for Adoption: RCW 19.146.225.

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 new or amended rules implement amendments to chapter 19.146 RCW passed during the last legislative session, and for the following reasons must be promulgated on an emergency basis. Emergency promulgation of the education and testing rules is necessary to allow time for the agency's approval of

course providers and for the participation of licensees in approved courses prior to the expiration of their interim licenses in the fall. Emergency promulgation of the rules regarding bonding requirements is necessary to allow licensees to adjust their bond amounts as their bonds come due this fall. Emergency promulgation of the rule regarding fees is necessary to allow the department to bill for time spent on the numerous investigations and enforcement actions it is undertaking, thereby providing funding for continued enforcement of chapter 19.146 RCW. The department's regulatory activities are funded solely by the institutions it regulates and the department receives no general fund funding. Emergency promulgation of the rule regarding fines and penalties is necessary to allow the department to implement these important statutory enforcement tools in the numerous enforcement actions currently underway. Emergency promulgation of the rule regarding interim licensing is necessary to ensure continuing operations of those mortgage broker companies currently operating under interim licenses while the department completes its investigations. Some of these licenses will expire in September.

Effective Date of Rule: Immediately.

August 11, 1994  
 John L. Bley  
 Director

**Chapter 50-60**  
**MORTGAGE BROKERS AND**  
**LOAN ORIGINATORS—LICENSING**

AMENDATORY SECTION (Amending WSR 94-03-009, filed 1/7/94, effective 2/7/94)

**WAC 50-60-040 Experience, education and testing requirements.** (1) An applicant who has ~~((two years of experience in the following categories))~~ satisfactorily completed an approved course or courses of study and has passed an approved examination shall be judged to meet the educational requirements for licensing as expressed in RCW 19.146.210 (1)(e):

(2) An applicant who has two years of experience in the following categories may apply to the director for a waiver of the requirement for completion of an approved course of study:

(a) Mortgage broker, or responsible individual in a mortgage brokerage business, or branch manager of a mortgage brokerage business;

(b) Mortgage banker, or responsible individual in a mortgage brokerage business or branch manager of a mortgage brokerage business;

(c) Loan officer, with responsibility primarily for loans secured by lien interests on real estate;

(d) Branch manager of a lender, with responsibility primarily for loans secured by lien interests on real estate.

(e) Mortgage broker with a license from another state ~~((whose))~~ the licensing standards ((are)) of which ((determined by)) the director determines to be substantially similar to those in this state.

~~((2) An applicant who is currently active and licensed as a real estate broker in Washington or a state with similar licensing requirements, and who has at least two years of experience as a real estate broker, and has completed a~~

~~training course approved by the director covering all laws and regulations applicable to the business of mortgage brokering will be judged to meet the experience requirements as expressed in RCW 19.146.210 (1)(e-))~~

(3) An applicant shall be deemed to have satisfactorily completed an approved course of study and passed an approved examination if the applicant has:

(a) Attended at least 40 hours of class of an approved course of study, or such other period of class time as the director may deem adequate, and

(b) Received a certificate of completion from the course provider, which certificate verifies the applicant's attendance in the course and the applicant's satisfactory performance on an approved examination.

(4) Each licensee shall, upon or before the last business day of the calendar month in which their license was originally issued, submit to the director a certificate of completion from a course provider, which certificate verifies that a responsible party designated by the licensee and all of the licensee's branch managers have attended a seminar which was approved by the director and contained as its content a presentation and discussion of relevant changes to the laws, regulations, and industry practices and ethics listed in WAC 50-60-045 (c)(i) through (x).

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 50-60-045 Approval of course providers, courses of study, and examinations.** (1) An application to the director for approval of a course of study shall include the following items:

(a) A description of the course provider's experience in teaching this type of course and administering this type of examination;

(b) A complete listing of all instructors for the course, including their qualifications and experience teaching courses similar to this course;

(c) All course materials and lesson plans on a session by session basis, which shall cover at least the following subjects to be taught:

(i) The Mortgage Broker Practices Act, chapter 19.146 RCW, and the rules promulgated pursuant to this Act in chapter 50-60 WAC;

(ii) The Consumer Protection Act, chapter 19.86 RCW;

(iii) The Escrow Agent Registration Act, chapter 19.44 RCW;

(iv) Real Estate Settlement procedures Act, Truth in Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Fair Housing Act, Home Mortgage Disclosure Act, and Community Reinvestment Act, and the regulations promulgated pursuant to these Acts.

(v) Trust account and record keeping requirements as defined in chapter 19.146 RCW and chapter 50-60 WAC;

(vi) Mortgage, deed of trust, and real estate contract law as provided in Title 61 RCW;

(vii) Principal and agent law;

(viii) Real estate and appraisal law as provided for in chapters 18.85 and 18.140 RCW;

(ix) Arithmetical computations common to mortgage brokering including, but not limited to, the computation of annual percentage rate, finance charge, amount financed, payment and amortization;

(x) Ethics in the mortgage industry; and

(d) a copy of any examinations to be used in determining satisfactory comprehension of the contents of the course and the grading scale to be used. Any new or revised examinations or grading scales to be used by a course provider shall be submitted to the director for his or her approval prior to their use in the course of study.

(2) The director shall review the items submitted to the department and determine whether the provider, the proposed course of study, and the proposed examinations and grading scales are approved. Such approval shall be for the period of two years and shall be confirmed through issuance of a certificate of time. If the director finds that a course of study is not approved, or if the provider of the course of study has not complied with the requirements of this section, the director may withhold or suspend approval of the course of study and require the return of any certificate of approval previously issued by the director.

(3) Prior to expiration of its certificate of approval, each course provider that desires to maintain its approved status shall submit to the director the items required in paragraph (1) of this section to renew its certificate of approval.

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 WSR 94-03-009, filed 1/7/94, effective 2/7/94)

**WAC 50-60-060 License-fee Application deposits, investigation fees, and annual assessment. ~~New license-~~**

(1) For each application for a Washington mortgage broker license, the director shall receive and there shall be paid to the director, prior to issuance of the license ~~((a non-refundable license fee of five hundred dollars to cover the license period state on the license-))~~, an application deposit. Upon completion of processing and reviewing of the application, the department will prepare a billing, regardless of whether a license has been issued, calculated at the rate of \$35 per hour for each hour devoted to processing and reviewing the application. The application deposit will be applied against this bill. Any amount left owing to the department will be billed to the applicant, while any balance remaining from the deposit will be refunded to the applicant.

(2) ~~((For each application for a Washington mortgage broker branch office license, the director shall receive and there shall be paid to the director prior to issuance of the license a non-refundable license fee of one hundred dollars to cover the license period as stated on the license-))~~ Upon completion of any investigation or examination of any licensee, or of any mortgage broker subject to the investigatory and enforcement powers of the director under RCW 19.146.020(2), such person shall pay to the director an investigation charge to cover the cost of the investigation or examination. This investigation charge will be calculated at the rate of \$45 per hour for each hour devoted to the investigation or examination of the books and records of the mortgage broker. Those licensees issued licenses prior to

March 21, 1994 shall be deemed to have prepaid in their initial license fee the cost of the first compliance examination conducted by the department during the licensee's first two years of operating under a mortgage broker license.

(3) Each licensee shall pay to the director each year, on or before the last business day of the calendar month in which their license was originally issued, an annual assessment of \$500 for each mortgage broker license.

**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.

**AMENDATORY SECTION** (Amending WSR 94-03-009, filed 1/7/94, effective 2/7/94)

**WAC 50-60-080 Surety bond for applicants engaging in the business of a mortgage broker - General requirements.** (1) ~~((A licensee engaged in the business of a mortgage broker))~~ Prior to licensing, an applicant for a mortgage broker license shall obtain and file with the director ((prior to licensing)) a surety bond ((in the amount of forty thousand dollars)) along with a valid power of attorney issued by a bonding company or insurance company authorized to do business in this state. The surety bond amount required of each applicant, ranging from \$20,000 to \$60,000, will be determined by the monthly average number of loan originators employed or engaged by the applicant for the previous 12 months.

(2) ~~((In lieu of such surety bond, the applicant may deposit with the director a certificate of deposit or other time deposit properly assigned to the director for an amount equal to the required bond. The depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the director, to substitute other qualified deposits, and shall be required to do so on written order of the director made for good cause shown.))~~ The monthly average number of loan originators employed or engaged by the applicant shall be calculated by adding up the number of loan originators employed or engaged each month (or part thereof) for the previous 12 months, and dividing this total by 12. If the applicant has been in business less than 12 months, the monthly average number of loan originators employed or engaged by the applicant will be calculated by adding the number of loan originators employed or engaged each month (or part thereof) for the number of months the applicant has been in business and the projected number of loan originators to be employed each month (or part thereof) for the remaining months in the twelve month period, and dividing this total by twelve. If the applicant has no history of business, the monthly average number of loan originators will be determined by adding up the projected number of loan originators to be employed or engaged each month for the first twelve months during which the applicant will do business, and dividing this total by twelve. The projected number of loan originators to be employed or engaged during the first twelve months during

which the applicant will do business must reflect at least the actual number of originators at the inception of business.

~~(3) ((In lieu of such surety bond, the applicant may deposit with the director an irrevocable letter of credit drawn in favor of the director for an amount equal to or greater than the required bond. The irrevocable letter of credit must be issued by a bank, savings bank, savings and loan association, or credit union as such applicant may designate and the director may approve.))~~ Based upon the calculation of the monthly average number of loan originators employed or engaged by the applicant, the applicant shall maintain on file with the director a surety bond in an amount equal to or greater than that indicated by the following table:

<u>Monthly Average Number of Loan Originators</u>	<u>Bond Amount</u>
3 or fewer	\$20,000
greater than 3 to 6	\$30,000
greater than 6 to 9	\$40,000
greater than 9 to 15	\$50,000
greater than 15	\$60,000

(4) ~~((The surety bond or approved equivalents listed in subsections (1), (2), and (3) of this section are subject to the provisions of RCW 19.146.240.))~~ Each licensee shall maintain on file with the director a valid surety bond or approved alternative in an amount equal to or greater than the required amount. Each licensee shall calculate the monthly average number of loan originators it has employed or engaged over the previous twelve months at least once each year forty-five (45) days prior to the anniversary date of its bond. If this calculation reveals that the monthly average number of loan originators has increased by an amount which requires an increase in the licensee's surety bond amount, according to the surety bond amount table provided in this section, then the licensee shall obtain an increase in the amount of coverage on its surety bond to the required amount within thirty days of the date of the calculation.

(5) Each licensee shall maintain for a period of four (4) years in an accessible location a worksheet of the calculation required in subsection (4) of this section.

(6) Each licensee shall use the bond form, assignment of certificate of deposit form, or irrevocable letter of credit form approved by the director.

**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 50-60-085 Alternatives to the surety bond.** (1) In lieu of a surety bond as required under WAC 50-60-080, an applicant or licensee may with the approval of the director:

(a) properly assign to the director a certificate of deposit on a form acceptable to the director for an amount equal to or greater than the required surety bond amount. The depositor shall be entitled to receive all interest and dividends thereon.

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(b) An applicant or licensee may also file with the director an irrevocable letter of credit drawn in favor of the director for an amount equal to or greater than the required surety bond. The irrevocable letter of credit must provide the same measure of protection to the consumer and others who may have reason to make claim on the instrument as a surety bond. This means, in part, that the irrevocable letter of credit must provide security for one year after its expiration or suspension against claims from violations that occurred during the period over which it was in effect. The irrevocable letter of credit must be issued by a bank, savings bank, savings and loan association, or credit union, as approved by the director. The licensee and any bank, savings bank, savings and loan association, or credit union providing a letter of credit to the licensee must notify the director within two business days of any suspension, expiration, or material change in the security provided by the irrevocable letter of credit.

(2) A licensee may submit a written request to the director asking that an assigned certificate of deposit or irrevocable letter of credit be released. The director may release the assignment of a licensee's certificate of deposit when a sufficient period of time has passed to provide reasonable confidence that no new claims will be presented against the certificate of deposit. To ensure that there are no outstanding claims or potential claims against the licensee which could result in claims against the licensee's certificate of deposit or irrevocable letter of credit, the director may require that the licensee provide to the director prior to release of the certificate of deposit or letter of credit:

(a) a surety bond in the required amount or an approved alternative if the licensee intends to remain in the mortgage broker business and continue operating under their license;

(b) all of the licensee's licenses and branch licenses if the licensee intends to surrender their licenses and no longer engage in the business of mortgage brokering. In addition, the director may require that the licensee provide to the director proof of exemption from licensing if the licensee intends to surrender its license and remain engaged in the business of mortgage brokering;

(c) copies of any agreements between the licensee and any bank, savings and loans association, savings bank, or credit union which provided the certificate of deposit or irrevocable letter of credit;

(d) Copies of any agreements between the licensee and any third party which represents an outstanding claim, potential claim, or settlement of any claim against the licensee which could diminish the measure of protection enjoyed by consumers or others who may have reason to make a claim against the licensee;

(e) an audited financial statement for the licensee's mortgage broker business;

(f) copies of any notes, secured or unsecured, or other forms of debt that are outstanding to any parties not mentioned in (a) through (e) above;

(g) any other information the director may deem necessary under the circumstances of any licensee's request for release of the certificate of deposit or irrevocable letter of credit;

(4) The surety bond or approved equivalents listed in this section are subject to the provisions of RCW 19.146.240.

**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

##### **WAC 50-60-165 Violations - Penalties and fines.**

Every mortgage broker and their officers, employees, independent contractors, and agents shall comply with chapter 19.146 RCW and all rules and regulations issued thereunder. The violation of any provision of chapter 19.146 RCW, or any rule issued thereunder, or of any order, directive, or requirement of the director shall subject the violator to a fine of \$100 for each offense. Each day's continuance of the violation shall be a separate and distinct offense.

AMENDATORY SECTION (Amending WSR 94-03-009, filed 1/7/94, effective 2/7/94)

**WAC 50-60-170 Transitional rule.** (~~Pursuant to the authority granted under RCW 19.146.210(3), the director declares the effective date of the licensing requirements expressed in RCW 19.146.200 to be extended to November 30, 1993.~~) Businesses engaged in mortgage brokering and required to be licensed under ~~(chapter 468, Laws of 1993)~~ chapter 19.146 RCW, may file an application with the director and obtain, upon acceptance of the application as complete and a determination by the director that the applicant meets the verifiable requirements for licensing, an interim license. This interim license shall expire on ~~(February 28, 1994)~~ the date set by the director, unless extended by the director. (~~This section shall be void after July 1, 1994.~~)

**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 94-17-055  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-72—Filed August 11, 1994, 4:32 p.m., effective August 12, 1994, 12:01 a.m.]

Date of Adoption: August 11, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-56-19100F; and amending WAC 220-56-191.

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: Interim rules needed until the permanent 1994-1995 sport rules take effect. Inseason update for the Duwamish/Green chinook run shows fifty percent higher run size and harvestable salmon are available.

Effective Date of Rule: August 12, 1994, 12:01 a.m.

August 11, 1994  
Chris Drivdahl  
for Robert Turner  
Director

### NEW SECTION

**WAC 220-56-19100G Puget Sound salmon— Saltwater seasons and bag limits.** Notwithstanding the provisions of WAC 220-56-191, effective 12:01 a.m. August 12, 1994 until further notice it is unlawful to fish for salmon in Catch Record Card Areas 5 through 13 except as provided for in this section:

Area 5: Closed

Area 6: Closed

Area 7: 2 salmon daily bag limit, 22-inch minimum size for chinook, no minimum size for other salmon.

Area 8-1: Closed, except special daily bag limit of 2 salmon in those waters of Oak Harbor north and west of a line from Blowers Bluff to Forbes Point. 22-inch minimum size for chinook, no minimum size for other salmon.

Area 8-2: Closed, except effective August 1 until further notice special daily bag limit of 2 salmon in those waters of Puget Sound adjacent to Tulalip Bay west of a line from Mission Point to Hermosa Point and within 2000 feet from shore between the pilings at Old Bowers Resort (on the south) to the fishing boundary marker located approximately 1.4 miles northwest of Hermosa Point (on the north). 22-inch minimum size for chinook, no minimum size for other salmon.

Area 9: Closed, except special daily bag limit of 2 salmon when fishing from the Edmonds Public Fishing Pier. 22-inch minimum size for chinook, no minimum size for other salmon.

Area 10: Closed, except:

(1) Special daily bag limit of 2 salmon in the East Kitsap Area - those waters westerly of a line from the light at the end of Indianola Dock to Point Monroe and those waters westerly of a line projected from Beans Point on Bainbridge Island to Orchard Point on the Kitsap Peninsula. 22-inch minimum size for chinook, no minimum size for other salmon.

(2) Special daily bag limit of 2 salmon in the Allen Bank Area - those waters bounded by a line projected from the southeasterly tip of Blake Island to the easterly tip of the Southworth Ferry Dock, thence to the buoy at the northerly tip of Vashon Island, thence to the buoy at the northeasterly tip of Blake Island (Fl R 4sec) thence to Blake Island. 22-inch minimum size for chinook, no minimum size for other salmon.

(3) Special daily bag limit of 2 salmon when fishing from the Seacrest Park Fishing Pier. 22-inch minimum size for chinook, no minimum size for other salmon.

(4) Special daily bag limit of 2 salmon when fishing in waters easterly of a line projected from Alki Point to Fourmile Rock. (Elliott Bay)

Area 11: 2 salmon daily bag limit, 22-inch minimum size for chinook, no minimum size for other salmon. Titlow Beach Marine Preserve Area closed to salmon fishing except from shore or non-motorized craft.

Area 12: Closed.

Area 13: 2 salmon daily bag limit, 22-inch minimum size for chinook, no size for other salmon.

During the openings provided for in this section, there are specified closures in WAC 220-56-128 and 220-56-195 and gear and area restrictions at Edmonds underwater park, and the Edmonds, Elliott Bay, Les Davis, and Des Moines public fishing piers as provided in Chapter 220-WAC.

### REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 11, 1994:

WAC 220-56-19100F Puget Sound salmon—  
Saltwater seasons and bag  
limits. (94-56)

### WSR 94-17-056

#### EMERGENCY RULES

#### OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed August 12, 1994, 9:27 a.m.]

Date of Adoption: August 12, 1994.

Purpose: To provide guidance to state agencies and educational institutions on determination of responsiveness at bid opening.

Citation of Existing Rules Affected by this Order:  
Amending WAC 326-40-060.

Statutory Authority for Adoption: RCW 39.19.030.

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: There is confusion among contracting officers and bidders on the significance of SIC codes in determining compliance with goals in bid specifications. This confusion costs the state time and/or money because the agency is forced to either award to other than the lowest bidder or reject all bids and rebid the project.

Effective Date of Rule: Immediately.

August 12, 1994  
James A. Medina  
Director

AMENDATORY SECTION (Amending WSR 94-07-064,  
filed 3/14/94, effective 4/14/94)

**WAC 326-40-060 Determining compliance and counting participation at time of bid opening.** (1) When a contract is to be awarded to a certified business that performs a commercially useful function as the prime contractor/consultant/vendor, the total contract value may be

counted toward the contract goal according to the certification status of the business as follows:

(a) Minority Business Enterprise (MBE): one hundred percent toward the MBE goal;

(b) Women's Business Enterprise (WBE): one hundred percent toward the WBE goal;

(c) Minority Woman Business Enterprise (MWBE): one hundred percent toward the MBE goal or the WBE goal, but not both;

(d) Combination Business Enterprise (CBE): fifty percent toward the MBE goal and fifty percent toward the WBE goal. This procedure is to be used when the contract contains an either/or goal or separate goal requirements. When the contract contains only an MBE requirement or a WBE requirement, only one-half of the dollar value of the CBE's total participation may be counted toward the single goal. A state agency or educational institution will receive credit for the remaining fifty percent toward its annual goal attainment.

(2) When a contract is to be awarded to a joint venture that is approved pursuant to WAC 326-40-100, the dollar value of the portion of the work performed by the certified business may be counted, on a percentage basis, toward the contract goal as set forth in subparagraphs (1)(a-d) of this section; provided, the certified business performs a commercially useful function in the work of the contract.

(3) If, at time of bid opening, a business is projected to perform work classified in a Standard Industrial Classification (SIC) code not listed for the business in the directory of certified minority, women's and disadvantaged business enterprises or the records of the office, the contracting agency's determination that the business will perform a commercially useful function shall prevail over the listed SIC code(s) in determining whether the MBE and/or WBE participation goals established for the contract are met. SIC codes shall not be a basis for protest of an award.

(4) Subcontractors and subconsultants.

(a) When a certified business performs a commercially useful function as a subcontractor or subconsultant, the dollar value of the work performed by the certified business may be counted toward the contract goal as set forth in subparagraphs (1)(a-d) of this section.

(b) When a certified business is awarded a subcontract on a heavy construction, highway, or street construction project, expenditures to the certified business shall not be counted toward the contract goal if the business subcontracts more than twenty-five percent of the total amount of its own subcontract to a noncertified business.

~~((4))~~ (5) Suppliers.

(a) Where a certified business is the manufacturer or a regular dealer of materials or supplies required under a contract, one hundred percent of the dollar value of the materials or supplies to be provided may be counted toward the contract goal according to the certification status of the business.

(b) Where a certified business is a broker or a packager of materials or supplies required under a contract, one hundred percent of the dollar value charged for the commercially useful function it performs in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract may be

counted toward the contract goal according to the certification status of the business.

~~((5))~~ (6) Where a certified business is a hauler, trucker, or delivery service, but not also a regular dealer or the manufacturer of the materials or supplies required on the job site, only the dollar value of the fees charged to deliver the materials or supplies required may be counted toward the contract goal according to the certification status of the business.

~~((6))~~ (7) Where a certified business is a travel agency, shipping or transportation broker, or other business performing similar functions, twenty percent of the dollar value charged for providing a bona fide service in the procurement of transportation may be counted toward the contract goal according to the certification status of the business.

~~((7))~~ (8) Where a certified business provides bonds or insurance specifically required for the performance of a contract, the dollar value charged for providing the bonds or insurance may be counted toward the contract goal according to the certification status of the business.

**WSR 94-17-067  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-74—Filed August 12, 1994, 4:40 p.m., effective August 14, 1994, 12:01 a.m.]

Date of Adoption: August 12, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-47-503.

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: Openings in Areas 7 and 7A are regulated by the Washington Department of Fish and Wildlife as per provisions of the United States section of the Fraser Panel, Pacific Salmon Commission. Openings provide opportunity to harvest the nontreaty share of the United States allocation of Fraser River origin sockeye salmon. Mesh restrictions provide protection for United States and Canadian origin chinook stocks. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian allocation of chinook destined for the Nooksack-Samish region of origin, as per preseason plan. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: August 14, 1994, 12:01 a.m.

August 12, 1994

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

**WAC 220-47-504 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:01 a.m. Sunday August 14, 1994 until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* Areas 7 and 7A - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily Sunday and Monday August 14 and 15, and gill nets using 5-inch minimum, 6-inch maximum mesh may fish from 8:00 p.m. Sunday August 14 to 8:00 a.m. Monday August 15 and from 7:00 p.m. Monday August 15 to 8:00 a.m. Tuesday August 16, and purse seines may fish from 6:00 a.m. to 9:00 p.m. Monday August 15 and from 6:00 a.m. to 8:00 p.m. Tuesday August 16.
- \* Areas 7B and 7C - Gill nets using 7-inch minimum mesh may fish from 7:00 p.m. to 7:00 a.m. nightly, Monday and Tuesday nights, August 15 and 16.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 except as modified herein - Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 13, 1994:

WAC 220-47-503 Puget Sound all-citizen commercial salmon fishery. (94-71)

**WSR 94-17-071**

**EMERGENCY RULES**

**WASHINGTON STATE UNIVERSITY**

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

Date of Adoption: June 24, 1994.

Purpose: To put in place standards and procedures governing academic integrity prior to the start of the 1994 fall semester. Washington State University's lack of an adequate system to address this problem makes these rules necessary.

Citation of Existing Rules Affected by this Order: Amending WAC 504-25-005 and 504-25-015.

Statutory Authority for Adoption: RCW 28B.30.150.

Other Authority: RCW 28B.30.095, 28B.30.125.

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: Washington State University does not have a system in place which adequately addresses the issue of academic dishonesty. In order to combat this problem which undermines the educational mission of the agency, it is in the best interest of Washington State University to have a system in place before the start of the fall semester while the formal rule-making process proceeds.

Effective Date of Rule: Immediately.

August 10, 1994  
Samuel H. Smith  
President

AMENDATORY SECTION [(Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89)]

**WAC 504-25-005 Prologue.** Washington State University, as a community dedicated to the advancement of knowledge, expects all students to behave in a manner consistent with its high standards of scholarship and conduct. Students are expected to uphold these standards both on and off campus. Acceptance of admission to the university carries with it the obligation of responsibility for the welfare of the community. Freedom to learn can be preserved only through respect for the rights of others, for the free expression of ideas, for academic integrity, and for the law.

Under the terms of admission to Washington State University, students accept its regulations and acknowledge the right of the university to take disciplinary action, including expulsion, for conduct judged unsatisfactory or disruptive to the educational process. When students violate the standards of conduct established by the university, and defined in Part I of this section, they are subject to the university disciplinary process defined in Part II of this section. Violations of the Academic Integrity Standards as defined in Part III of this chapter, subject students to the process for such violations, also in Part III. The purpose of ~~((this))~~ these processes is to educate and to protect the welfare of the community.

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

AMENDATORY SECTION [(Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89)]

**WAC 504-25-015 Academic dishonesty.** ~~((Academic dishonesty, including . . . discovered in their courses))~~ (1) A student organization's assistance in, or encouragement of, academic dishonesty as defined in WAC 504-25-015(2) is prohibited. Part III of this chapter provides procedures for dealing with academic dishonesty by individual students. Part II of this chapter provides procedures for dealing with assisting in or encouragement of academic dishonesty by student organizations. (2) Academic dishonesty, includes ((all forms of)) cheating, plagiarism and fabrication in the process of completing academic work.((is prohibited. Knowingly facilitating academic dishonesty is also prohibited. The expectation of)) The university expects that ((is that)) student((s)) organizations will accept these standards and that their members will conduct themselves as responsible members of the academic community. These standards should be interpreted by students as general notice of prohibited conduct. They should be read broadly, and are

EMERGENCY

not designed to define misconduct in exhaustive forms. ~~((Faculty and their departments also have jurisdiction over academic matters and may also take academic action against students for any form of academic dishonesty discovered in their courses.))~~

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

**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.

### PART III ACADEMIC INTEGRITY STANDARDS & PROCEDURES

#### NEW SECTION

**WAC 504-25-300 Introduction.** As an institution of higher education, Washington State University is committed to principles of truth and academic honesty. All members of the university community share the responsibility for maintaining and supporting these principles. When a student enrolls in Washington State University, the student assumes an obligation to pursue academic endeavors in a manner consistent with the standards of academic integrity adopted by the university. To maintain the academic integrity of the community, the university cannot tolerate acts of academic dishonesty including any forms of cheating, plagiarism, or fabrication. Washington State University reserves the right and the power to discipline or to exclude students who engage in academic dishonesty. To that end, the university has established the following rules defining prohibited academic dishonesty and the process followed when such behavior is alleged. These rules incorporate Washington State University's Academic Integrity Policy, the university-wide document establishing policies and procedures to foster academic integrity. This policy is applicable to undergraduate and graduate students alike, as it pertains to dishonesty in course work and related academic pursuits. In cases of dishonesty in research and original scholarship, the University's Policy and Procedural Guidelines for Misconduct in Research and Scholarship may take precedence over the policies and procedures contained herein.

#### NEW SECTION

**WAC 504-25-305 Overview of academic integrity procedures.** (1) The university prohibits acts of academic dishonesty in order to foster the principles of truth and academic honesty. The academic integrity procedures used by the university are considered a part of creating an educational environment that does not award undeserved credit.

(2) Settlement procedures, hearings, or appeals conducted as part of the academic integrity procedures are not subject to many of the constraints of criminal or civil hearings.

(3) The purposes of the academic integrity procedures are as follows:

(a) To determine the facts about the allegation(s);

(b) To determine the responsibility of the accused student;

(c) To determine the appropriate penalty if the accused student is found responsible for a violation; and

(d) To help any students found responsible for any violation of the academic integrity standards understand the negative impact of their actions.

(e) To educate the students, although sanctions can include temporary or permanent removal from the university.

(4) Students involved in these procedures should expect to be treated fairly and go through the process in a timely manner.

(5) A student's mental state, or use of drugs or alcohol, that may have influenced a student's behavior will generally not limit the responsibility of the student for his or her action.

#### NEW SECTION

**WAC 504-25-310 Definitions.** (1) Academic dishonesty. Academic dishonesty includes cheating, falsification, fabrication, multiple submission, plagiarism, abuse of academic materials, complicity, or misconduct in research, all of which are defined below.

(2) Cheating. Cheating is the intentional use of, or attempt to use, unauthorized material, information, or study aids in any academic activity to gain advantage. Cheating includes, but is not limited to, communicating improperly with others, especially other students, during tests or the preparation of assignments for classes; copying from books, notes or other sources during a test when this is not permitted; copying from another student's work (reports, laboratory work, computer programs, files, etc.); making improper use of calculators or other devices during a test; illegitimately procuring or using copies of current examinations; allowing a substitute to take an examination or write a paper for oneself.

(3) Falsification. Falsification is the intentional and unauthorized alteration of information in the course of an academic activity. Falsification includes, but is not limited to, altering the record of data, experimental procedures, or results; falsely describing the source of information (e.g., reproducing a quotation from a book review as if it had been obtained from the book itself); altering academic records; altering a returned examination paper and then seeking a higher grade based on the result.

(4) Fabrication. Fabrication is the intentional invention or counterfeiting of information in the course of an academic activity without proper authorization. Fabrication includes, but is not limited to, counterfeiting data, research results, information, or procedures with inadequate foundation in fact; counterfeiting a record of internship or practicum experiences; submitting a false excuse for absence or tardiness.

(5) Multiple submission. Multiple submission includes, but is not limited to, submitting the same paper or oral report for credit in two courses without the responsible instructor's permission; making minor revisions in a paper or report for which credit has already been received and submitting it again as a new piece of work.

(6) Plagiarism.

Plagiarism is knowingly representing the work of another as one's own, without proper acknowledgment of the source. The only exceptions to the requirement that sources be acknowledged occur when the information, ideas, etc., are common knowledge. Plagiarism includes, but is not limited to, submitting as one's own work the work of a "ghost writer" or work obtained from a commercial writing service; quoting directly or paraphrasing closely from a source without giving proper credit; using figures, graphs, charts, or other such material without identifying the sources.

(7) Abuse of academic materials. Abuse of academic materials occurs when a student intentionally or knowingly destroys, steals, mutilates, or otherwise makes inaccessible library or other academic resource material that does not belong to him or her. Abuse of academic materials includes, but is not limited to, stealing, destroying, or mutilating library materials; stealing or intentionally destroying another student's notes or laboratory data; hiding resource materials so others may not use them; destroying computer programs or files needed in others' academic work; copying computer software in ways that violate the terms of the licensing agreement that comes with the software.

(8) Complicity in academic dishonesty. A student is guilty of complicity in academic dishonesty if he or she intentionally or knowingly helps or attempts to help another or others to commit an act of academic dishonesty of any of the types defined above. Complicity in academic dishonesty includes, but is not limited to, knowingly allowing another to copy from one's paper during an examination or test; distributing test questions before the time scheduled for the test; collaborating on academic projects when students are expected to work independently; taking a test for another student, or signing a false name on a piece of academic work.

(9) Misconduct in research. Graduate and undergraduate students on research appointments for the university are responsible for compliance with the university's Policy and Procedural Guidelines for Misconduct in Research and Scholarship found in the faculty manual. Misconduct in research is treated as academic dishonesty.

(10) Responsible instructor. The responsible instructor in the academic integrity process is the person who assigns the grades, supervises students' work, or is responsible for teaching operations in the course of study in which the alleged violation occurred. The term "responsible instructor" can include, but is not limited to, instructors, graduate assistants, another instructor, and clinical supervisors. If the conduct does not relate to a particular course, the role of instructor for these procedures may be a department chair or academic advisor.

#### NEW SECTION

**WAC 504-25-315 Academic integrity processes.** (1) Every act of academic dishonesty affects academic evaluation of the student and also is a violation of the university's standards of conduct. Responsible instructors retain the authority and responsibility to assign grades to students, considering from an academic standpoint the nature of the student's action. This is the case even when the case is referred to the university academic integrity process. Students have recourse to appealing the responsible

instructor's assignment of grades according to usual academic policy. See Academic Regulation 104.

(2) All clear instances of academic dishonesty shall be reported to the office of student affairs as outlined in 504-35-335(2). The first reported instance at WSU of academic dishonesty by a student will be treated as purely an academic matter unless, in the judgment of the responsible instructor, more serious action should be taken through the disciplinary process. Any allegation of subsequent academic dishonesty will be treated as a matter to be referred to the office of student affairs.

**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 504-35-320 Reports of academic dishonesty.**

Any member of the university community who witnesses an apparent act of academic dishonesty shall report the act either to the instructor responsible for the course or activity or to the office of student affairs.

**Reviser's note:** The above new section was filed by the agency as WAC 504-35-320. This section is placed among sections in chapter 504-25 WAC, and therefore should be numbered WAC 504-25-320. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

#### NEW SECTION

**WAC 504-25-325 Judicial officer and hearing boards.** (1) **Judicial officer.** Judicial officers are assistants in the office of student affairs and serve as the investigators and prosecutors. Judicial officers are appointed for each Washington State University campus. The judicial officer for a particular case prepares the case and the materials after notification of a violation by an instructor. The judicial officer also serves as the secretary of the academic integrity conduct board.

(2) **Academic integrity conduct board.** The academic integrity conduct board is a subcommittee of the university conduct board whose members are recommended by the vice provost for academic affairs and appointed by the president. The academic integrity conduct board shall consist of at least five teaching faculty and four students. A hearing panel comprised of three faculty and two student members of the academic integrity conduct board will hear all cases regarding academic dishonesty in which a finding of responsibility could result in expulsion or suspension. In a case involving allegations of misconduct in research by a graduate student, at least one member shall be a member of the graduate faculty.

(3) **Academic integrity conduct board chair.** One faculty member of the academic integrity conduct board shall be appointed the chair by the president. The chair shall serve on all academic integrity conduct board hearing panels.

(4) **Faculty hearing officers.** Faculty hearing officers are faculty members of the academic integrity conduct board. Faculty hearing officers are appointed for each Washington State University campus. A case may be heard by a faculty hearing officer when, in the judgment of the university

judicial officer, the offense is such that the sanction to be imposed shall not include suspension or expulsion.

(5) University appeals board. See WAC 504-25-360. The university appeals board hears appeals of action taken by the academic integrity conduct board in accordance with WAC 504-25-360.

#### NEW SECTION

**WAC 504-25-330 Acts of academic dishonesty that violate the conduct regulations and the academic integrity standards.** Whenever the judicial officer determines that an alleged violation could constitute a violation of both the Conduct Regulations, WAC 504-25 Part I, and the Academic Integrity Standards, WAC 504-25 Part III, the alleged violation will be handled under the procedures of WAC 504-25 Part II. The judicial officer shall assign such cases to either an administrative hearing officer or the university conduct board in the manner described in 504-25-210.

#### NEW SECTION

##### **WAC 504-25-335 Academic integrity procedures.**

(1) Initial evaluation of evidence.

(a) A responsible instructor assembles the available evidence when he or she acquires evidence of a student violation of the academic integrity standards. The instructor determines whether the case warrants further investigation or action.

(b) In cases of misconduct in research by students, the initial evaluation will be conducted in accordance with the university's policy on misconduct in research. If it is determined that misconduct has occurred, the matter will be referred to the office of student affairs. Referral to student affairs does not affect the ability of the university independently to terminate employment if the misconduct relates to the student's appointment.

(2) Grading by instructor—referral for conduct action. If the responsible instructor finds that a violation of academic integrity has occurred, the instructor should proceed to assign a grade, or take other appropriate action, considering the academic nature of the violation.

The instructor shall notify the office of student affairs of any finding that a violation has occurred. The office of student affairs shall notify the instructor of whether or not the alleged violation is a first offense.

If the violation is a first offense, the office of student affairs will take no additional action, unless the instructor deems the violation serious enough as to warrant further action. In such serious first offense cases, the office of student affairs shall review the case and handle it according to the procedures set forth in this chapter.

If the offense is not a first violation, the office of student affairs shall review the case and handle it according to the procedures set forth in this chapter.

If the responsible instructor's grade is appealed and a department chair, dean, or the provost subsequently finds that a violation did not occur, or that the academic sanction was too severe, a report shall be filed with the office of student affairs indicating the finding or the modified grade.

(3) University conduct process.

(a) The university judicial officer for the campus where the violation occurred shall prepare cases for a hearing when

an alleged violation of academic integrity standards is referred to the university conduct process.

(b) The university judicial officer shall contact and interview the accused student.

(c) During the interview, the student is informed of the charge(s) and asked to make a written statement about the incident.

(d) The student is informed of the individual's rights and responsibilities in the academic integrity process.

(e) The judicial officer may interview other people involved.

(f) Evaluation of the allegation.

(i) The judicial officer may discontinue any investigation when the allegation is deemed to be without basis. Before discontinuing the investigation, the judicial officer shall contact the responsible instructor.

(ii) In the event the judicial officer finds there is any basis to the allegation, the student may be officially charged with violation of the standards of conduct.

(g) Assignment of the type of hearing.

(i) The judicial officer will evaluate the seriousness of the charge and assign the case to either a faculty hearing officer or the academic integrity conduct board.

(ii) Any alleged violation which could result in suspension or expulsion shall be referred to the academic integrity conduct board, unless the student requests and is granted a hearing by a faculty hearing officer.

(iii) Every other violation shall be assigned to a faculty hearing officer at the campus where the student attends.

(h) Notice. When any student is charged by the judicial officer with a violation of the academic integrity standards, the accused party must be notified at least seven calendar days in advance of the hearing. The notice must be in writing and include the following:

(i) The specific charges, citing the appropriate university policy or regulation allegedly violated;

(ii) The time and place of the alleged act(s) insofar as may be reasonably known;

(iii) The time and place of the hearing.

#### NEW SECTION

**WAC 504-25-340 Rights of students charged with violations of the academic integrity standards.** Students charged with violations of the academic integrity standards shall have the same rights afforded students in disciplinary procedures for violations of the standards of conduct. These rights are codified as WAC 504-25-220.

#### NEW SECTION

**WAC 504-25-345 Withdrawal from course prohibited.** A student who has received notice from either a judicial officer or an instructor that he or she is or may be charged with an act of academic dishonesty in a course is not permitted to withdraw from the course unless the charge is dropped. This prohibition applies to Uncontested Withdrawals as defined by WSU's Academic Regulations.

NEW SECTION

**WAC 504-25-350 Hearing guidelines.** The guidelines established for administrative hearings and hearings before the university conduct board for violations of standards of conduct shall apply for hearings of alleged violations of the academic integrity standards. These guidelines are codified in WAC 504-25-235.

NEW SECTION

**WAC 504-25-355 Sanctions.** (1) The hearing officer or academic integrity conduct board may impose any of the following sanctions or any combination of the sanctions for violations of the academic integrity standards:

(a) A formal warning.

(b) Addition of a notation to the grade recommended by the instructor. The notation shall indicate that the student was found responsible for an act of academic dishonesty in the course for which the grade was given.

(c) Academic assignment or other creative interventions designed to promote the ethical development of the student. Such assignments or interventions shall not be devised to embarrass or unduly burden the student.

(2) The academic integrity board, or the hearing officer if the student has elected not to go before the board, may impose the following additional sanctions for violations of the academic integrity standards:

(a) Suspension from the university for a specified interval of time.

(b) Expulsion from the university.

NEW SECTION

**WAC 504-25-360 Appeals.** (1) Who may appeal.

(a) Any student charged with any violation(s) of the academic integrity standards and found responsible for any violation(s) by a hearing board or administrative hearing officer is entitled to one administrative appeal.

(b) The judicial officer, after consulting with the responsible instructor, is entitled to one administrative appeal when a student is found not responsible or the judicial officer deems the sanction inappropriate.

(2) Types of appeals.

(a) Appeals of findings by a faculty hearing officer go to the vice provost for academic affairs.

(b) Appeals of findings by the academic integrity conduct board go to the university appeals board.

(3) Procedure for filing an appeal.

(a) An appeal must be filed within twenty-one calendar days of the date the student received the decision.

(b) All requests to review decisions must be in writing and delivered to the vice provost for student affairs.

(c) The request must state the grounds for appeal.

(d) Students may request an appeal based on the following:

(i) There was a procedural error which materially affected the decision;

(ii) New evidence has been found which was not previously available and which would have materially affected the decision;

(iii) The decision was not supported by substantial evidence; or

(iv) The sanction is too severe or not appropriate.

(e) The judicial officer may only request an appeal based on the following:

(i) The decision was not supported by substantial evidence; or

(ii) The sanction is too severe, not severe enough, or not appropriate.

(4) Appeal Process.

(a) During the appeal process, the burden of proof shifts to the appealing party.

(b) The appeal is a review of the record of the hearing plus the letter of appeal, including any written argument(s) submitted by the appealing party and non-appealing party and a statement of the new evidence if that is the ground for the appeal.

(c) An appeal is not a new hearing.

(d) The vice provost for student affairs or the university appeals board may permit oral argument. The student and the judicial officer shall be notified at least three days in advance of the argument.

NEW SECTION

**WAC 504-25-365 Finding of no responsibility.** If the student is finally found not to have been responsible for a violation of the academic integrity guidelines, the finding will be communicated to the responsible instructor, and the instructor shall evaluate the finding and issue a grade or other appropriate action, taking into consideration the finding. If the student is not satisfied with the grade issued, the student may appeal in accordance with academic policy. See Academic Regulation 104.

NEW SECTION

**WAC 504-25-370 Other interventions.** In limited circumstances the university may use other interventions as codified in WAC 504-25-240.

NEW SECTION

**WAC 504-25-375 Records.** Records of academic integrity procedures are confidential. Such records shall be maintained in the manner established for disciplinary records in WAC 504-25-245.

**WSR 94-17-075**

**EMERGENCY RULES**

**CENTRAL WASHINGTON UNIVERSITY**

[Filed August 15, 1994, 4:48 p.m.]

Date of Adoption: August 11, 1994.

Purpose: WAC 106-08-001 to change meeting location for board of trustees; WAC 106-08-002 to change reference to statute regulating formal hearings; WAC 106-08-040 to add identifying information to the list of exemptions to open adjudicative proceedings; WAC 106-08-110 to remove sexist language from guidelines for service of process; WAC 106-08-230 to remove duplicate word from procedure for depositions and interrogatories; WAC 106-08-260 to remove sexist language from instruction defining authorization for contested depositions and interrogatories; WAC 106-08-290

to remove sexist language from guidelines governing recording depositions and interrogatories; WAC 106-08-300 to correct spelling and remove sexist language from procedure for signing and returning depositions and interrogatories; WAC 106-08-310 to remove sexist language from guidelines for use of depositions and interrogatories; WAC 106-08-340 to correct punctuation and remove sexist language from interrogation procedures for depositions; WAC 106-08-350 to remove sexist language from procedure for attestation and return of depositions; WAC 106-08-400 to change statutory reference and remove sexist language from guidelines for appointment of hearing officers; WAC 106-08-410 to change statutory reference for location of rules governing hearing procedures; WAC 106-08-420 to modify statutory reference for duties of hearing officers; WAC 106-08-430 to correct punctuation used in stipulations and admissions of record; WAC 106-08-450 to remove sexist language from procedure for request of continuance; WAC 106-08-460 to correct punctuation used in admissibility of evidence criteria; WAC 106-20-100 to correct addresses used to access operations and information; WAC 106-50-100 to modify address for rules coordinator; WAC 106-72-005 to redefine policy statement and clarify protected groups; WAC 106-72-015 to correct punctuation used to define protected workforce groups which will be analyzed annually; WAC 106-72-025 to clarify protected groups to be provided equal access to university sponsored programs and activities; WAC 106-72-200 to clarify protected groups of the student population to be provided equal access to student services; WAC 106-72-400 to redefine protected groups who will not be penalized or retaliated against for participation in complaint procedure; WAC 106-72-410 to adjust punctuation used within description of informal grievance procedure; WAC 106-72-440 to modify punctuation used within guidelines for formal grievance committee; WAC 106-72-510 to correct punctuation used within proceeding notice guidelines for formal grievance procedure; WAC 106-72-540 to make grammatical change within availability of necessary parties for an adjudicative proceeding; WAC 106-72-580 to correct punctuation used within description of rights of parties in an adjudicative proceeding; WAC 106-72-600 to correct punctuation used within directions for filing findings of grievance committee; and WAC 106-72-610 to correct punctuation used within outline of appeal procedure.

Citation of Existing Rules Affected by this Order: WAC 106-08-001 Regular meetings; 106-08-002 Formal hearing policy; 106-08-040 Adjudicative proceedings open; 106-08-110 Service of process—Service upon parties; 106-08-230 Depositions and interrogatories in contested cases—Right to take; 106-08-260 Depositions and interrogatories in contested cases—Authorization; 106-08-290 Depositions and interrogatories in contested cases—Recordation; 106-08-300 Depositions and interrogatories in contested cases—Signing attestation and return; 106-08-310 Depositions and interrogatories in contested cases—Use and effect; 106-08-340 Depositions upon interrogatories—Interrogation; 106-08-350 Depositions upon interrogatories—Attestation and return; 106-08-400 Hearing officers; 106-08-410 Hearing procedures; 106-08-420 Duties of hearing officers; 106-08-430 Stipulations and admissions of record; 106-08-450 Continuances; 106-08-460 Rules of evidence—Admissibility criteria; 106-20-100 Organization—Operation—Information; 106-50-

100 Address of rules coordinator; WAC 106-72-005 Affirmative action policy statement; 106-72-015 Annual workforce analysis; 106-72-025 Nondiscrimination in delivery of services; 106-72-200 Procedures, rules, and regulations—Student services; 106-72-400 Affirmative action grievance procedure; 106-72-410 Informal grievance procedure; 106-72-440 Formal grievance procedure—Grievance committee; 106-72-510 Formal grievance procedure—Proceeding notice; 106-72-540 Adjudicative proceeding—Availability of necessary parties; 106-72-580 Adjudicative proceeding—Rights of parties; 106-72-600 Findings of grievance committee; and 106-72-610 Appeal procedure.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.35.120(12).

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 adoption of proposed changes is necessary to allow the public access to current, updated regulations prior to the beginning of fall quarter.

Effective Date of Rule: Immediately.

August 11, 1994  
Ivory V. Nelson  
President

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-08-001 Regular meetings.** The regular meetings of the board of trustees of Central Washington University shall be held (~~quarterly~~) in Room (~~443~~) 412 in (~~Bouillon~~) Barge Hall on the Central Washington University campus in Ellensburg, Washington.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-002 Formal hearing policy.** In each instance that a formal hearing is required by institutional policy or chapter (~~28B-19~~) 34.05 RCW, the provisions of WAC 106-08-002 through 106-08-999 shall be applicable.

AMENDATORY SECTION (Amending Order CWU AO 68, filed 10/31/91, effective 12/1/91)

**WAC 106-08-040 Adjudicative proceedings open.** All adjudicative proceedings shall be open to the public, with the exception of student, faculty, and administrative, civil service-exempt disciplinary proceedings unless the subject of the proceedings chooses an open proceeding.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-110 Service of process—Service upon parties.** The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or her or by

law to receive service of such papers, and a copy shall be furnished to counsel of record.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-230 Depositions and interrogatories in contested cases—Right to take.** Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of ~~((of))~~ a complaint, application or petition. Depositions shall be taken only in accordance with this rule.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-260 Depositions and interrogatories in contested cases—Authorization.** A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the agency and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify ~~((him))~~ the person or the particular class or group to which ~~((he))~~ the person belongs. On motion of a party upon whom the notice is served, the agency may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice and in any manner and when so taken may be used as other depositions.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-290 Depositions and interrogatories in contested cases—Recordation.** The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under ~~((his))~~ the officer's direction and in ~~((his))~~ the officer's presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-300 Depositions and interrogatories in contested cases—Signing attestation and return.** (1) When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by ~~((him))~~ the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for

making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given ~~((therefor))~~ therefore; and the deposition may then be used as fully as though signed, unless on a motion to suppress the agency holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn by him or her and that the deposition is a true record of the testimony given by the witness. ~~((He))~~ The officer shall then securely seal the deposition in an envelope endorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the agency for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges ~~((therefor))~~ therefore, the officer shall furnish a copy of the deposition to any party or to the deponent.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-310 Depositions and interrogatories in contested cases—Use and effect.** Subject to rulings by the agency upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the agency upon its own motion or the motion of any party. Except by agreement of the parties or ruling of the agency, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his or her witness by taking ~~((his))~~ a deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or her or any other party.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-340 Depositions upon interrogatories—Interrogation.** Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in WAC 106-08-250 the officer taking the same after duly swearing the deponent, shall read to ~~((him))~~ the deponent seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer, and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-350 Depositions upon interrogatories—Attestation and return.** The officer before whom interrogatories are verified or answered shall:

(1) Certify under ~~((his))~~ the officer's official signature and seal that the deponent was duly sworn by him or her, that the interrogatories and answers are a true record of the

deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither ~~((he))~~ the officer nor the stenographer ~~((to his knowledge))~~ is a party, privy to a party, or interested in the event of the proceedings, and

(2) Promptly send by registered or certified mail the original copy of the deposition and exhibits with ~~((his))~~ the officer's attestation to the agency, one copy to the counsel who submitted the interrogatories and another copy to the deponent.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-400 Hearing officers.** In each instance that a formal hearing is required by institutional policy or chapter ~~((28B-19))~~ 34.05 RCW, and upon receipt of a request for a formal hearing filed in accordance with chapter ~~((28B-19))~~ 34.05 RCW, the ~~((chairman, vice chairman))~~ chair, vice-chair, or another member of the board of trustees, on the basis of longevity and in the preceding order, may appoint one or more hearing officers, not to exceed three for any one hearing, to preside over, conduct and make proposals for decisions, including findings of fact and conclusions of law, in each instance, and shall afford an opportunity for a formal hearing after not less than ten days notice and provide such individual requesting formal hearing with notice of the hearing in accordance with the provisions of chapter ~~((28B-19))~~ 34.05 RCW.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-410 Hearing procedures.** Each hearing shall be conducted in the manner provided for in these rules and in chapter ~~((28B-19))~~ 34.05 RCW.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-420 Duties of hearing officers.** (1) All hearing officers appointed in accordance with WAC 106-08-400 shall conduct hearings in the same manner and shall have the same authority as provided in hearings by the board of trustees as set forth in these rules and in chapter ~~((28B-19))~~ 34.05 RCW: *Provided*, That hearing officers shall only make proposals for decisions.

(2) The proposals for decisions and findings of fact and conclusions of law shall be forthwith served upon the parties and transmitted to the board of trustees, together with a record of the proceeding. Within thirty days of service of such proposal for decisions, any party adversely affected may file exceptions, and thereafter all parties may present written argument to the board of trustees, which shall consider the whole record or such portions as may be cited by the parties, and after such review the board shall announce its decision and final action to be taken.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-430 Stipulations and admissions of record.** The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record,

will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) Upon whom binding. Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument, or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) Withdrawal. Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the agency that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-450 Continuances.** Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his or her knowledge, notify the agency of said desire, stating in detail the reasons why such continuance is necessary. The agency, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For good cause shown, the agency may grant such a continuance and may at any time order a continuance upon its motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the agency may in its discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

AMENDATORY SECTION (Amending Order 3244, filed 12/8/71)

**WAC 106-08-460 Rules of evidence—Admissibility criteria.** Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the agency is the best evidence reasonably obtainable, having due regard for its necessity, availability, and trustworthiness. In passing upon the admissibility of evidence, the agency shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

AMENDATORY SECTION (Amending Order CWU AO 69, filed 11/12/91, effective 12/13/91)

**WAC 106-20-100 Organization—Operation—Information.** (1) Organization. Central Washington University is established in Title 28B RCW as a public institution of higher education. The institution is governed

by a seven-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) Operation. The administration office is located at the following address:

Business Office  
Central Washington University  
400 East 8th Avenue  
Ellensburg, WA 98926-7481

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Educational operations are also located at the following addresses:

CWU Lynnwood ((CWU)) Center  
20000 68th Avenue West SKB  
Lynnwood, WA 98036

~~((South Seattle CWU Center  
6000 16th Avenue SW  
Seattle, WA 98106))~~

CWU SeaTac Center  
2450 South 142nd St  
SeaTac, WA 98188

CWU Steilacoom ((CWU)) Center  
9401 Farwest Drive SW  
Tacoma, WA 98498

CWU Yakima ((CWU)) Center  
P.O. Box 1647  
16th Avenue and Nob Hill Blvd  
Yakima, WA 98907

(3) Information. Additional and detailed information concerning ~~((the))~~ educational offerings may be obtained from the catalog, copies of which are available at the following address:

~~((Admissions Office))~~ Academic Services  
Central Washington University  
400 East 8th Avenue  
Ellensburg, WA 98926-7463

AMENDATORY SECTION (Amending Order CWU AO 69, filed 11/12/91, effective 12/13/91)

**WAC 106-50-100 Address of rules coordinator.** The rules coordinator for this institution shall have an office in the following location:

President's Office  
Central Washington University  
400 East 8th Avenue  
Ellensburg, WA 98926-7501

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-005 Affirmative action policy statement.** Central Washington University is committed to affirmative action for Asians, Blacks, Hispanics, Native Americans, women, persons forty years of age or older,

persons of disability, ~~((and))~~ disabled veterans and Vietnam-era veterans. This commitment is expressed through the university's efforts to eliminate barriers to equal employment opportunity and improve employment opportunities encountered by these protected groups.

Furthermore, as an equal opportunity employer Central Washington University will:

(1) Recruit, hire, train, and promote persons in all job titles, without regard to race, color, ~~((religion, creed, age, national origin, disabled or Vietnam-era veteran status, the presence of any physical, mental, or sensory handicap, marital status, sexual orientation, or sex except where a bona fide occupational qualification exists))~~ creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran.

(2) ~~((Ensure))~~ Ensure that all personnel actions such as compensation, benefits, transfers, terminations, layoffs, return from layoff, reductions in force (RIF), university-sponsored training, education, tuition assistance, and social and recreation programs, will be administered without regard to race, color, ~~((religion, sex, age, national origin, creed, marital status, or the presence of any physical, mental or sensory handicap))~~ creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-015 Annual workforce analysis.** (1) The affirmative action office will conduct an annual workforce analysis for each academic department and a separate utilization analysis for protected group members (i.e., minorities, women, Vietnam-era and disabled veterans, persons of disability, and persons over the age of forty in each major job group. The university will set forth specific goals and timetables where underutilization is identified. Underutilization is defined as having fewer protected group members in a particular job than would reasonably be expected by their availability. (Higher Education Guidelines, Executive Order 11246.)

(2) The university and each organizational unit will make every possible effort to recruit and employ qualified minorities and women to fill vacancies in order to achieve its goals, searching for personnel in areas and channels previously unexplored to the extent necessary to overcome underutilization. Before each vacancy can be officially filled, a designee of the affirmative action office or the personnel services office must certify that the appropriate recruitment and hiring procedures have been followed.

AMENDATORY SECTION (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-025 Nondiscrimination in delivery of services.** Central Washington University will provide equal access to all programs for all students on the basis of merit without regard to race, color, ~~((religion, sex, age, national origin, or the presence of any sensory, physical, or mental handicap))~~ creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran.

No person will be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by the university including, but not limited to, admissions, academic programs, student employment, counseling and guidance services, financial aid, recreational activities, and intercollegiate athletics.

Programs may be developed by the university, however, for special student populations as affirmative action measures to overcome the effects of past discrimination.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-72-200 Procedures, rules, and regulations—Student services.** It is the goal of this university to create and maintain all student services which are responsible to the needs and desires of all students and which reflect a policy of nondiscrimination. In all areas of student services, students are to be treated as individuals without regard for race, ~~((religion, color, national origin, sex, age, or physical disability))~~ color, creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran.

**AMENDATORY SECTION** (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-400 Affirmative action grievance procedure.** (1) A person who believes he or she has been discriminated against by Central Washington University because of race, color, ~~((ethnic background, sexual orientation, religion, national origin, sex, physical or mental handicap, or Vietnam era or disabled veteran))~~ creed, religion, national origin, age, sex, sexual orientation, marital status, disability, or status as a disabled veteran or Vietnam-era veteran status is encouraged to utilize the grievance procedures provided by Central Washington University. There are informal and formal means of addressing complaints through the affirmative action office. These should be used as soon as possible after the alleged act of discrimination. No individual shall be penalized or retaliated against in any way by the university community for his or her participation in this complaint procedure.

(2) All persons who seek the advice and assistance of the affirmative action office shall have explained to them the informal and the formal grievance procedures available to them through the university as well as the existence of external complaint procedures available through state and federal agencies. They shall also receive a copy of the affirmative action grievance procedure.

**AMENDATORY SECTION** (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-410 Informal grievance procedure.** Informal review and consultative processes are highly desirable means of resolving problems. Use of those methods by individuals (e.g., students, employees, applicants) at the lowest possible level within the university is strongly encouraged.

(1) Individuals who believe that they have been the target of discrimination by Central Washington University

are encouraged to discuss the matter initially with their department chair, dean, administrative supervisor<sub>1</sub> or department head. Students are encouraged to discuss the matter with the appropriate department chair, dean, or the vice-president for student affairs. The matter may be concluded by mutual consent at this point. However, complainants should feel free to bring the alleged act of discrimination to the attention of the director of affirmative action at any time.

(2) Any person may contact the affirmative action office for informal discussion, advice, and assistance. The affirmative action director or a designee will assist the complainant(s) in determining whether there exists any relationship of the complaint to civil rights legislation and the university's affirmative action program.

(3) With the consent of the complainant, there may be facilitation or informal intervention by the affirmative action director or a designee. Discussion of the grievance by the affirmative action director or a designee with the immediate supervisor of the respondent may follow the visit to the affirmative action office by the complainant. The discussion between the director of affirmative action and the immediate supervisor shall be confidential. The complainant may choose to participate in this discussion at his/her option. At this time it shall be the option of the director of affirmative action to notify the respondent's next higher supervisory authority of the complaint.

(4) All discussions held under this informal procedure shall have the goal of resolving the matter without the necessity of entering into a formal complaint procedure.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-72-440 Formal grievance procedure—Grievance committee.** An affirmative action grievance committee shall be appointed annually by the president and shall consist of five individuals representing the various university constituencies, including minority group members and both men and women. The committee shall be made up of one administrator, two faculty members<sub>1</sub> and two civil service employees and shall select its own chair. If a complainant is a student and so requests, two students may be substituted by the president for a like number of existing members of the committee. Members of the affirmative action grievance committee shall remove themselves from the case if they deem themselves biased or personally interested in its outcome.

**AMENDATORY SECTION** (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-510 Formal grievance procedure—Proceeding notice.** If probable cause is found, a proceeding will be held.

(1) The chair of the committee shall establish a date for the proceeding. A notice establishing the date, time<sub>2</sub> and place of the proceeding shall be provided the parties not more than ten working days from the issuance of the probable cause or no cause decision. The composition of the proceeding committee shall be provided also.

(2) The proceeding shall be held not less than fifteen working days from the mailing of the notice of proceeding

unless all of the parties, with the consent of the chair, agree to shorten the time to less than fifteen days.

**AMENDATORY SECTION** (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-540 Adjudicative proceeding—Availability of necessary parties.** The parties and any others the affirmative action grievance committee (~~deems~~) deem necessary to the proceedings shall make themselves available to appear at the proceeding unless they can verify to the committee that their absence is unavoidable.

**AMENDATORY SECTION** (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-580 Adjudicative proceeding—Rights of parties.** (1) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to examine and cross-examine witnesses.

(2) No individual shall be compelled to divulge information in any form which she/he could not be compelled to divulge in, or in connection with, superior court proceedings.

(3) Any legal opinion or interpretation given to the grievance committee by the parties may be shared with all parties to the case.

**AMENDATORY SECTION** (Amending WSR 92-02-006, filed 12/20/91, effective 1/20/92)

**WAC 106-72-600 Findings of grievance committee.** The affirmative action grievance committee shall file its findings and recommendations with the president, the affirmative action director, the complainant, and the respondent within fifteen working days after the conclusion of the proceeding. If the findings and recommendations of the affirmative action grievance committee are acceptable to the complainant and the respondent, the president may direct implementation of the recommendations.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-72-610 Appeal procedure.** (1) If the complainant or respondent objects to the findings and recommendations and wishes to appeal, a written appeal may be submitted to the president within ten working days from the date the report is delivered to the complainant and the respondent. The appeal must specify in detail the findings, recommendations, or other aspects of the report or decision to which exception is taken, as well as the reasons for the exceptions and the desired corrective action after consideration of the appeal by the president.

(2) After considering an appeal, the president shall issue a written decision to the parties involved within ten working days of receipt of the appeal. The decision of the president will not be further appealable within the university.

## WSR 94-17-077

### EMERGENCY RULES

#### CENTRAL WASHINGTON UNIVERSITY

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

Date of Adoption: September 27, 1994.

Purpose: WAC 106-140-010 to amend punctuation and clarify terminology; WAC 106-140-011 to correct grammar and specify that business sales must comply with commercial activity policies of the university; WAC 106-140-020 to correct punctuation; WAC 106-140-021 to revise punctuation, position title, and sexist language; WAC 106-140-023 to correct punctuation; WAC 106-140-031 to modify punctuation; WAC 106-140-032 to correct numerical references; WAC 106-140-035 to revise punctuation; WAC 106-140-040 to modify grammar, punctuation, and titles; eliminate sexist language; clarify control of vending machines; and define where violations should be reported; WAC 106-140-050 to correct grammar and punctuation; WAC 106-140-051 to clarify terminology and adjust punctuation; WAC 106-140-052 to amend punctuation; WAC 106-140-110 to change title and clarify violation details; WAC 106-140-111 to modify grammar and department title; WAC 106-140-112 to clarify approval procedure for installation of telephones; WAC 106-140-113 to modify department title; WAC 106-140-130 to correct agency designation; WAC 106-140-131 to adjust punctuation; WAC 106-140-133 to change position title; WAC 106-140-160 to adjust punctuation; WAC 106-140-401 to modify sexist language and delete outdated procedural reference; WAC 106-140-600 to specify departments maintaining entertainment policies; WAC 106-140-605 to change position title and correct sexist language; WAC 106-140-632 to correct punctuation; WAC 106-140-660 to adjust punctuation; WAC 106-140-670 to change position title, correct sexist language, and adjust punctuation; WAC 106-276-005 to amend punctuation; WAC 106-276-010 to modify punctuation and make APA-mandated wording changes; WAC 106-276-030 to correct grammar, sexist language, punctuation, and position titles and clarify division reporting structure; WAC 106-276-040 to modify reference to Administrative Procedure Act, change non-APA wording, adjust grammar, and title designation; WAC 106-276-060 to clarify responsibility for and access to public records and grammatical changes; WAC 106-276-070 to correct punctuation and clarify procedure for inspection and copying of public records; WAC 106-276-080 to modify procedure for request of public records; WAC 106-276-090 to correct grammar and punctuation and clarify policy governing charges for copying or reproduction of public records; WAC 106-276-100 to correct sexist language and spelling; and WAC 106-276-110 to clarify process concerning review of public records request denial, correct grammar, and modify sexist and non-APA language.

Citation of Existing Rules Affected by this Order: WAC 106-140-010 Business sales; 106-140-011 Business sales—Restrictions; 106-140-020 Advertising—Advertising in recognized student and faculty publications; 106-140-021 Advertising—Advertising on bulletin boards; 106-140-023 Advertising rates—Student publications; 106-140-031 Publicity and literature—Outdoor signs; 106-140-032 Publicity and literature—bulletin boards; 106-140-035 Publicity and literature—Use of tables; 106-140-040 Selling on campus; 106-140-050 Soliciting and selling of published

materials; 106-140-051 Soliciting and selling of published materials—Exceptions; 106-140-052 Soliciting and selling of published materials—Prohibitions; 106-140-110 Telephone services—Long distance calls; 106-140-111 Telephone services—Requests for repairs; 106-140-112 Telephone services—Approval of installations; 106-140-113 Telephone services—Right to restrict or modify services; 106-140-130 Prohibition of smoking; 106-140-131 Building key—Authority to issue; 106-140-133 Responsibility for expenses resulting from failure to return keys; 106-140-160 Use of university mailing and stationery services; 106-140-401 Facilities scheduling and use; 106-140-600 Entertainment policy; 106-140-605 Entertainment—Approval required; 106-140-632 Entertainment—Damages bond—Responsibilities of sponsor; 106-140-660 Authority of athletic director to administer athletic events; 106-140-670 Authority of (~~dean of students~~) vice-president for student affairs to administer recreation program; 106-276-005 Definitions; 106-276-010 Definition of public record; 106-276-030 Description of central and field organization at Central Washington University; 106-276-040 General course and method of decision-making; 106-276-060 Designation of public records officers; 106-276-070 Availability for public inspection and copying or reproduction of public records; 106-276-080 Requests for public records; 106-276-090 Charges for copying or reproduction; 106-276-100 Determination regarding exempt records; and 106-276-110 Review of denials of public records requests.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.35.120(12).

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 adoption of proposed changes is necessary to allow the public access to current, updated regulations prior to the beginning of fall quarter.

Effective Date of Rule: Immediately.

August 11, 1994

Ivory V. Nelson  
President

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-140-010 Business sales.** The soliciting, selling, exposing for sale, or offering to sell of any goods, services, articles, wares or merchandise of any nature whatsoever, within the boundaries of Central Washington University property is prohibited except by written permission of the board of trustees, president, or his designee: *Provided*, That this section shall not apply to any otherwise legal private, personal, noncommercial sales between individuals where no general or public solicitation, exposure for sale or offer to sell is involved, or to the soliciting, selling, exposing for sale, or offering to sell of individual books, newspapers, magazines, pamphlets, and similar published materials.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-140-011 Business sales—Restrictions.** Central Washington University property and facilities may not be used for the activities set forth in WAC 106-140-010 unless such activities serve the purposes and needs of the university and are sponsored by a university department, agency, or recognized organization(~~(\*)~~). Such activities (~~(should only be permitted where they complement the services provided by local businesses)~~) must be in compliance with the commercial activity policies of the university.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-140-020 Advertising—Advertising in recognized student and faculty publications.** Advertising in publications of the university and its recognized student or faculty organizations or on university-operated radio or television broadcasts is permitted within the requirements of journalistic policies, prices, rules, and regulations established by each program.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-140-021 Advertising—Advertising on bulletin boards.** Advertising in order of priority, by students, university employees, and recognized organizations thereof on bulletin boards is approved but shall be subject to regulation by the (~~dean of students~~) vice-president for student affairs or his or her designated representative with respect to priority when there is a lack of space, and to the size and duration of the posting. This section applies to bulletin boards located at the following places:

Location	Users
(1) Samuelson Union Building Nature of advertisements: Activities of the sponsoring organization( <del>(*)</del> ) only.	Student government activities Campus-sponsored groups Campus-sponsored events
(2) Mitchell Hall Nature of advertisements: Activities of the sponsoring organization only.	Student government activities Campus-sponsored groups Campus-sponsored events
(3) Bookstore Nature of advertisements: Activities of the sponsoring organization only.	All recognized campus organizations and students.
(4) Any additional ASC bulletin board space which may be provided by the university or by a recognized organization.  Nature of advertisements: Activities of the sponsoring organization only.	All recognized campus organizations.

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- (5) Residence halls  
Nature of advertisements: All recognized campus organizations.  
Activities of the sponsoring organization only.

Advertising by other than Central Washington University affiliated or recognized groups is not permitted at any time on university property and will be removed upon discovery.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-140-023 Advertising rates—Student publications.** The following rules shall be followed regarding advertising rates in student publications:

(1) Display advertising rates shall be appropriately and publicly announced prior to each year's publication period.

(2) Rates shall bear reasonable relationship to prevailing commercial standards and shall be based upon current economic conditions, publication financial requirements, and competitive situations.

(3) Differentials in display advertising rates shall be permitted based upon frequency and amount of advertising by advertisers and upon classification of advertisements, such as "local" or "national."

(4) Classified advertising rates, appropriately set and properly announced, shall be on the basis of cost per line.

(5) Closing dates for receipt of advertising material shall be set according to current mechanical publication requirements.

(6) Acceptability of advertisements shall be determined prior to each year's publication period and based upon current state law, other university rules and regulations, and commonly accepted practices and mores.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-140-031 Publicity and literature—Outdoor signs.** These signs may include banners, posters, stick signs, sandwich boards, or other types of signs. Any sign causing destruction of property will be removed upon discovery.

(1) Student activity signs approved by the scheduling center may be placed anywhere on the major walkways or malls immediately adjacent to the Samuelson Union Building.

(2) Stick signs and banners or posters may be posted in the immediate area of Commons and Holmes dining hall entrances. Signs in these areas will be limited to two feet by three feet in size. Pep banners or any other large signs to be posted in the immediate area of Commons or Holmes dining hall entrances must receive specific approval of the scheduling center and the director of food services.

(3) For Central Washington University student election campaigns, other areas such as the west end of Black Hall or the east end of Hertz Hall may be designated by the election committee subject to the approval of the university official responsible for that area.

(4) All signs, banners, and posters on the physical property immediately surrounding dormitories must be approved by the scheduling center and housing manager.

(5) Signs shall not be posted on trees or doors anywhere on campus; any so placed may be removed and destroyed by Central Washington University and Central Washington University may charge the group or individual responsible for such sign placement for the labor required to restore the premises.

(6) Outdoor signs shall be removed within thirty-six hours after an event.

(7) If signs and debris are not removed by the individuals or groups responsible for their erection within thirty-six hours after an event, after warning the individual or group, the university may take steps to remove the debris, litter, or material and charge the group or individual responsible for such erection, installation, or placement, for the labor required to restore the premises to the original condition.

**AMENDATORY SECTION** (Amending Order 2, filed 1/13/72)

**WAC 106-140-032 Publicity and literature—Bulletin boards.** Posting on bulletin boards for regularly scheduled meetings shall not be earlier than three days before an event; posters for major activities such as speakers and dances shall not be placed on bulletin boards until ~~((7))~~ seven days before the event. All posters shall be removed within ~~((36))~~ thirty-six hours after the event. Maximum allowable size of any sign is 12 x 18 inches; any sign in excess of the stated size may be removed at any time.

**AMENDATORY SECTION** (Amending Order 2, filed 1/13/72)

**WAC 106-140-035 Publicity and literature—Use of tables.** Representatives of organizations recognized by the associated students of Central may arrange for use of literature tables through the scheduling office. Such tables shall be used only for literature from students, faculty, or departments.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-140-040 Selling on campus.** Selling within the boundaries of Central Washington University property may be permitted in the manner and at the locations as set forth below:

(1) University housing:

(a) The selling of ~~((food))~~ items in vending machines is controlled by and administered through the office of the director of auxiliary services, excepting those in the student union building, which are under the control of the student union building administration.

(b) Residents in university housing are allowed to sell or to offer services on commission with a special permit from the director of auxiliary services or ~~((his))~~ designee. Students may request such a permit only for their assigned room or housing unit ~~((only since))~~ because door-to-door selling is not allowed on campus.

(2) Other campus areas, as follows:

(a) Selling by individual students or by recognized organizations in classroom buildings, administrative buildings, or service buildings is not allowed without special permission that must be obtained from the vice-president for

business and financial affairs or ((his)) designee not less than five business days prior to the date the requested activity is to take place.

(b) The university athletic committee regulates the selling policy at university athletic events. Applications for permission to sell at such events shall be made to the university athletic director or ((his)) designee.

(c) The ((~~SUB-facilities council~~)) Samuelson Union board regulates selling by individuals and groups in the Samuelson Union Building. Applications for permission to sell in the Samuelson Union Building shall be made to the ((~~dean of students~~)) vice-president for student affairs or ((his)) designee through the scheduling center. Off-campus vendors may rent table space in the union building for a maximum of two days (five if ware fairs are included) per academic quarter. Requests for exceptions to this regulation will be made to the ((~~dean of students~~)) vice-president for student affairs or ((his)) designee.

(3) Violations of the foregoing on any university property should be reported promptly to the ((~~dean of students~~)) vice-president for business and financial affairs except for Samuelson Union Building which should be reported to the vice-president for student affairs.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-050 Soliciting and selling of published materials.** The personal, noncommercial soliciting, selling, exposing for sale, or offering to sell by ((~~an~~)) a person or persons, of any books, newspapers, magazines, pamphlets, and similar published materials shall be permitted within the boundaries of Central Washington University property, provided that such published materials are not already available for sale at the university, and shall be subject to regulation by the university president or his designee as to the time, place, and manner thereof. Applications for permission to solicit or sell under this policy shall be submitted to the president or his designee twenty-four hours prior to the time such use of the university facilities is desired. The president or his designee shall establish the time, place, and manner that such soliciting and selling shall occur within the boundaries of university property. All rules and regulations, orders or directives adopted by the president or his designee pursuant to this section shall be promulgated.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

**WAC 106-140-051 Soliciting and selling of published materials—Exceptions.** WAC 106-140-050 shall not apply to otherwise legal private sales between individuals where no general or public solicitation, exposure for sale, or offer to sell is involved.

AMENDATORY SECTION (Amending Order 2, filed 1/13/72)

**WAC 106-140-052 Soliciting and selling of published materials—Prohibitions.** The soliciting, selling, exposing for sale, or offering to sell of any material in violation of Washington state law is prohibited.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-110 Telephone services—Long distance calls.** Personal long distance calls may not be charged to any university telephone number; any individual doing so shall pay for the cost of the toll charge, plus an additional penalty charge established by the university. Long distance telephone calls may be placed from ((~~college~~)) university telephones by charging the call to a nonuniversity telephone number or to a credit card.

((~~Repeated~~)) Violation((s)) of this section may result in disciplinary action.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-111 Telephone services—Requests for repairs.** All requests for repair of university telephones are to be made with ((~~the~~)) university ((~~telephone office~~)) telecommunication services.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-112 Telephone services—Approval of installations.** Telephones ((~~may be installed on the Central Washington University campus only with the approval of the director of auxiliary services or his designee~~)) in all administrative and academic buildings of the university may only be installed with the approval of the manager of telecommunication services.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-113 Telephone services—Right to restrict or modify services.** The university reserves the right at any time it deems necessary to restrict or change:

- (1) The telephone services,
- (2) Access to controlled long distance networks,
- (3) The hours of having operators on duty,
- (4) The amounts and types of information it will make available to the public through ((~~the telephone office~~)) telecommunication services.

AMENDATORY SECTION (Amending Order 4, filed 6/16/72, effective 7/20/72)

**WAC 106-140-130 Prohibition of smoking.** Smoking is prohibited in ((~~college~~)) university buildings except campus living facilities and designated areas.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-131 Building key—Authority to issue.** (1) Only department chairs and administrative heads may authorize issuance of submaster, building entrance, or individual room keys for their departments to faculty, staff, administrators, students, contractors, vendors, or service agents.

(2) Only deans, vice-presidents, the director of auxiliary services, and the director of physical plant are authorized to issue building masters for their respective operational areas.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-133 Responsibility for expenses resulting from failure to return keys.** (1) The administrative head authorizing issuance of keys to contractors, vendors, or service agents will be responsible for the return of the keys to the lock shop as scheduled, and if the keys are not returned as scheduled, will be required to pay the cost of recombining work necessary to retain building security and function as determined by the director of ~~((physical plant))~~ facilities management.

(2) The department responsible for the issuance of keys may be billed the cost of recombining work necessary to restore security when faculty, staff, administrators, or students fail to return keys to the key shop. The work required to restore security will be determined by the director of ~~((physical plant))~~ facilities management for state-funded facilities and by the director of auxiliary services for auxiliary service facilities. The responsible department chair or administrative head will be informed of the cost estimate prior to the rekeying process.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-140-160 Use of university mailing and stationery services.** No one may employ university stationery, services (mail, duplicating, equipment, etc.), and supplies for personal use or for organizations not sponsored solely by the university.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-401 Facilities scheduling and use.** The coordinator of the university scheduling center shall have authority for approving and scheduling the use of the following facilities:

(1) Classrooms (lecture and seminar) and certain specified conference rooms within academic facilities: *Provided*, That scheduling of these facilities by academic departments for academic purposes shall have priority over other uses;

(2) Samuelson Union Building facilities;

(3) Limited housing and dining hall facilities, except that such facilities are made available only through the director of auxiliary services or ~~((his))~~ the director's designee. ~~((Policies and procedures which individuals and organizations must follow in scheduling the use of facilities are provided in the Central Washington University Facilities Use Policy which is maintained in the scheduling center in the Samuelson Union Building. In addition, use of university facilities must comply with the provisions of WAC 106-140-410 through 106-140-528.))~~

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-600 Entertainment policy.** The entertainment policy for Central Washington University shall be maintained by the director of student activities, except for those for university housing which shall be maintained by the director of housing services and the director of residence living. All entertainment as defined in WAC 106-140-601 shall be presented in accordance with this policy and in accordance with the provisions of WAC 106-140-602 through 106-140-632.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-605 Entertainment—Approval required.** All entertainment, except athletic events administered by academic departments and events sponsored through the university office of recreation and intramurals must have the signed approval of the ~~((dean of students))~~ vice-president for student affairs or ~~((his))~~ designee.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-632 Entertainment—Damages bond—Responsibilities of sponsor.** Officially recognized organizations and private entities may be required to furnish Central Washington University with a certificate of insurance or other satisfactory proof that such organization or private entity has purchased reasonable broad form insurance coverage (e.g., \$1,000,000 liability coverage and \$250,000 property damage coverage for use of Nicholson Pavilion) for the entertainment event presented by such organization or private entity, of which Central Washington University is the sole beneficiary. The following shall be required of all officially recognized organizations and private entities presenting entertainment:

(1) Each organization or private entity shall provide the scheduling office with a complete list of all the officers, agents, and representatives of the organization, including full names, local addresses, and permanent addresses of each.

(2) Each organization or private entity shall be responsible for the admissions, attendance, and crowd control in the university facilities during the time reserved for their organization.

(3) Each organization or private entity assumes responsibility for all violations of campus regulations and policies, state law, and federal law which occur in connection with the use of the facilities and shall hold the university harmless from any claims or liability for any act or failure to act on the part of the organization.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-140-660 Authority of athletic director to administer athletic events.** The athletic director of Central Washington University shall establish reasonable admission fees, rules, and regulations regarding attendance and crowd control at athletic events at Central Washington University. Advance notice of such admissions fees, rules, and regulations regarding attendance and crowd control at athletic

events at Central Washington University will be provided to interested parties, whenever possible, by the athletic director.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-140-670 Authority of ~~((dean of students))~~ vice-president for student affairs to administer recreation program.** The ~~((dean of students))~~ vice-president for student affairs or ~~((his))~~ designee may establish reasonable admission charges, schedules, rules, and regulations regarding uses, attendance, and crowd control at Nicholson Pavilion and Pool, and admission charges will be assessed for university employees and their immediate families during such periods. Advance notice of such charges, schedules, rules, and regulations shall be provided to interested parties, whenever possible, by the ~~((dean of students))~~ vice-president or ~~((his))~~ designee.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-276-005 Definitions.** As used in the provisions of this chapter, the following definitions shall apply wherever the following words are used:

(1) "Request for a public record" means a written request submitted on a proper CWU public records request form for a public record, a review of public records, or a copy or reproduction of a public record.

(2) "Students in public schools" means all past, present, and future students enrolled at Central Washington University.

(3) "Vital governmental interest" includes, but is not limited to, matters affecting national security; the selection of a site or the purchase of real estate when publicity regarding such consideration would cause a likelihood of increased price.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds~~((s))~~, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-276-010 Definition of public record.** (1) A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by Central Washington University, regardless of the physical form or characteristics: *Provided, however,* That in accordance with RCW 42.17.310, the following personal and other records are exempt from the definition of public record:

(a) Personal information in any files maintained for students in public schools and the information, data, and records subject to the student records policy, WAC 106-172-700 through 106-172-799.

(b) Personal information in any files maintained for patients or clients of public institutions or public health

agencies, welfare recipients, prisoners, probationers, or parolees.

(c) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(d) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(e) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies 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.

(f) Information revealing the identity of persons 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: *Provided,* That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: *Provided further,* That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(g) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(h) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(i) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(j) 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 an agency in connection with any agency action.

(k) Records which are relevant to a controversy to which an agency 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.

(l) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(m) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(2) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought. No exemption

shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a ~~((hearing))~~ proceeding with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Any response refusing, in whole or in part, inspection of any public record shall include 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 59, filed 11/7/86)

**WAC 106-276-030 Description of central and field organization at Central Washington University.** (1) Central Washington University is located on a campus in ~~((and near))~~ the city of Ellensburg, Washington. This campus comprises the central headquarters for all operations of the university; any "field" activities of the university are administered by personnel located on the campus at Ellensburg. The university is governed by a board of trustees appointed by the governor; such board meets at regular intervals, as provided in WAC 106-08-001. The board employs a president, ~~((his))~~ the president's assistants, members of the faculty and other employees. It establishes such organizational units as are necessary to carry out the purposes of the university, provides the necessary property, facilities, and equipment and promulgates such rules, regulations, and policies as are necessary to the administration of the university.

(2) The board of trustees, either directly or by delegation, has caused to be created various administrative, academic, and support divisions to enable the university to discharge its obligations. Academic matters ~~((and student affairs))~~ are the concern of the provost and vice-president for academic affairs; business and physical planning functions are the concern of the vice-president for business and financial affairs; ~~((university services are the concern of the executive assistant to the president))~~ matters related to student services are the concern of the vice-president for student affairs; the vice-president for university advancement oversees matters related to the internal and external affairs of the university and fund raising from private sources. These offices report to the president of the university.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-276-040 General course and method of decision-making.** (1) The formal procedures for decision-making at the university are governed by the board of trustees through rules promulgated by it in accordance with the requirements of chapter ~~((28B-19))~~ 34.05 RCW, the ~~((Higher Education))~~ Administrative Procedure Act ~~((HEAPA))~~ (APA). Accordingly, all rules, orders or directives, or regulations of the university which affect the

relationship of the general public with the institution, or the relationship of particular segments of the university, such as students, faculty, or other employees, with the university or with each other,

(a) The violation of which subjects the person to a penalty or administrative sanction; or

(b) Which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional ~~((hearings))~~ proceedings; or

(c) Which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; are implemented through the procedures of the ~~((HEAPA))~~ APA and appear in Title 106 WAC, provided, however, that in accordance with RCW ~~((28B-19-020(2)))~~ 34.05.220, the university reserves the right to promulgate as internal rules not created or implemented in accordance with the ~~((HEAPA))~~ APA, the following: Rules, regulations, orders, statements, or policies relating primarily to the following: Standards for ~~((admissions))~~ admission; academic advancement, academic credits, graduation, and the granting of degrees; tuition and fees, scholarships, financial ~~((aids))~~ aid, and similar academic matters; employment relationships; fiscal processes; or matters concerning only the internal management of an institution and not affecting private rights or procedures available to the general public; and such matters need not be established by rule adopted under ~~((HEAPA))~~ APA unless otherwise required by law. Internal rules and regulations to the extent not already set forth in the university's published catalogs and handbooks shall be collected in a general university ~~((handbook))~~ policies manual, a copy of which shall be maintained on file in the university library and be available to the public.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-276-060 Designation of public records officers.** (1) In accordance with the requirements of chapter 42.17 RCW, insofar as such initiative requires state agencies to adopt and enforce reasonable rules and regulations to provide full public access to official divisions while yet protecting the same from damage and to prevent excessive interference with essentials of the agency, all public records at the university shall be in the charge of persons holding positions as records officers.

(2) Overall responsibility for coordinating responses to requests for examination of public records shall be the responsibility of the person known as the "public records officer." The person holding such position will be headquartered in Mitchell Hall at the university. The exact location and name of the public records officer may be determined by inquiry at the office of the president of the university. The public records officer shall also be responsible for compiling and maintaining the index required by chapter 42.17 RCW.

(3) ~~((For purposes of this chapter, the custody of the university's records shall be deemed divided into the following divisions:~~

~~((a) Office of the president;~~

~~((b) Office of the vice president for academic affairs;~~

~~((c) Office of the vice president for business and financial affairs;~~

~~(d) Office of the dean of students. The above designated division head shall be deemed custodian of the records in the possession or control of agencies, departments, officers and employees of his division and responsible for the care and custody of records within his division even though such person is not in actual possession or control of such records. Such division heads shall be known as the university "records custodians."~~

(4)) In ~~((any))~~ cases where a question arises as to whether a given public record is ~~((a))~~ the responsibility of one records custodian or another, the determination of such ministerial responsibility shall for the purposes of this chapter be made by the public records officer, or the president of the university.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-276-070 Availability for public inspection and copying or reproduction of public records.** (1) Public records shall be available for inspection, copying, and reproduction during the customary office hours of the university. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, unless the person making the request and the university, acting through the public records officer ~~((or a records custodian))~~, agree on a different time.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-276-080 Requests for public records.** In accordance with chapter 42.17 RCW the requirements 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 are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer ~~((or any other of the persons designated by this chapter as a custodian of certain university records))~~, per WAC 106-276-060. Such request shall include the following:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made; and

(c) If the matter requested is referenced within the current index maintained by the university records officer, a reference to the requested record as it is described in such current index;

(d) If the requested matter is not identifiable by reference to the university records current index, a statement that succinctly describes the record requested;

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the university "public records officer" ~~((or records custodian))~~ or that individual's designee, to assist the member of the public in succinctly identifying the public record requested.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-276-090 Charges for copying or reproduction.** (1) No fee shall be charged for inspection of public records. The university may impose a reasonable charge for providing copies or reproductions of public records ~~((and))~~ for ~~((the))~~ use by any person of agency equipment to copy or reproduce public records~~((;))~~ and for any excessive time expended by a state employee in researching the requested records, as determined by the public records officer. Such charges shall not exceed the amount necessary to reimburse the university for its actual costs incident to such copying or reproduction.

(2) No record shall be copied by photostatic process or otherwise reproduced until and unless the person requesting the copying or reproduction of the public record has tendered payment for such copying or reproduction to the records official from whom the public record was obtained, or to any person designated by such records official.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-276-100 Determination regarding exempt records.** (1) The university reserves the right to determine that a public record requested in accordance with the procedures of this chapter is exempt under the provisions of RCW 42.17.310. Such determination may be made in consultation with any of the records officers of the university, president of the university, or an assistant attorney general assigned to the university.

(2) Responses to requests for records must be made promptly. For the purpose of these rules, a prompt response occurs if the person requesting the public record is notified within one business day as to whether or not ~~((his))~~ the request for a public record will be granted or denied.

(3) No denial of a request for public records shall be valid unless accompanied by a written statement, signed by the public records officer or ~~((his))~~ designee, specifying the specific reasons ~~((therefor))~~ therefore.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-276-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record ~~((or his duly authorized representative))~~ shall petition for prompt review of such decision by tendering to the president's office a written request for a review of such denial. Such written request by a person ~~((or his duly authorized representative))~~ demanding prompt review shall specifically reference the written statement by the university denying that person's request for a public record.

(2) Within two business days after receiving the written request by a person ~~((or his duly authorized representative))~~ petitioning for prompt review of a decision denying a public record, the president of the university or any ~~((of his designees))~~ designee, which for the purposes of this section may include the public records officer ~~((or the records custodians))~~, shall consider such petition.

(3) During the course of the two business days in which the president or ((his)) designee reviews the decision of the public records officer denying the request for a public record, the president or ((his)) designee may conduct (~~an informal hearing~~) a brief adjudicative proceeding. During the course of such ((informal hearing)) brief adjudicative proceeding, the president or ((his)) designee may require that the person requesting the public record (~~or his duly authorized representative~~) appear at a reasonable time and place located on the campus and further explain and identify the exact nature of the public record ((he)) the person is seeking. Failure by the person requesting the review (~~hearing or his duly authorized representative~~) proceeding to appear at such ((informal hearing)) brief adjudicative proceeding shall be deemed a waiver of that person's right to insist upon completion of the review of ((his)) the request within two business days. If the petitioner requesting review (~~or his duly authorized representative~~) does appear at such ((informal hearing)) brief adjudicative proceeding, then the period for review by the university shall be extended to a period not exceeding twenty-four hours after such person requesting review (~~or his duly authorized representative~~) has appeared before the president or ((his)) designee.

(4) During the course of the ((informal hearing)) brief adjudicative proceeding conducted by the president or ((his)) designee under this section, the ((hearing)) presiding officer shall consider the obligations of the university ((fully)) to comply fully with the intent of chapter 42.17 RCW insofar as it requires providing public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 and the requirement of RCW 42.17.290 insofar as it requires the university to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details.

**WSR 94-17-078**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3772—Filed August 15, 1994, 4:52 p.m., effective September 1, 1994]

Date of Adoption: August 15, 1994.

Purpose: Implements a section of E2SHB 2798 passed in 1994 regular session adding a new section to chapter 74.12 RCW. Requires the department to evaluate the living situations of all AFDC or GAS clients who are pregnant or parents and seventeen years of age or younger. If the minor chooses not to live in an appropriate living situation as determined by the department, the minor will be required to be paid through a protective payee. New WAC 388-265-1275 Protective payee—AFDC or GA parenting or pregnant minor.

Statutory Authority for Adoption: Chapter 74.12 RCW.

Other Authority: E2SHB 2798.

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,

Emergency

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: To implement requirements of the welfare system reform legislation E2SHB 2798 enacted in the 1994 regular session.

Effective Date of Rule: September 1, 1994.

August 15, 1994

Dewey Brock, Chief  
Office of Vendor Services

NEW SECTION

**WAC 388-265-1275 Protective payment—AFDC or GA parenting or pregnant minor.** (1) The department may use protective payment for cases in which the client is:

(a) ((Under eighteen)) Seventeen years of age or younger; and

(b) Unmarried; and

(c) Either pregnant or has a dependent child.

(2) The department shall establish a protective payment plan based on a determination made by the department that the client is not living in an appropriate living situation. Appropriate living situations include:

(a) Place of residence maintained by the client's parent, legal guardian, or other adult relative as their own home; or

(b) As determined by the department other appropriate supportive living arrangement supervised by an adult which, ((as determined by the department,)) is maintained as a family setting.

(3) Notwithstanding subsection (2) of this section, if the client is not living in an appropriate living situation, as determined by the department, the department may waive the establishment of a protective payment plan if the client demonstrates the ability to manage funds adequately.

(4) The department shall select a protective payee following the criteria under WAC 388-265-1150.

(5) The department shall provide the client with written notice of protective payment as described under WAC 388-265-1550.

**Reviser's note:** The unnecessary underscoring and deletion marks 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 94-17-080**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3770—Filed August 15, 1994, 4:55 p.m., effective September 1, 1994]

Date of Adoption: August 15, 1994.

Purpose: Incorporates sections 13921 and 13922 of the Mickey Leland Childhood Hunger Relief Act (Public Law 103-66). 13921 provides an income deduction before shelter cost, for legally obligated child support payments by a household member for a person not a member of the payor household. 13922 provides a deduction for child care of

\$200 for each dependent child one year of age or younger and \$175 for each other dependent.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-49-500 Income—Deductions.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: Public Law 103-66.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: 1993 Mickey Leland Act amended the Food Stamp Act by changing the dependent care deduction and establishing an income deduction for child support payments.

Effective Date of Rule: September 1, 1994.

August 15, 1994

Dewey Brock, Chief  
Office of Vendor Services

**AMENDATORY SECTION** (Amending Order 3738, filed 5/26/94, effective 7/1/94)

**WAC 388-49-500 Income—Deductions.** (1) The department shall allow the following deductions when computing net income:

(a) A standard deduction of one hundred thirty-one dollars per household per month;

(b) An earned income deduction of twenty percent of gross earned income except as provided in WAC 388-49-640(8);

(c) A dependent care deduction of the actual amount incurred not to exceed ~~((one hundred sixty dollars per))~~ two hundred dollars for each dependent age one year old or younger and one hundred seventy-five dollars for each other dependent when care is necessary for a household member to:

- (i) Seek, accept, or continue employment; or
- (ii) Attend training or education preparatory to employment.

(d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars incurred or anticipated to be incurred by an elderly or disabled household member;

(e) A deduction for legally obligated child support paid for a person who is not a member of the household;

(f) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, medical, child support, and dependent care deductions. The shelter deduction shall not exceed two hundred thirty-one dollars; ~~((and~~

~~((g))~~ (g) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) A household's shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if the:

- (i) Household intends to return to the home;
- (ii) Current occupants, if any, are not claiming shelter costs for food stamp purposes; and

(iii) Home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home substantially damaged or destroyed due to a natural disaster;

(c) The standard utility allowance when a household incurs any separate utility charges for heating or cooling costs. A household may incur a separate utility charge when the household:

- (i) Has not yet received a billing for utilities;
- (ii) Is billed monthly by the landlord for actual usage as determined through individual metering; or

(iii) Shares residence and utility costs with other persons, in which case the deduction is for the household's prorated share of the standard allowance.

(d) Actual utility costs rather than the standard utility allowance if the household is:

- (i) Not entitled to the standard utility allowance; or
- (ii) Requesting use of actual utility bills. A monthly telephone standard shall be allowed for households incurring telephone expenses if the household is not entitled to claim the standard utility allowance.

(e) A shelter amount of one hundred thirty-seven dollars when all household members are homeless as specified under WAC 388-49-020(36) and the household incurs or expects to incur:

- (i) Monthly shelter costs no greater than one hundred thirty-seven dollars; or
- (ii) Unverified shelter costs exceeding one hundred thirty-seven dollars.

(3) A household may switch between actual utility costs and the standard utility allowance:

- (a) At each recertification; and
- (b) One additional time during each twelve-month period following the initial certification action.

(4) The department shall provide excess medical or shelter deductions effective with supplemental security income (SSI) eligibility when households:

- (a) Become categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150 after a food stamp application;
- (b) Receive food stamps as a nonassistance household until becoming categorically eligible; or
- (c) Become categorically eligible after denial of nonassistance food stamps.

(5) The department shall not provide a deduction for that portion of a deductible expense, described under this section, paid by an excluded:

- (a) Reimbursement; or
- (b) Vendor payment, except for Low Income Home Energy Assistance Act (LIHEAA) payments.

(6) The department shall verify:

(a) Dependent care costs including changes, except in prospective budgeting; and

(b) Incurred and anticipated medical expenses and the reimbursement amounts resulting in a deduction only at application, recertification, and when the household reports a change in medical expenses.

(c) Actual shelter costs for homeless households when such costs exceed the amount in subsection (2)(e) of this section.

(7) If medical reimbursement cannot be verified, the department shall certify the household without allowing the deduction ~~((except in prospective budgeting~~

~~((8) The department shall not verify anticipated changes in estimated medical expenses when the changes actually occur)).~~

**WSR 94-17-081  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 3771—Filed August 15, 1994, 4:56 p.m., effective September 1, 1994]

Date of Adoption: August 15, 1994.

Purpose: Updates the standard of need to determine the amount necessary for persons to maintain a minimum, but adequate, standard of living. This standard is used to determine eligibility for various public assistance programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-250-1250 Standards of assistance—Need standards.

Statutory Authority for Adoption: RCW 74.04.050.

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 department annually updates the need standard of public assistance recipients to determine the amount necessary to maintain a minimum, but adequate, standard of living.

Effective Date of Rule: September 1, 1994.

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

AMENDATORY SECTION (Amending Order 3729, filed 4/6/94, effective 5/7/94)

**WAC 388-250-1250 Standards of assistance—Need standards.** (1) Effective September 1, ~~((1993))~~ 1994, the department shall determine the statewide monthly need standard for a household with an obligation to pay shelter to be:

Recipients in Household	Need Standard
<del>((1</del>	<del>\$ 739</del>
<del>2</del>	<del>935</del>
<del>3</del>	<del>1,158</del>
<del>4</del>	<del>1,361</del>
<del>5</del>	<del>1,569</del>
<del>6</del>	<del>1,781</del>
<del>7</del>	<del>2,056</del>
<del>8</del>	<del>2,276</del>
<del>9</del>	<del>2,500</del>
<del>10 or more</del>	<del>2,716))</del>

<del>1</del>	<del>\$ 752</del>
<del>2</del>	<del>951</del>
<del>3</del>	<del>1,178</del>
<del>4</del>	<del>1,385</del>
<del>5</del>	<del>1,596</del>
<del>6</del>	<del>1,811</del>
<del>7</del>	<del>2,092</del>
<del>8</del>	<del>2,315</del>
<del>9</del>	<del>2,543</del>
<del>10 or more</del>	<del>2,763</del>

(2) Effective September 1, ~~((1993))~~ 1994, the department shall determine a household with shelter provided at no cost, except as described under WAC 388-250-1200, to be:

Recipients in Household	Need Standard
<del>((1</del>	<del>\$ 449</del>
<del>2</del>	<del>569</del>
<del>3</del>	<del>705</del>
<del>4</del>	<del>828</del>
<del>5</del>	<del>955</del>
<del>6</del>	<del>1,084</del>
<del>7</del>	<del>1,251</del>
<del>8</del>	<del>1,385</del>
<del>9</del>	<del>1,522</del>
<del>10 or more</del>	<del>1,653))</del>
<del>1</del>	<del>\$ 459</del>
<del>2</del>	<del>581</del>
<del>3</del>	<del>720</del>
<del>4</del>	<del>846</del>
<del>5</del>	<del>975</del>
<del>6</del>	<del>1,107</del>
<del>7</del>	<del>1,278</del>
<del>8</del>	<del>1,415</del>
<del>9</del>	<del>1,554</del>
<del>10 or more</del>	<del>1,689</del>

**WSR 94-17-092  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**  
[Order 94-73—Filed August 16, 1994, 4:47 p.m.]

Date of Adoption: August 15, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000A and 220-56-38000U; and amending WAC 220-56-350 and 220-56-380.

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: Interim rules needed until the permanent 1994-1995 sport rules take effect. Harvestable clams and oysters are available to extend seasons.

EMERGENCY

Effective Date of Rule: Immediately.

August 15, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

### NEW SECTION

**WAC 220-56-35000B Clams other than razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to harvest or possess clams, cockles, borers or mussels taken for personal use from the following tidelands except during the times shown:

- (1) Brown Point - Open through August 15.
- (2) Cama Beach State Park - state-owned tidelands beginning at the section line marker of Section 26, Township 31 North Range 2 East and following the shoreline north approximately 850 feet are closed effective August 1 until further notice.
- (3) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays beach are closed to the harvest of clams, except those tidelands between a row of tires at Camp Discovery and a second row of tires 2000 feet to the south and except the state-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending 1,200 feet to the north are open until further notice.
- (4) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of clams.
- (5) Eagle Creek - Closed until further notice.
- (6) Garrison Bay - All tidelands of Guss Island, and all state and federal tidelands at British Camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed until further notice.
- (7) Illahee State Park - Closed until further notice.
- (8) Kopachuck State Park - Closed until further notice.
- (9) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed.
- (10) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island then due west to the mainland are closed except the state-owned oyster Reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of the inlet are open until further notice.
- (11) Oak Bay County Park - Open until further notice.
- (12) Penrose State Park - Closed effective August 1 until further notice.
- (13) Port Townsend ship canal - Closed until further notice.
- (14) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed.
- (15) Rendsland Creek - Open until further notice.
- (16) Saltwater State Park - Closed until further notice.
- (17) Shine Tidelands State Park - Open until further notice.

- (18) South Indian Island Co. Park - Open until further notice.
- (19) West Dewatto (DNR 44A) - Closed until further notice.
- (20) Wolfe Property State Park - Open until further notice.

### NEW SECTION

**WAC 220-56-38000V Oysters—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to harvest or possess oysters taken for personal use from the following tidelands except during the times shown:

- (1) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of oysters, except those tidelands between a row of tires at Camp Discovery and a second row of tires 2000 feet to the south and except the state-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending 1,200 feet to the north are open until further notice.
- (2) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed.
- (3) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed.
- (4) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed except the state-owned oyster Reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of the inlet are open until further notice.
- (5) Point Whitney Lagoon - Closed until further notice.
- (6) Potlatch East - Open until further notice.
- (7) Potlatch State Park - Open until further notice.
- (8) Quilcene Bay - All state-owned tidelands in quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed.
- (9) Rendsland Creek - Open until further notice.
- (10) Scenic Beach State Park - Open until further notice.
- (11) Twanoh State Park - Open until further notice.
- (12) West Dewatto (DNR 44A) - Open until further notice.

Notwithstanding the provisions of this section, it is lawful for Coast Seafood employees to take oysters from the areas listed herein under the terms of a contract between Coast Seafoods and the Department.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                   |   |
|-------------------|---|
| WAC 220-56-35000A | Clams other than razor clams—Areas and seasons. (94-66) |
| WAC 220-56-38000U | Oysters—Areas and seasons. (94-66)                      |

**WSR 94-17-093**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-75—Filed August 16, 1994, 4:56 p.m., effective August 17, 1994, 12:01 a.m.]

Date of Adoption: August 16, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-47-504.

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: Openings in Areas 7 and 7A are regulated by the Washington Department of Fish and Wildlife as per provisions of the United States section of the Fraser Panel, Pacific Salmon Commission. Openings provide opportunity to harvest the nontreaty share of the United States allocation of Fraser River origin sockeye salmon. Mesh restrictions provide protection for United States and Canadian origin chinook stocks. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian allocation of chinook destined for the Nooksack-Samish region of origin, as per preseason plan. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: August 17, 1994, 12:01 a.m.

August 16, 1994

Judith Freeman

Deputy

for Robert Turner

Director

**NEW SECTION**

**WAC 220-47-505 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:01 a.m. Wednesday August 17th, 1994 until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* Areas 7 and 7A - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily Wednesday, Thursday, Saturday and Sunday August 17, 18, 20 and 21, and gill nets using 5-inch minimum, 6-inch maximum mesh may fish from 8:00 p.m. Thursday August 18 to 7:00 a.m. Friday August 19, and purse seines may fish from 5:00 a.m. to 9:00 p.m. Friday August 19.
- \* Areas 7B and 7C - Gill nets using 7-inch minimum mesh may fish from 12:01 a.m. to 7:00 a.m. Wednesday August 17.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F,

13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 except as modified herein - Closed.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 17, 1994:

WAC 220-47-504 Puget Sound all-citizen commercial salmon fishery. (94-74)

**WSR 94-17-120**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 94-77—Filed August 18, 1994, 4:56 p.m., effective August 19, 1994, 12:01 a.m.]

Date of Adoption: August 18, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-47-505.

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: Openings in Areas 7 and 7A are regulated by the Washington Department of Fish and Wildlife as per provisions of the United States Section of the Fraser Panel, Pacific Salmon Commission. Openings provide opportunity to harvest the nontreaty share of the United States allocation of Fraser River origin sockeye salmon. Mesh restrictions provide protection for United States and Canadian origin chinook stocks. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian allocation of chinook destined for the Nooksack-Samish region of origin, as per preseason plan. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: August 19, 1994, 12:01 a.m.

August 18, 1994

Bruce A. Crawford

for Robert Turner

Director

**NEW SECTION**

**WAC 220-47-506 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:01 a.m. Friday August 19th, 1994 until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* Areas 7 and 7A - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily Saturday and Sunday August 20 and 21, and gill nets using 5-inch minimum, 6-inch maximum mesh may fish from 12:01 a.m. to 7:00 a.m. Friday August 19 and from 6:00 p.m. Friday August 19 to 7:00 a.m. Saturday August 20, and purse seines may fish from 5:00 a.m. to 9:00 p.m. Friday August 19 and from 7:00 a.m. to 8:00 p.m. Saturday August 20.
- \* Areas 7B and 7C - Gill nets using 7-inch minimum mesh may fish from 7:00 p.m. to 7:00 a.m. nightly, Monday and Tuesday nights August 22 and 23.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 except as modified herein - Closed.

August 19, 1994  
 Bruce A. Crawford  
 for Robert Turner  
 Director

NEW SECTION

**WAC 220-47-507 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:01 a.m. Sunday August 21st, 1994 until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* Area 7 - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily until further notice.
- \* Area 7A - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily until further notice, and gill nets using 5-inch minimum and 6-inch maximum mesh may fish from 8:00 p.m. Monday August 22 to 7:00 a.m. Tuesday August 23 and from 7:00 p.m. Tuesday August 23 to 7:00 a.m. Wednesday August 24, and purse seines may fish from 7:00 a.m. to 7:00 p.m. Tuesday August 23 and from 7:00 a.m. to 8:00 p.m. Wednesday August 24.
- \* Areas 7B and 7C - Gill nets using 7-inch minimum mesh may fish from 7:00 p.m. to 7:00 a.m. nightly, Monday and Tuesday nights August 22 and 23.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 except as modified herein - Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 18, 1994:

WAC 220-47-505 Puget Sound all-citizen commercial salmon fishery. (94-75)

**WSR 94-17-130  
 EMERGENCY RULES  
 DEPARTMENT OF  
 FISH AND WILDLIFE**

[Order 94-79—Filed August 19, 1994, 4:44 p.m., effective August 21, 1994, 12:01 a.m.]

Date of Adoption: August 19, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-47-506.

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: Openings in Areas 7 and 7A are regulated by the Washington Department of Fish and Wildlife as per provisions of the United States Section of the Fraser Panel, Pacific Salmon Commission. Openings provide opportunity to harvest the nontreaty share of the United States allocation of Fraser River origin sockeye salmon. Mesh restrictions provide protection for united States and Canadian origin chinook stocks. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian allocation of chinook destined for the Nooksack-Samish region of origin, as per preseason plan. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: August 21, 1994, 12:01 a.m.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 21, 1994:

WAC 220-47-506 Puget Sound all citizen commercial salmon fishery. (94-77)

**WSR 94-17-146  
 EMERGENCY RULES  
 DEPARTMENT OF  
 FISH AND WILDLIFE**

[Order 94-81—Filed August 23, 1994, 11:34 a.m.]

Date of Adoption: August 22, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-47-507.

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

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adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Openings in Areas 7 and 7A are regulated by the Washington Department of Fish and Wildlife as per provisions of the United States Section of the Fraser Panel, Pacific Salmon Commission. Openings provide opportunity to harvest the nontreaty share of the United States allocation of Fraser River origin sockeye salmon. Mesh restrictions provide protection for United States and Canadian origin chinook stocks. Requirements for reef net release of coho and chinook salmon provide additional protection for depressed stocks of those species. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian allocation of chinook destined for the Nooksack-Samish region of origin, as per preseason plan. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: Immediately.

August 22, 1994  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-47-508 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* Area 7 - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily until further notice. All coho and chinook are required to be released.
- \* Area 7A - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily until further notice, and are required to release all coho and chinook. Gill nets using 5-inch minimum and 6-inch maximum mesh may fish from 8:00 p.m. Monday August 22 to 7:00 a.m. Tuesday August 23 and from 7:00 p.m. Tuesday August 23 to 7:00 a.m. Wednesday August 24, and purse seines may fish from 7:00 a.m. to 7:00 p.m. Tuesday August 23 and from 7:00 a.m. to 8:00 p.m. Wednesday August 24.
- \* Areas 7B and 7C - Gill nets using 7-inch minimum mesh may fish from 7:00 p.m. to 7:00 a.m. nightly, Monday and Tuesday nights August 22 and 23.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 except as modified herein - Closed.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-47-507

Puget Sound all-citizen commercial salmon fishery. (94-79)

**WSR 94-17-150  
EMERGENCY RULES  
CENTRAL WASHINGTON UNIVERSITY**

[Filed August 23, 1994, 2:05 p.m.]

Date of Adoption: August 18, 1994.

Purpose: Eliminate warning consideration for first parking infraction notice.

Citation of Existing Rules Affected by this Order: Amending WAC 106-116-603.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.10.560, 28B.35.120.

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 adoption of proposed changes is necessary to allow the public access to current, updated regulations prior to the beginning of fall quarter.

Effective Date of Rule: Immediately.

August 18, 1994  
Ivory V. Nelson  
President

**AMENDATORY SECTION** (Amending Order CWU AO 72, filed 5/2/94, effective 6/2/94)

**WAC 106-116-603 Monetary penalty schedule.**

Offense	Penalty
(1) Improper display of permit . . . . .	\$ 5.00
(2) Parking faculty-staff area . . . . .	12.00
(3) Parking yellow stripe or curb . . . . .	7.00
(4) Parking outside designated parking area . . . . .	7.00
(5) Obstructing traffic . . . . .	25.00
(6) Parking at improper angle or using more than one stall, or backing into parking stall . . . . .	7.00
(7) Violation of the bicycle parking rules in WAC 106-116-901 . . . . .	7.00
(8) Reserved parking area . . . . .	12.00
(9) No parking area . . . . .	10.00
(10) Overtime parking . . . . .	7.00
(11) Using counterfeit, falsely made, or altered permit . . . . .	100.00
(12) Illegal use of permit . . . . .	100.00
(13) No current permit . . . . .	7.00
(14) Parking service drive . . . . .	12.00
(15) Parking/driving sidewalks, malls . . . . .	15.00
(16) Parking/driving lawns . . . . .	20.00
(17) Parking fire lane . . . . .	25.00
(18) Parking fire hydrant . . . . .	25.00

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- (19) Driving, walking, leading, etc., certain animals on campus without permit (WAC 106-116-10401) . . . . . 12.00
- (20) Other violations of the objectives of the CWU parking and traffic regulations . . . . . 7.00 to 12.00
- (21) Parking in a space marked "disabled person permit only" . . . . . 30.00
- (22) Continuous parking . . . . . 20.00

~~((The first \$5.00 to \$7.00 infraction notice between September 1 and August 31 each year shall be considered a written warning and no monetary penalty will be imposed if brought to the public safety and police services department within seven calendar days from the date of the infraction. Parking warning transactions will be processed by that department between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday.))~~ Parking infraction notices shall qualify for a \$3.00 reduction in monetary penalty if paid to the cashier's office in Barge Hall before close of business on the succeeding work day following issuance of the notice. Parking infraction notices received on the last business day of a week must be paid the first business day of the following week to qualify for a \$3.00 reduction in the monetary penalty. The cashier's office is open Monday through Friday, 8:00 a.m. to 5:00 p.m.

Failure to respond within fifteen days will result in the issuance of an overdue notice and an administrative charge of \$2.00 will be added. If payment has not been received within ten days after issuance of the overdue notice, the original monetary penalty will be doubled except that, in accordance with RCW 46.63.110(3), the penalty for failure to respond shall not exceed \$25.00 for any single infraction. Further failure to respond may result in one or more of the following sanctions:

- (a) Withholding of transcripts;
- (b) Deduction from payroll checks; and/or
- (c) Withholding of parking permits.

**WSR 94-17-152**  
**EMERGENCY RULES**  
**CENTRAL WASHINGTON UNIVERSITY**  
 [Filed August 23, 1994, 2:07 p.m.]

Date of Adoption: August 18, 1994.

Purpose: WAC 106-120-003, to change position title; WAC 106-120-004, to remove outdated reference, adjust grammar, and add an additional definition to conform to state statute; WAC 106-120-027, to add a statement expanding proscribing conduct; WAC 106-120-028, to change college to university and add mandated language concerning hazing; WAC 106-120-131, to change department title; WAC 106-120-132, to correct spelling error; WAC 106-120-143, to adjust grammar and remove sexist language; chapter 106-124 WAC, to update outdated terminology; WAC 106-124-010, to correct punctuation; WAC 106-124-011, to remove sexist language; WAC 106-124-700, to adjust punctuation and clarify a term; WAC 106-124-801, to correct language defining exceptions to prohibited animals and add punctuation; WAC 106-172-711, to change position and department titles; WAC 106-172-721, to change position title; WAC

106-172-731, to change language in keeping with APA requirements and position title change; WAC 106-172-735, to adjust punctuation; WAC 106-172-750, to correct spelling; WAC 106-172-761, to change language required by APA mandate; WAC 106-172-763, to change position title and remove sexist language; WAC 106-172-765, to modify a position title, adjust language to reflect APA guidelines, and correct punctuation; and WAC 106-172-772, to remove sexist language and change a position title.

Citation of Existing Rules Affected by this Order: Amending chapters 106-120, 106-124 and 106-172 WAC and WAC 106-120-003 Purpose, 106-120-004 Definitions, 106-120-027 Proscribed conduct, 106-120-028 Disciplinary sanctions, 106-120-131 Initiation, investigation, and disposition of complaints, 106-120-132 Procedures for proceeding before the campus judicial council, 106-120-143 Summary suspension proceedings, chapter 106-124 WAC, General conduct—Rights and responsibilities of ~~((college))~~ university community members, 106-124-010 Financial obligations of students—Appeal procedure, 106-124-700 Firearms, explosives, dangerous chemicals—Restrictions, and 106-124-801 Animals prohibited, 106-172-711 Definitions, 106-172-721 Notification by educational institution, 106-172-731 Access to education records, 106-172-735 Exception to consent requirements and record of access, 106-172-750 Timely disposal of records, 106-172-761 Right to a ~~((hearing))~~ proceeding, 106-172-763 Informal proceedings, 106-172-765 Conduct of the ~~((hearing))~~ proceeding, and 106-172-772 Release of information for health or safety emergencies.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.35.120(12).

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 adoption of proposed changes is necessary to allow the public access to current, updated regulations prior to the beginning of fall quarter.

Effective Date of Rule: Immediately.

August 18, 1994  
 Ivory V. Nelson  
 President

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

**WAC 106-120-003 Purpose.** The students of Central Washington University are responsible for complying with policies, standards, rules, and requirements for academic and social behavior formulated by the university for the maintenance of and orderly and responsible functioning of the university community. At the same time, students have protection through orderly procedures against arbitrary or capricious actions or decisions by university authorities. Due process is recognized as essential to the proper enforcement of university rules. The purpose of this chapter is to provide a procedure and rules by which a student will be afforded

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due process in the matter of alleged violations of university standards, rules and requirements governing academic and social conduct of students.

The university recognizes a responsibility to resolve behavior problems before they escalate into serious problems requiring the application of these rules. Therefore, the ~~((dean))~~ vice-president for student affairs shall generally review and/or investigate student behavioral problems which are referred by university community members or any subsidiary judicial agencies to the campus judicial council, or which otherwise come to the attention of the ~~((dean))~~ vice-president through campus safety reports or other official university reports. The ~~((dean))~~ vice-president shall be as proactive as is possible concerning the resolution of student behavioral problems and use reasonable arbitration and conflict resolution methods in order to prevent such problems from further interfering with the university community or the student's own educational progress.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-004 Definitions.** (1) "University" shall mean Central Washington University.

(2) "Vice-president" shall mean the vice-president for student affairs of the university or the vice-president's designee.

(3) "Student" shall mean a person enrolled ~~((at the university))~~ either full or part time, pursuing undergraduate~~(-)~~ or graduate~~(- or extension))~~ studies, or a person accepted for admission or readmission to the university.

(4) "University community" shall include the employees and students of Central Washington University and all property and equipment of the university.

(5) "Hazing" shall include any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending Central Washington University. The term does not include customary athletic events or other similar contests or competitions.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-028 Disciplinary sanctions.** The following definitions of disciplinary terms have been established and may be the sanctions imposed by the vice-president or by the campus judicial council.

(1) Warning. Notice in writing that the student has violated university rules or regulations or has otherwise failed to meet the university's standard of conduct. Such warning will contain the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(2) Disciplinary probation. Formal action specifying the conditions under which a student may continue to be a student at the university including limitation of specified activities, movement, or presence on the CWU campus. The conditions specified may be in effect for a period of time or for the duration of the student's attendance at the university.

(3) Restitution. An individual student may be required to make restitution for damage or loss to university or other property and for injury to persons. Failure to make restitution will result in suspension for an indefinite period of time as set forth in subsection (4) below provided that a student may be reinstated upon payment.

(4) Suspension. Dismissal from the university and from status as a student for a stated period. The notice suspending the student will state in writing the term of the suspension and any condition(s) that must be met before readmission is granted. The student so suspended must demonstrate that the conditions for readmission have been met. There is to be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter are to be refunded.

(5) Deferred suspension. Notice of suspension from the university with the provision that the student may remain enrolled contingent on meeting a specified condition. Not meeting the contingency shall immediately invoke the suspension for the period of time and under the conditions originally imposed.

(6) Expulsion. The surrender of all rights and privileges of membership in the ~~((college))~~ university community and exclusion from the campus without any possibility for return.

(7) For the specific instance of hazing, forfeiture of any entitlement to state-funded grants, scholarships, or awards for a specified period of time.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-131 Initiation, investigation, and disposition of complaints.** (1) Philosophy.

When student behavioral problems occur, the university employs a team problem-solving approach. The director of housing, director of residence living, and the chief of ~~((campus police))~~ public safety and police services join the assistant and associate vice-president weekly to review residence living incident reports filed by living group advisors and hall managers, as well as campus police reports which cover both on-campus and off-campus students. This problem-solving team then deals with student behavioral problems which constitute violations of this code.

The problem-solving team works together to suggest intervention strategies which are considered to be most appropriate and effective for eliminating specific negative student behaviors.

(2) Process.

Incidents which come to the attention of the problem-solving team may be addressed in one of the following ways:

- (a) No action;
- (b) Informal meetings with relevant university officials;
- (c) Referral to the residence hall arbitration council, for resolving certain disputes within the residence halls;
- (d) Proceedings in the office of the vice-president.

Official proceedings in the vice-president's office are conducted when it becomes apparent to the problem-solving team that the initial and more informal forms of intervention with a student have been unsuccessful in positively modifying a student's behavior. The following rules will govern

the processing of alleged violations of the proscribed conduct listed in the student judicial code.

(3) A complaint alleging misconduct against any student at the university may be filed by anyone at the office of the vice-president. Students, faculty members, administrators, and other employees of the university shall have concurrent authority to request the commencement of the disciplinary proceedings provided for in this chapter. A person filing a complaint shall be complainant of record.

(4) Any student charged in a complaint shall receive oral or written notification from the vice-president. Such notice shall:

(a) Inform the student that a complaint has been filed alleging that the student violated specific provisions of the student((s)) judicial code and the date of the violation(s);

(b) Set forth those provisions allegedly violated;

(c) Specify a time and date the student is required to meet with the vice-president or designee; and

(d) Inform the student that failure to appear at the appointed time at the vice-president's office may subject the student to suspension from the university.

(5) When the vice-president meets with the student, the vice-president shall:

(a) Provide for the student a copy of the student judicial code;

(b) Review the facts of the alleged violation with the student; and

(c) Conduct an investigation into the alleged violation.

(6) Upon completion of the review with the student and/or the investigation, the vice-president may:

(a) Drop the charges, when they appear to be invalid or without substance or capricious;

(b) Issue a verbal warning;

(c) Apply any of the sanctions as outlined in WAC 106-120-028 if such sanction is warranted by the evidence;

(d) Refer the case to the campus judicial council; or

(e) Invoke the summary suspension procedure as outlined in WAC 106-120-143 when deemed appropriate.

The vice-president shall inform the student that the vice-president's sanction may be appealed to the campus judicial council, and that if an appeal is made, the vice-president shall take no action or make any determination, except for summary suspension, in the matter other than to inform the student of the time, date, and location of the proceeding by the campus judicial council.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-132 Procedures for proceeding before the campus judicial council.** (1) When a case is referred to the campus judicial council the vice-president shall forward to the council:

(a) A statement describing the alleged misconduct;

(b) The name and address of the complainant;

(c) The name and address of the student charged; and

(d) All relevant facts and statements.

(2) The council chair shall call a special meeting of the council and arrange for a proceeding in the following manner:

(a) The council shall determine the time and place of the proceeding, which shall be at least ten days after delivery

of written notice to the student. In the interest of timeliness and efficiency, upon the request of either the student or the vice-president, this ten-day interval may be waived by the vice-president, with the student's permission. Time and place shall be set to make the least inconvenience for all interested parties. The chair may change the time and place of the proceeding for sufficient cause.

(b) The council shall draw lots for five student names, one of whom will serve as an alternate to be available until the proceeding board has been constituted.

(c) No case shall be heard unless the full membership of the proceeding board is present.

(d) All cases will be heard de novo, whether the case be an appeal from a subsidiary judicial body or is heard as an original complaint.

(3) The council chair shall send written notice by certified mail of the proceeding to the student to the student's last known address. The notice shall contain:

(a) A statement of the date, time, place and nature of the proceeding;

(b) To the extent known, a list of witnesses who will appear; and

(c) A summary description of any documentary or other physical evidence that would be presented by the university.

(4) The student shall have all authority possessed by the university to obtain information he/she specifically describes in writing and tenders to the council chair no later than two days prior to the proceeding or to request the presence of witnesses, or the production of other evidence relevant to the proceeding. However, the university shall not be liable for information requested by the student or the presence of any witnesses when circumstances beyond the control of the university prevent the obtaining of such information or the attendance of such witnesses at the proceeding.

(5) Proceedings will ordinarily be held in closed session unless the proceeding board determines there is a compelling reason for the proceeding to be open, or the student requests an open proceeding. A closed proceeding shall include only members of the proceeding board, persons directly involved in the proceeding as parties and persons called as witnesses.

(6) The proceeding shall be audio tape recorded, and the tape shall be on file at the office of the vice-president for a period of three years.

(7) The university shall be represented by the vice-president who shall present the university's case against the student.

(8) The student may be accompanied by counsel, or another third party, who may offer advice. If the student utilizes an attorney as advisor, the student must give to the vice-president two days notice of intent to do so. If the student elects to be advised by an attorney, the vice-president may elect to have the university advised by an assistant attorney general.

(9) The council chair shall insure that:

(a) The proceeding is held in an orderly manner giving full care that the rights of all parties to a full, fair and impartial proceeding are maintained.

(b) The charges and supporting evidence or testimony shall be presented first, and that there is full opportunity for the accused student to challenge the testimony and/or evidence, and to cross examine appropriately.

(c) The student charged shall next present evidence or testimony to refute the charge, and that there is full opportunity for the accuser to challenge testimony and/or evidence, and to cross examine appropriately.

(d) Only those materials and matters presented at the proceeding will be considered as evidence. The presiding officer shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(10) Any person disruptive of the proceeding or any other procedure described in this document may be excluded from the process by the chair of the campus judicial council or by the vice-president, using such means as are necessary to ~~((insure))~~ ensure an orderly process. Any student engaging in such interference shall be in contempt and may be summarily suspended from the university by the campus judicial council or the vice-president immediately. The student shall be subject to a suspension or any lesser sanction as may be determined by the campus judicial council or the vice-president at the time the interference takes place or within fifteen working days thereafter.

(11) The student has a right to a fair and impartial proceeding, but the student's failure to cooperate with or attend a proceeding procedure shall not preclude the committee from making its finding of facts, conclusions, and recommendations. Failure by the student to cooperate may be taken into consideration by the campus judicial council and the vice-president in deciding the appropriate disciplinary action.

(12) Upon conclusion of the proceeding, the proceeding board in closed session shall consider all the evidence presented and decide by majority vote to exonerate the student or to impose one of the sanctions authorized by this document.

(13) The student shall be provided with a copy of the board's findings of fact and conclusions regarding whether the student did violate any rule or rules of the student judicial code and the board's decision as to the appropriate sanction to be imposed.

(14) If a student charged with misconduct under this code has been charged with a crime for the same act or closely related acts by federal, state, or local authorities, or if it appears that such criminal charge is under consideration, the campus judicial council may postpone action on the complaint until there has been a disposition of the criminal charge or of the consideration of filing such charge. However, prior to action by other agencies, the council may proceed to hear and decide the case if in the judgment of the council, the nature of the alleged misconduct and the circumstances surrounding it pose a serious risk to the health or well being of the student or other members of the university. If there is a determination of guilt by the council and if the subsequent criminal proceedings result in a judgment of acquittal, the student may petition the campus judicial council for a rehearing.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-143 Summary suspension proceedings.** The vice-president may summarily suspend any student from the university pending investigation, action of prosecution of charges of an alleged proscribed conduct

violation or violations, if the vice-president has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other university community members, or the protection of property requires such suspension.

(1) If the vice-president finds it necessary to exercise the authority to summarily suspend a student the vice-president shall:

(a) Give to the student an oral or written notice of intent to determine if summary suspension is an appropriate action;

(b) Give an oral or written notice of the alleged misconduct and violation(s) to the student;

(c) Give an oral or written explanation of the evidence in support of the charge(s) to the student;

(d) Give an oral or written notice of the time and place of the summary suspension proceeding before the vice-president; and

(e) Determine a time for the summary suspension proceeding to be held within thirty-six hours;

(f) Give an oral or written explanation of the summary suspension which may be imposed on the student.

(2) At the place and time designated for the summary suspension proceeding, the vice-president shall:

(a) Consider the evidence relating specifically to the probability of danger to the student, to others on the campus, or to property;

(b) Provide the student with an opportunity to show why continued presence on campus does not constitute a danger to the physical and emotional well being of self or others, or a danger to property;

(c) Give immediate oral notice of his or her decision to the student to be followed by written notice; and

(d) If summary suspension is warranted, summarily suspend the student for no more than fifteen working days with a judicial council proceeding of the allegations to have commenced by the end of the suspension period.

(3) If a student has been instructed by the vice-president to appear for summary suspension proceedings and then fails to appear at the time designated, the vice-president may suspend the student from the university, and shall ~~((given))~~ give written notice of suspension to the student at ~~((his))~~ the last address of record on file with the university.

(4) During the period of summary suspension, the suspended student shall not enter the campus of the university other than to meet with the vice-president. However, the vice-president may grant the student special permission for the express purpose of meeting with faculty, staff, or students in preparation for a proceeding before the campus judicial council.

**AMENDATORY SECTION** (Amending WSR 91-04-054, filed 2/4/91, effective 3/7/91)

**WAC 106-120-027 Proscribed conduct.** A student shall be subject to disciplinary action or sanction upon violation of any of the following conduct proscriptions:

(1) Disruptive and disorderly conduct which interferes with the rights and opportunities of other students to pursue their academic studies.

(2) Academic dishonesty in all its forms including, but without being limited to:

(a) Cheating on tests.

- (b) Copying from another student's test paper.
- (c) Using materials during a test not authorized by the person giving the test.
- (d) Collaboration with any other person during a test without authority.
- (e) Knowingly obtaining, using, buying, selling, transporting, or soliciting in whole or in part the contents of an unadministered test or information about an unadministered test.
- (f) Bribing any other person to obtain an unadministered test or information about an unadministered test.
- (g) Substitution for another student or permitting any other person to substitute for oneself to take a test.
- (h) "Plagiarism" which shall mean the appropriation of any other person's work and the unacknowledged incorporation of that work in one's own work offered for credit.
- (i) "Collusion" which shall mean the unauthorized collaboration with any other person in preparing work offered for credit.
- (3) Filing a formal complaint with the vice-president with the intention of falsely accusing another with having violated a provision of this code.
- (4) Furnishing false information to any university official, especially during the investigation of alleged violations of this code.
- (5) Furnishing false information to the campus judicial council with the intent to deceive, the intimidation of witnesses, the destruction of evidence with the intent to deny its presentation to the campus judicial council or the willful failure to appear before the campus judicial council or the vice-president when properly notified to appear.
- (6) Intentionally setting off a fire alarm or reporting a fire or other emergency or tampering with fire or emergency equipment except when done with the reasonable belief in the existence of a need therefore.
- (7) Forgery, alteration, or misuse of university documents, records, or identification cards.
- (8) Sexual assault in any form, including acquaintance rape and other forced and/or nonconsensual sexual activity.
- (9) Actual or attempted physical/emotional abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally or recklessly causes a reasonable apprehension of harm to any person.
- (10) Harassment of any sort or any malicious act which causes harm to any person's physical or mental well being.
- (11) Recklessly engaging in conduct which creates a substantial risk of physical harm to another person.
- (12) Creating noise in such a way as to interfere with university functions or using sound amplification equipment in a loud and raucous manner.
- (13) Theft or malicious destruction, damage or misuse of university property, private property of another member of the university community, whether occurring on or off campus; or theft or malicious destruction, damage or misuse on campus of property of a nonmember of the university community.
- (14) Unauthorized seizure or occupation or unauthorized presence in any university building or facility.
- (15) Intentional disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities or programs whether occurring on or off

campus or of activities or programs authorized or permitted by the university to be conducted on campus.

(16) Intentional participation in a demonstration which is in violation of rules and regulations governing demonstrations promulgated by the university.

(17) Unauthorized entry upon the property of the university or into a university facility or any portion thereof which has been reserved, restricted in use, or placed off limits; unauthorized presence in any university facility after closing hours; or unauthorized possession or use of a key to any university facility.

(18) Possession or use on campus of any firearm, dangerous weapon or incendiary device or explosive unless such possession or use has been authorized by the university.

(19) Possession, use, or distribution on campus of any controlled substance as defined by the laws of the United States or the state of Washington except as expressly permitted by law.

(20) Violation of the university policy on alcoholic beverages which states:

(a) Persons twenty-one years of age or older may possess and/or consume alcoholic beverages within the privacy of their residence hall rooms or apartments. Washington state law provides severe penalties for the possession or consumption of alcoholic beverages by persons under twenty-one years of age and for persons who furnish alcoholic beverages to minors. All university students should be aware of these laws and the possible consequences of violations.

(b) The university does not condone the consumption of alcoholic beverages by minors at functions sponsored by Central Washington University organizations. Organizations are held responsible for the conduct of their members at functions sponsored by the organization and for failure to comply with Washington state law.

(c) The campus judicial council may place on probation any organization or prohibit a specific campus social function when the consumption of alcoholic beverages has become a problem of concern to the university.

(21) Conduct which violates the university policies on computer use.

(22) Violation of clearly stated proscriptions in any published rule or regulation promulgated by any official campus committee or commission or council acting within the scope of its authority.

(23) Violation on campus of any state or federal law or violation of any state or federal law off campus while participating in any university sponsored activity.

(24) Conspiracy to engage in hazing or participation in hazing of another.

**Chapter 106-124 WAC  
GENERAL CONDUCT—RIGHTS AND RESPONSIBILITIES OF ((COLLEGE)) UNIVERSITY COMMUNITY MEMBERS**

AMENDATORY SECTION (Amending Order 41, filed 10/4/78)

**WAC 106-124-010 Financial obligations of students.** Admission to or registration with the university, conferring of degrees, and issuance of academic transcripts or grade

reports may be withheld for failure to meet financial obligations to the university.

**AMENDATORY SECTION** (Amending Order 43, filed 5/16/79)

**WAC 106-124-011 Financial obligations of students—Appeal procedure.** Every student has the right to appeal an assessment by the university of a fee, fine, charge, debt, or other financial obligation by filing a written petition with the appropriate dean or nonacademic area director stating the student's reasons for challenging the validity of the assessed obligation. The written petition must be filed not more than thirty days after the notice of assessment was sent to the student. The dean or director, or ((his)) designee, shall review the university's decision to assess the fee, fine, charge, debt, or other financial obligation in light of the student's petition appealing the assessment and shall render a decision thereon which shall be final.

**AMENDATORY SECTION** (Amending Order 56, filed 5/29/84)

**WAC 106-124-700 Firearms, explosives, dangerous chemicals—Restrictions.** No person shall have in his possession any gun, pistol, firearm, explosive, dangerous chemicals, or other dangerous weapons or instruments on university-owned or university-leased property except as follows:

(1) Authorized law enforcement officers shall be permitted to carry arms while on duty and engaged in their regular duties;

(2) Activities requiring use of the prohibited items may be conducted upon approval of the president or his designee;

(3) Persons with firearms in their possession shall be permitted to travel enroute to or from the university-provided firearm storage facilities only.

Violators of this WAC shall be subject to appropriate disciplinary or legal action.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-124-801 Animals prohibited.** (1) No animals, including dogs and cats, except ((seeing-eye)) service dogs, will be allowed, under any circumstances, in any university-operated building.

(2) All dogs on campus shall be under direct physical control, leashed by their owner or custodian.

(3) Dogs not under direct physical control of their owner or custodian, i.e., unleashed or tied and owner or custodian not present, shall be subject to impoundment and their owners subject to fines as determined under city ordinances.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-711 Definitions.** The following definitions shall apply for the interpretation of these regulations:

(1) The "university" means Central Washington University as a whole, including any and all of its component departments, offices, or units.

(2) "Directory information" means the student's name, hometown address, university address and telephone number, date of birth, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, class, previous institutions attended, major field of study, awards, honors (including honor roll), degrees conferred (including dates), and other similar information. The university may release directory information concerning a student to the public unless the student submits a signed request in writing, within two weeks after the first day of classes for the fall quarter. Requests for nondisclosure must be forwarded to the office of the ((~~dean of students~~)) vice-president for student affairs where an appropriate notation will be entered in the student's computer file. These requests will then be forwarded to the university relations and information office which maintains a complete file of nondisclosure requests. Authorization to withhold the information must be filed annually since the request for nondisclosure will be honored by the university for only one year.

(3) "Eligible student" means any person who is officially registered at this university.

(4)(a) "Education records" mean those records which:

(i) Are directly related to a student, and

(ii) Are maintained by the university or by a party acting for the university.

(b) The term education record does not include the following:

(i) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker of the record and which are not accessible or revealed to any other person except a temporary substitute;

(ii) Records of ((~~the campus police~~)) public safety and police services which are maintained separately and solely for law enforcement officials of the same jurisdiction—provided that education records maintained by the university are not disclosed to the law enforcement unit;

(iii) Records of someone employed by the university, which are made in the normal course of business, related exclusively to the person as an employee, and are not used for any other purpose;

(iv) Records made by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional directly related to the treatment of a student, and not disclosed to anyone other than individuals providing treatment provided records can be reviewed by a physician or other appropriate professional of the student's choice.

(5) "Personally identifiable" means that the data or information includes:

(a) The name of a student, the student's parent, or other family member,

(b) The address of the student,

(c) A personal identifier, such as the student's social security number or student number,

(d) A list of personal characteristics which would make the student's identity easily traceable, or

(e) Other information which would make the student's identity easily traceable.

(6) "Record" means information or data recorded in any medium including but not limited to: Handwriting, print, tapes, film, microfilm, and microfiche.

(7) "Financial aid" means a payment of funds provided to an individual which is conditioned on the individual's attendance at an educational agency or institution.

(8) (~~"Dean of students"~~) "Vice-president for student affairs" means the (~~dean of student development~~) vice-president for student affairs or (~~his/her~~) the vice-president's designee.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-172-721 Notification by educational institution.** (1) The university shall inform eligible students, annually, of the following:

(a) The types of education records and information contained therein which are maintained by the institution;

(b) The titles and addresses of official responsible for the maintenance of each type of record, the persons who have access to those records, and the purposes for which they have access;

(c) The policies and procedures of the university for reviewing and expunging those records, and for challenging the accuracy of them;

(d) The procedures for gaining access to the educational records;

(e) The cost, as approved by the board of trustees, which will be charged to the eligible student for reproducing single copies of records, provided that the cost shall not exceed the actual cost of reproducing the record;

(f) The categories of information which the university has designated as directory information.

(2) Notice of the existence of this policy and the availability of the information described in subsection (1)(a) through (f) of this section may be published in any official university print medium publication having general circulation among students. This may be a special publication for this purpose only, or included in another publication. Students may consult the office of the (~~dean of students~~) vice-president for student affairs for the information described.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

**WAC 106-172-731 Access to education records.** The university shall provide each student access to his/her education records except as otherwise limited according to WAC 106-172-733.

The right of access shall include:

(1) The right to inspect and review the content of education records in the presence of appropriate university personnel.

(2) The right to obtain single copies of each record, at the expense of the eligible student but not to exceed the actual cost to the university of reproducing such copies.

(3) The right to a response from the university to reasonable requests for explanations and interpretations of those records.

(4) The right of an opportunity for a (~~hearing~~) proceeding to challenge the content and accuracy of those records according to WAC 106-172-761.

(5) (a) Students wishing access under provisions of this policy to education records maintained by the university

should address a request in writing to the person in charge of maintenance of that record. If copies are requested, copies may be supplied at no more than the cost of making the copy, including supplies and staff time.

(b) The individual responsible for maintenance of any record shall respond to written requests only, and provide copies as requested, within twenty working days. The university registrar is not prohibited from providing a student with a copy of the student's academic transcript from CWU, but is prohibited from providing a student with a copy of the student's official academic transcripts from other institutions.

(6) The office of the (~~dean of students~~) vice-president for student affairs will maintain a file showing what education records are maintained by any department or entity of the university and the title and address of the official responsible for maintenance of each record.

AMENDATORY SECTION (Amending Order 39, filed 7/11/78)

**WAC 106-172-735 Exception to consent requirements and record of access.** (1) The university may disclose personally identifiable information from the education records of a student without the written consent of the student if the disclosure is to:

(a) University officials, including faculty members, when the information is required for a legitimate educational purpose,

(b) Officials of another school in which the student seeks or intends to enroll, providing a reasonable attempt has been made to notify the student of the transfer of the records at the last known address of the student — except when the transfer of the records is initiated by the student;

(c) Federal or state officials requiring access to education records in connection with the audit or evaluation of federally or state-supported educational programs. Such surveys must be administered in a manner which will not permit personal identification of students by individuals other than those conducting the study, and such information will be destroyed when no longer needed for the purposes for which it was provided;

(d) Agencies requesting information in connection with a student's application for, or receipt of, financial aid;

(e) Accrediting organizations in order to carry out their accrediting functions;

(f) Any personal subpoena and/or subpoena duces tecum, when lawfully prepared and served upon the university or an appropriate administrator of the university. The university will notify the student by certified or registered mail to the address or addresses on file with the university of any such subpoena. Such a notice will be sent to the student in advance of compliance with the subpoena.

(2) Any student may grant permission for use of information about himself/herself by giving specific permission in writing, signed and dated by the student giving such consent to include:

(a) A specification by title of the records released;

(b) The reasons for such release;

(c) The names of the parties to whom such records will be released; and

(d) A written statement indicating that the information cannot subsequently be released in a personally identifiable

form to any other party without the written consent of the student involved.

(3) The university shall maintain a record which will indicate all parties, other than those parties specified in WAC 106-172-735 (1)(a), who have been granted access to a student's education records. The record will:

(a) Indicate specifically the legitimate interest that each such party has in obtaining the information.

(b) Be available only to the student, to the employees of the university responsible for maintaining the records, and to the parties identified under WAC 106-172-735(1)(a) and (d).

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-172-750 Timely disposal of records.** (1) Provisions of the laws and regulations of the state of Washington regarding the time during which records must be maintained will be complied with.

(2) Except as required in subsection (1) above, records will be maintained only during the minimum time in which they may ordinarily be expected to be useful or valid. Each record keeping entity of the university shall make periodic review of its records to ~~((insure))~~ ensure compliance with this provision.

(3) Records of disclosure shall be maintained as long as the record itself is maintained.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-172-761 Right to a ~~((hearing))~~ proceeding.** (1) The university shall provide students an opportunity for a ~~((hearing))~~ proceeding in order to challenge the content of a student's education records to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students.

(2) A student shall have the right, in accordance with the procedures set forth in WAC 106-172-763 and 106-172-765, to:

(a) Correct or delete inaccurate, misleading, or otherwise inappropriate data contained within education records;

(b) Challenge the release of education records to specific persons as contrary to the provisions of this chapter; and

(c) Challenge a decision by the university to deny the student access to particular types of records.

(3) A student shall not be permitted under this chapter to contest grades given in academic courses, except on the grounds that, as a result of clerical error, the records fail to accurately reflect the grades actually assigned by an instructor.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-763 Informal proceedings.** (1) Whenever possible the university shall attempt to settle disputes regarding requests to amend education records through informal proceedings.

(2) A student who wishes to exercise the rights set forth in WAC 106-172-761(2) shall:

(a) First, attempt a resolution with the university official who has custody of the education records; and

(b) Second, discuss with the ~~((dean of students))~~ vice-president for student affairs or ~~((his/her))~~ designee the nature of the corrective action recommended by the student.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-765 Conduct of the ~~((hearing))~~ proceeding.** (1) If informal proceedings fail to resolve the complaint of a student, the student may file with the ~~((dean of students))~~ vice-president for student affairs a written request for the ~~((hearing))~~ proceeding before a ~~((hearing))~~ proceeding officer of the university to be designated by the ~~((dean of students))~~ vice-president for student affairs, and who does not have a direct interest in the outcome of the ~~((hearing))~~ proceeding.

(2) The ~~((hearing))~~ proceeding shall be held within a reasonable time (not to exceed twenty working days) after the university has received the request and the student shall be given notice of the date, place, and time reasonably in advance of the ~~((hearing))~~ proceeding.

(3) The student shall be given an opportunity to present evidence relevant to the issues raised in WAC 106-172-761(2) and may be represented by any person (including an attorney) of the student's choosing at his or her expense.

(4) A decision in writing shall be prepared within a reasonable period of time (not to exceed ten working days), which decision shall be based solely upon the evidence presented, and which includes a summary of the evidence and the reasons for the decision.

(5) If, as a result of the ~~((hearing))~~ proceeding, the decision is:

(a) To amend the record, the university must do so accordingly and give notice to the student.

(b) Not to amend, the student must be allowed to place a written comment or explanation in the student's file, and it must be kept in the file as long as the file itself is kept. If the contested portion of the file is disclosed to anybody, the student's statement must also be disclosed.

(6) The designated ~~((hearing))~~ proceeding officer shall be advised by the assistant attorney general representing the university.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-172-772 Release of information for health or safety emergencies.** (1) The university (president or ~~((his))~~ designee, ~~((dean of students))~~ vice-president for student affairs) may release information from education records to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) The factors which should be taken into account in determining whether records may be released shall include:

(a) The seriousness of the threat to the health or safety of the student or other persons;

(b) The need for such records to meet the emergency;

(c) Whether the persons to whom such records are released are in a position to deal with the emergency; and

(d) The extent to which time is of the essence in dealing with the emergency.

**WSR 94-17-154**  
**EMERGENCY RULES**  
**CENTRAL WASHINGTON UNIVERSITY**

[Filed August 23, 1994, 2:12 p.m.]

Date of Adoption: August 18, 1994.

Purpose: Amending WAC 106-156-010 to correct punctuation, WAC 106-156-011 to change wording consistent with APA standards, WAC 106-156-012 to adjust punctuation and modify wording, WAC 106-156-013 to modify grammar and WAC 106-156-015 to revise punctuation and eliminate an outdated reference and sexist language; new sections WAC 106-160-050 to specify the provisions of chapter 106-160 WAC, WAC 106-160-060 to stipulate conditions of catalog changes and their availability, WAC 106-160-070 to require payment of tuition and fees, WAC 106-160-080 to establish guidelines for degree application, WAC 106-160-090 to detail registration requirements, WAC 106-160-100 to specify that students must meet registration deadlines, WAC 106-160-110 to establish guidelines for change of schedule, WAC 106-160-120 to outline admission requirements for students of freshman standing, WAC 106-160-130 to define admission requirements for transfer students, WAC 106-160-140 to establish readmission guidelines for former students, WAC 106-160-150 to outline requirements for provisional enrollment, WAC 106-160-160 to define guidelines for nonmatriculating students, WAC 106-160-170 to establish guidelines for high school students to enter the university prior to high school graduation, WAC 106-160-180 to specify admission requirements for international students, WAC 106-160-190 to establish application procedures, WAC 106-160-200 to define transcripts requirements for admission, WAC 106-160-210 to specify tests required for undergraduate admission, WAC 106-160-220 to establish guidelines for admission decisions, WAC 106-160-230 to define requirements for acceptance of admission offer, WAC 106-160-240 to outline requirements for application and admission to graduate study, WAC 106-160-250 to specify requirements for admission to master's degree study, WAC 106-160-260 to establish admission requirements for fifth year or nondegree study applicants, WAC 106-160-270 to outline graduate study admission procedure, WAC 106-160-280 to establish procedures for high school graduates to complete admission requirements, WAC 106-160-290 to outline procedures for advanced undergraduate standing, WAC 106-160-300 to outline procedure for admission to a credential program, WAC 106-160-310 to establish summer session admission and registration procedures and WAC 106-160-320 to define summer session workshop admission and registration procedures; repealing WAC 106-160-001 to repeal outdated section, replaced by WAC 106-160-050, WAC 106-160-002 to repeal outdated section, replaced by WAC 106-160-060, WAC 106-160-005 to repeal outdated section, replaced by WAC 106-160-070, WAC 106-160-010 to repeal outdated section, replaced by WAC 106-160-080, WAC 106-160-015 to repeal outdated section, replaced by WAC 106-160-090, WAC 106-160-016 to repeal outdated section, replaced by WAC 106-160-100,

WAC 106-160-017 to repeal outdated section, replaced by WAC 106-160-110, WAC 106-160-020 to repeal outdated section, replaced by WAC 106-160-120, WAC 106-160-021 to repeal outdated section, replaced by WAC 106-160-290, WAC 106-160-023 to repeal outdated section, replaced by WAC 106-160-180, WAC 106-160-024 to repeal outdated section, replaced by WAC 106-160-140, WAC 106-160-026 to repeal outdated section, replaced by WAC 106-160-160, WAC 106-160-027 to repeal outdated section, replaced by WAC 106-160-029 to repeal outdated section, replaced by WAC 106-160-240, WAC 106-160-030 to repeal outdated section, replaced by WAC 106-160-250, WAC 106-160-031 to repeal outdated section, replaced by WAC 106-160-260, WAC 106-160-032 to repeal outdated section, replaced by WAC 106-160-270, WAC 106-160-033 to repeal outdated section, replaced by WAC 106-160-280, WAC 106-160-034 to repeal outdated section, replaced by WAC 106-160-290, WAC 106-160-035 to repeal outdated section, replaced by WAC 106-160-300, WAC 106-160-040 to repeal outdated section, replaced by WAC 106-160-310 and WAC 106-160-041 to repeal outdated section, replaced by WAC 106-160-320; and amending WAC 106-168-009 to clarify library smoking policy, WAC 106-168-065 to correct spelling and establish guidelines for borrower identification cards and WAC 106-168-097 to modify payment location for library charges and eliminate nonessential language.

Citation of Existing Rules Affected by this Order: Repealing WAC 106-160-001 Admission and registration procedures and catalog requirements, 106-160-002 Admission and registration procedures and catalog requirements—Changes in catalog, 106-160-005 Finances, 106-160-010 Graduating students, 106-160-015 Registration, 106-160-016 Registration—Deadlines, 106-160-017 Registration—Changes in registration and withdrawal, 106-160-020 Admission requirements—To freshman standing, 106-160-021 Admission requirements—Prospective students, 106-160-022 Admission requirements—Admission to advanced undergraduate standing, 106-160-023 Admission requirements—Admission of international students, 106-160-024 Admission requirements—Readmission of former students, 106-160-026 Admission requirements—Admission of nonmatriculated students, 106-160-027 Admission requirements—Admission of veterans, 106-160-029 Admission requirements—Application and admission to graduate study, 106-160-030 Admission requirements—Application for study leading to a master's degree, 106-160-031 Admission requirements—Application for fifth year or nondegree study, 106-160-032 Admission requirements—Admission procedure, 106-160-033 Admission requirements—Procedures for high school graduates, 106-160-034 Admission requirements—Procedures for advanced undergraduate standing, 106-160-035 Admission requirements—Admission to credential program, 106-160-040 Summer session admission and registration procedures and 106-160-041 Summer session admission and registration procedures—Workshop registration; and amending chapters 106-156, 106-160, 106-168 WAC, WAC 106-156-010 Students required to live in university residence halls, 106-156-011 Students required to live in university residence halls—Exceptions, 106-156-012 Students required to live in university residence halls—Definitions, 106-156-013 Students required to live in university residence halls—

Verification and time requirement, 106-156-015 Eligibility for university family housing, 106-168-009 Food, beverages, smoking, 106-168-065 Borrower identification cards, and 106-168-097 Payment of charges.

Statutory Authority for Adoption: RCW 28B.10.528, 28B.35.120(12).

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 adoption of proposed changes is necessary to allow the public access to current, updated regulations prior to the beginning of fall quarter.

Effective Date of Rule: Immediately.

August 18, 1994

Ivory V. Nelson

President

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-010 Students required to live in university residence halls.** All full-time single freshman and sophomore students of Central Washington University under twenty-one years of age are required to live in university residence hall facilities. Residence hall facilities do not include apartments for single or married students.

**AMENDATORY SECTION** (Amending Order 59, filed 11/7/86)

**WAC 106-156-011 Students required to live in university residence halls—Exceptions.** Exceptions to WAC 106-156-010 may be granted to the following students:

- (1) Those who are living with parents or relatives.
- (2) Those with medical reasons.
- (3) Those employed off campus and housing and/or board is a part of their overall compensation received.
- (4) Those who will reach the age of twenty-one within thirty days after the start of the quarter.
- (5) Those who have completed six quarters as a full-time student.
- (6) Those who have unique situations not otherwise covered in this paragraph of exceptions and obtain the approval of the director of auxiliary services, or the director's designee.

The director of auxiliary services has established a committee of whom the student may request a ~~((hearing))~~ proceeding and ruling on the student's request for an exception. ~~((The decision of the committee may be appealed to the undergraduate council.))~~

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-012 Students required to live in university residence halls—Definitions.** Definitions of exceptions as stated in WAC 106-156-011 shall mean and are defined as follows:

(1) "Living with" shall mean those whose domiciles are in the place of residence of a parent or relative and will be commuting from such place of residence on a daily basis.

(2) "Parents or relatives" shall mean a parent, legal guardian, grandparent, brother, sister, aunt, uncle, or first cousin.

(3) "Medical reason" shall mean a medical problem that shall require a student to live in other than a university residence hall. Written verification of the medical problem and the requirement not to live in a residence hall must be obtained and submitted from a licensed physician or licensed psychologist.

(4) "Employment in nonuniversity housing and housing and/or board is part of their overall compensation received" shall mean employment for an established place of business or for an established family unit when a landlord/employer requires the student to reside where the work is performed and a substantial portion of the rent and/or room and board is reduced as a part of the overall compensation for the work performed for the landlord/employer at the place of the residence of the student.

(5) "Completed six quarters as a full-time student" shall mean enrollment in and completion of a minimum of ten ~~((credit))~~ quarter credit hours of academic work in each of the six quarters.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-013 Students required to live in university residence halls—Verification and time requirement.** Acceptable written verification shall be provided to the university for all exceptions at the time the request for an exception is made.

(1) A currently enrolled student wishing to apply for an exception to the university housing policy as set forth in WAC 106-156-010 shall reduce such request to writing and file it as required by the director of auxiliary services no later than 5:00 p.m. on the last day of the fifth week of classes in the quarter preceding the quarter the exception is requested ~~((for))~~.

(2) A newly admitted or reenrolling student who has not been enrolled as a student at Central the previous quarter wishing to apply for an exception to the university housing policy as set forth in WAC 106-156-010 shall reduce such request to writing and file such request in the office of the director of auxiliary services as required by the director of auxiliary services within twenty days after such student's acceptance to the university; however, in no event later than 5:00 p.m. on the day following such student's day of registration.

**AMENDATORY SECTION** (Amending Order 39, filed 7/11/78)

**WAC 106-156-015 Eligibility for university family housing.** Generally eligibility to lease and occupy university family housing is limited to students, full-time faculty, and full-time staff members of the university. A student is one who maintains a minimum of twelve quarter hours as an undergraduate student or ten quarter hours as a graduate student ~~((exclusive of correspondence courses))~~. Concurrent enrollment of husband and wife to maintain the minimum

hours does not fulfill this requirement. This regulation applies to each quarter, with the exception of a tenant living in family housing during spring quarter who wishes to remain as a nonstudent during the summer. ((He)) The student may do so if he or she indicates in writing ((his)) an intention to reenroll fall quarter.

#### NEW SECTION

**WAC 106-160-050 Admission and registration procedures and catalog requirements.** The provisions of WAC 106-160-001 through 106-160-099 shall contain admission and registration procedures and catalog requirements of Central Washington University.

#### NEW SECTION

**WAC 106-160-060 Admission and registration procedures and catalog requirements—Changes in catalog.** The board of trustees reserves the right of the board of trustees or president to make changes in any of the provisions of the university's catalogs without prior notice. When changes are made, the changes shall be filed in the office of the president and other appropriate university offices and placed with the appropriate catalog in the reference area of the library.

#### NEW SECTION

**WAC 106-160-070 Finances.** Each applicant for admission to Central Washington University must pay the tuition and fees as established by the board of trustees or the president on or before the dates for payment as designated by the board of trustees or the president.

#### NEW SECTION

**WAC 106-160-080 Graduating students.** Students shall submit their applications for the appropriate degrees on or before the date designated for the purpose by the board of trustees or the president, which shall be published in the appropriate university catalog. No application shall be accepted after the designated dates. However, the president or his designee may waive this requirement.

#### NEW SECTION

**WAC 106-160-090 Registration.** Currently enrolled students and all other individuals desiring to enroll in Central Washington University shall do so on or before the preregistration or registration dates designated by the board of trustees or president, which shall be published in the appropriate university catalog. No registration or preregistration shall be accepted after the designated dates: *Provided*, That the registrar may, whenever possible, waive this requirement within the time designated by the board of trustees or president for late registration.

#### NEW SECTION

**WAC 106-160-100 Registration—Deadlines.** All students registering with the university must meet those deadlines as established by the board of trustees or the president for registration.

#### NEW SECTION

**WAC 106-160-110 Registration—Changes in registration and withdrawal.** Students who wish to change their registration or withdraw from a particular course or the university after having completed their registration must do so on or before the date established for such changes or withdrawal by the board of trustees or president and by the completion of the "change in registration" or "withdrawal" forms maintained by the university. Students who leave the university and do not withdraw shall receive failing grades for work not completed.

#### NEW SECTION

**WAC 106-160-120 Admission requirements—To freshman standing.** Central Washington University will admit qualified students who meet the published admissions criteria for any quarter. Admission to the university is based on the student's ability to successfully complete programs offered by the university. Eligibility for admission as a first-time freshman is based on evidence of potential success in university study at the completion of the freshman year. Eligibility for regular admission as a freshman will be guided by the following situations:

Situation 1: Regular admission of freshman under twenty-one years of age. Eligibility for regular admission as a freshman for those twenty-one years of age or younger will be determined using both the student's high school grade point average and a nationally normed standardized test, either the American College Test (ACT), or the Scholastic Aptitude Test (SAT). The high school grade point average and test score will be combined to produce, for each freshman applicant, an admission index number. An offer of acceptance to the university as a freshman will be based on the resulting index number. The minimum index number established by the higher education coordinating board for the three regional universities and The Evergreen State College for regular admission is 13. A 13 index indicates that applicants have at least a sixty-five percent probability of achieving a "C" or better grade point average at the completion of their freshman year at Central Washington University. Freshman applicants must have prescribed set of high school courses totaling fifteen units. The required high school courses include: Four years of English, three years of math, two years of science, three years of social studies, two years of single foreign language, and one year of fine, visual or performing arts, or any of the above college-prep courses.

Situation 2: Regular admission of freshmen twenty-one years of age or older. A student twenty-one years of age or older who is seeking initial entry at the freshman level may be offered regular admission if the student obtained a score of at least eighteen on the Enhanced ACT Exam or seven hundred minimum on the SAT Exam, or he or she has scored at least an eighty-three or higher on WPCT if they took that exam prior to June 1, 1989.

Situation 3: Alternate standards for freshman admissions. Students seeking freshman admission may be admitted through the use of alternative criteria. Students applying under the alternative standard must satisfy each of the following requirements:

- (1) Submit a score on the ACT or SAT;

(2) Submit a transcript showing achievement of a 2.0 or higher high school grade point average and/or a passing score on the General Education Development Test;

(3) Complete high school course pattern requirements as prescribed with no more than three subject year deficiencies waived; and

(4) Present evidence of success outside the classroom and strong motivation to succeed in college.

#### NEW SECTION

**WAC 106-160-130 Admission requirements for transfer applicants.** Eligibility for admission of transfer applicants with fewer than forty transferable quarter credits is the same as first-time freshmen as they must meet freshman requirements in addition to an assessment of the quality of previous college work.

Applicants who have earned more than forty transferable quarter credits will be admitted based on the quality of college work only. If transcripts do not provide evidence of academic ability, regardless of the grade point average, additional information may be required.

Central Washington University accepts academic credits earned at other accredited collegiate institutions which are essentially equivalent in academic level and nature of work offered at CWU. The university endorses the policy in the Intercollegiate Transfer and Articulation Agreement among Washington public colleges and universities.

Transfer students who have not earned a Washington community college academic associate of arts degree will be admitted on sliding scale. Priority will be given to students with the highest grade point average (gpa) computed from previous transferable college-level work and with the greatest number of hours completed in transfer.

#### NEW SECTION

**WAC 106-160-140 Readmission of former students.** Former CWU students who have interrupted their studies form one year, or who have attended another college or university, except for summer school, must file a returning CWU student application. Transcripts of any college work completed since last enrolled at Central Washington University must be submitted. Students will be admitted on a priority basis, based on the additional academic credits taken and the academic standing they had when they left CWU.

#### NEW SECTION

**WAC 106-160-150 Provisional enrollment.** Students who are applying for admission but who have been unable to submit all necessary materials before a registration period may be allowed to enroll as provisional students if space permits. This status will be available for one quarter during which time the student must complete the admission process and receive a favorable admission decision to register for the next term.

#### NEW SECTION

**WAC 106-160-160 Nonmatriculating students.** Students who are not seeking a degree or certificate may request enrollment as a nonmatriculant. Upon approval by the office of admissions, they may enroll for a maximum of

nine credits each quarter so long as they meet academic standards. Credits earned in this status may not be applied to any degree or certificate unless the student is formally admitted to the university, in which case a maximum of forty-five credits may be applied. Nonmatriculant students are not eligible for most financial aid, veterans' benefits, credit evaluations, or other university services.

#### NEW SECTION

**WAC 106-160-170 High school enrichment.** High school students who wish to enter Central Washington University before graduating from high school may apply for admission under one of the following situations:

Situation 1: Students who wish to enroll as full-time students at the completion of their junior year must have a cumulative gpa of 3.2 or higher and score at least a twenty-seven composite score on the American College Test, or a combined score of one thousand one hundred, including at least six hundred verbal, on the Scholastic Aptitude Test. They must be recommended by their high school principal, have parent or guardian approval if under eighteen years of age, and meet with the director of admissions prior to acceptance.

Situation 2: Students who wish to enrich their high school program may take one or more college level courses while still enrolled in high school. The opportunity is available to students who have completed their junior year and have at least a 3.0 cumulative grade point average. Prior to enrollment, courses must be approved by the high school principal or counselor and the director of admissions.

#### NEW SECTION

**WAC 106-160-180 Admission requirements—International students.** Central Washington University welcomes qualified students from other countries. Students demonstrating the greatest potential for success may be admitted after a thorough review and evaluation of their entire academic background.

Because educational systems vary widely around the world, there is no single uniform admission requirement for international students. However, they must meet the following basic minimum requirements:

(1) Completion of academic coursework and national examinations necessary to satisfy admission requirements to colleges and universities in their native country.

(2) Adequate financial support verified by a Confidential Financial Statement Form and a current bank letter or scholarship award from a United States bank or agency.

(3) Competency in English demonstrated by a score of at least five hundred twenty-five on the Test of English As A Foreign Language (TOEFL) or, in some cases, transferable English composition courses which would meet the general education writing requirement at Central Washington University.

(4) International students transferring from United States institutions must have a minimum grade point average of 2.75 in transferable courses, and must also meet the academic requirements for college entrance in their native country.

(5) International students must have two letters of recommendation from a professor or counselor with whom they are currently working.

NEW SECTION

**WAC 106-160-190 Application procedures.** New and former students must submit an application for admission. All forms are available in the office of admissions, which is located on the first floor of Mitchell Hall.

There is a twenty-five dollar nonrefundable application processing fee for new or former students.

\*Application deadline dates: Fall-June 1; winter-November 1; spring-February 1; summer-June 1.

\*Dates are subject to change. For example, if all seats at the university are filled, the deadline dates will be advanced.

NEW SECTION

**WAC 106-160-200 Required transcripts.** Freshman applicants must have official transcripts sent directly to the office of admissions from their high school and/or transfer applicants must have necessary transcripts mailed from each institution previously attended. All documents must be received by the announced closing dates to be considered for admission. Documents sent by the student received in open envelopes will not be considered official.

NEW SECTION

**WAC 106-160-210 Required tests.** Undergraduate students applying to the university must submit scores from the American College Test (ACT) or Scholastic Aptitude Test (SAT).

NEW SECTION

**WAC 106-160-220 Admission decision.** Completed application files are reviewed by the office of admissions and decisions are mailed to students in writing. Students may be admitted under the following situations:

Situation 1: Admitted, dean's distinction - indicating that academic requirements have been met with an outstanding high school or community college record. Students receiving this acceptance are recommended to the Douglas Honors College.

Situation 2: Admitted - indicating that all academic requirements have been satisfied.

Situation 3: Admitted, admissions deficiency - indicating that the student has a high school subject deficiency that needs to be completed prior to graduation from Central Washington University.

Situation 4: Admitted, probation - indicating that while admission requirements have been marginally met, the student enters on academic probation.

Situation 5: Denied - indicating that the admission requirements have not been met and the student is not being offered admission. Students denied admission may request a review of the decision by writing a letter of appeal. A letter should be submitted only to present new factual information which will overcome, not simply explain, the academic record. Letters of petition for the denial should be directed to the admission committee for final determination.

NEW SECTION

**WAC 106-160-230 Accepting the offer of admission.** Students must confirm their intention to enroll to Central Washington University by submitting a fifty-five dollar confirmation of admission payment that will be applied to their first quarter's tuition. This payment should not be made until requested by the university, which occurs when students are notified officially of their admission. This payment is due by May 1 for fall quarter, October 1 for winter quarter, and February 1 for spring quarter. Special attention must be observed for these dates are subject to change. Priority consideration for registration, as well as completion of financial aid packaging and assignments of advisors, are designated when this payment is received. Students are encouraged to submit the fifty-five dollar confirmation of admission payment as early as possible after receiving the offer of admission. Central Washington University will guarantee a registration position to any student that submits the confirmation of admission payment prior to the announced deadline dates listed below for each quarter: Fall-May 1; winter-September 1; spring-January 1.

NEW SECTION

**WAC 106-160-240 Admission requirements—Application and admission to graduate study.** (1) Each prospective graduate student must submit a formal application and receive a formal letter of admission before registering for courses. A graduate student is expected to have a bachelor's degree from a college or university of recognized standing. Prospective graduate students must submit their formal applications on or before those dates specified by the board of trustees or the president for such admission.

(2) Applicants for graduate assistantships should have their admission and assistantship applications completed and filed with the college on that date specified by the board of trustees or president for the filing of such applications.

(3) All prospective graduate students must apply for admission either in a degree program, fifth year or other certificate program, or nondegree study (professional improvement, scholarly development), or other study.

NEW SECTION

**WAC 106-160-250 Admission requirements—Application for study leading to a master's degree.** Applicants for admission to graduate study must make application on the "application for admission to graduate study" provided by Central Washington University. The form must be returned to the office of graduate admissions and records prior to the dates established by the board of trustees or president for such application. Each applicant for graduate study is required to have official transcripts of all undergraduate and graduate study sent directly to the office of graduate admissions and records. Three letters of recommendation should be sent to graduate admissions and records directly from the persons making the recommendations. Two of the letters should come from instructors familiar with the applicant's academic preparation. Scores on the general test and appropriate subject test of the graduate record examination must be submitted to graduate

admissions and records before admission to graduate study will be considered.

#### NEW SECTION

**WAC 106-160-260 Admission requirements—Application for fifth year or nondegree study.** The "university admission form" supplied by the university must be filed with the office of admissions prior to the deadlines as established by the board of trustees or the president for the submission of such applications for admission to the university. In addition to the filing of the application, two official transcripts of all undergraduate and graduate study must be sent directly to the office of admissions.

(1) An applicant for fifth year certification must contact the office of teacher education and certification to organize an approved program.

(2) Admission to nondegree study is subject to the approval of the graduate office.

(3) An applicant admitted to nondegree study desiring to apply for degree study must reapply for admission to graduate study.

#### NEW SECTION

**WAC 106-160-270 Admission requirements—Admission procedure.** Applicants for graduate study may not be admitted where they have not completed all the application requirements. Admission to master's degree study is determined by the graduate office upon the recommendation of the department involved. A formal letter of admission will be directed to the student from the graduate office. Applicants not meeting the scholastic requirements may be admitted on probation provided the department to which admission is requested provides justification for admission to master's degree study and no more than ten percent are admitted on probation. If admitted, the student must meet those requirements as established by the university for progress in the university. Upon the recommendation of the appropriate department, applicants may be admitted to masters' programs with additional conditions stipulated.

#### NEW SECTION

**WAC 106-160-280 Admission requirements—Procedures for high school graduates.** All high school graduates must file the "uniform application for admission to colleges and universities in the state of Washington" together with a transcript of all high school work with the office of admissions prior to registration. The results of the "Washington precollege test" may be filed in lieu of the transcript until the high school program is complete.

#### NEW SECTION

**WAC 106-160-290 Admission requirements—Procedures for advanced undergraduate standing.** Resident and nonresident students making application for advanced standing must file the "uniform application for admission to colleges and universities in the state of Washington" and two official transcripts of all previous scholastic work from each school or college attended with the office of admissions of the college. Applicants who have completed less than thirty-five transferable college credits are also

required to file the results of the "Washington precollege test" and their high school transcript with the office of admissions.

#### NEW SECTION

**WAC 106-160-300 Admission requirements—Admission to credential program.** Admission to the university as a student does not constitute admission to the teacher education program. Students who plan to work toward a teaching certificate must apply to the director of teacher education and certification.

#### NEW SECTION

**WAC 106-160-310 Summer session admission and registration procedures.** Students registering for summer session must pay all fees and complete registration on or before the dates indicated on the calendar as published in the summer session bulletin. Students planning to attend the entire summer session, the first or second term only must complete admission procedures by the date so specified and register on the date so specified by the board of trustees or president for such purposes, as published in the summer session bulletin. All summer session students must pay fees and tuition to the appropriate university office as established by the board of trustees or the president, as published in the summer session bulletin.

#### NEW SECTION

**WAC 106-160-320 Summer session admission and registration procedures—Workshop registration.** Workshop registration shall be permitted and must be completed in the manner established by the board of trustees or the president, as published in the appropriate catalog.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 106-160-001	Admission and registration procedures and catalog requirements.
WAC 106-160-002	Admission and registration procedures and catalog requirements—Changes in catalog.
WAC 106-160-005	Finances.
WAC 106-160-010	Graduating students.
WAC 106-160-015	Registration.
WAC 106-160-016	Registration—Deadlines.
WAC 106-160-017	Registration—Changes in registration and withdrawal.
WAC 106-160-020	Admission requirements—To freshman standing.
WAC 106-160-021	Admission requirements—Prospective students.
WAC 106-160-022	Admission requirements—Admission to advanced undergraduate standing.
WAC 106-160-023	Admission requirements—Admission of international students.

- WAC 106-160-024 Admission requirements—  
Readmission of former students.
- WAC 106-160-026 Admission requirements—  
Admission of nonmatriculated students.
- WAC 106-160-027 Admission requirements—  
Admission of veterans.
- WAC 106-160-029 Admission requirements—  
Application and admission to graduate study.
- WAC 106-160-030 Admission requirements—  
Application for study leading to a master's degree.
- WAC 106-160-031 Admission requirements—  
Application for fifth year or nondegree study.
- WAC 106-160-032 Admission requirements—  
Admission procedure.
- WAC 106-160-033 Admission requirements—  
Procedures for high school graduates.
- WAC 106-160-034 Admission requirements—  
Procedures for advanced undergraduate standing.
- WAC 106-160-035 Admission requirements—  
Admission to credential program.
- WAC 106-160-040 Summer session admission and registration procedures.
- WAC 106-160-041 Summer session admission and registration procedures—  
Workshop registration.

AMENDATORY SECTION (Amending Order 50, filed 12/10/82)

**WAC 106-168-009 Food, beverages, smoking.** Users are expected to maintain appropriate public behavior while using the library facilities. Eating food or drinking beverages is not allowed in any of the areas open to public use. Smoking is ~~((restricted to those areas designated by the dean of))~~ prohibited in the library ((services or his designee)).

AMENDATORY SECTION (Amending Order 50, filed 12/10/82)

**WAC 106-168-065 Borrower identification cards.** In order to borrow library materials, borrowers must present ~~((an))~~ an authorized university library identification card.

(1) University library identification cards are issued to all members of the university community.

(2) Individuals outside the university community may purchase library identification cards which permit limited use of resources and services.

(3) ~~((A))~~ A library identification card is authorized for use only by the individual whose name appears on the card.

(4) Cards used in an unauthorized manner may be confiscated.

(5) Each borrower is responsible for notifying the appropriate university office of changes of address or loss of card.

AMENDATORY SECTION (Amending Order 50, filed 12/10/82)

**WAC 106-168-097 Payment of charges.** (1) Charges may be paid at the ~~((library circulation desk until the charges have been referred to the controller))~~ cashier's office. Payment may be made by cash, check, or money order. Departmental purchase orders or interdepartmental funds transfers are not acceptable in payment of charges.

(2) Failure to pay charges will result in the total amount assessed being referred to the controller's office for collection. The controller may ~~((, if other collection methods fail,))~~ deduct outstanding charges from salary warrants of employees, or withhold outstanding charges from damage deposits or other funds held by the university for any student. ~~((When collection efforts are unsuccessful,))~~ The controller may notify the registrar to withhold permission to enroll until outstanding charges are paid, to refrain from issuing requested transcript copies or to forward the amount outstanding to a collection agency for recovery.

(3) Failure to pay charges may result in the revocation of borrowing privileges.

**WSR 94-17-162  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 94-83—Filed August 23, 1994, 4:43 p.m., effective August 24, 1994, 12:01 a.m.]

Date of Adoption: August 23, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-47-508.

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: Openings in Areas 7 and 7A are regulated by the Washington Department of Fish and Wildlife as per provisions of the United States Section of the Fraser Panel, Pacific Salmon Commission. Openings provide opportunity to harvest the nontreaty share of the United States allocation of Fraser River origin sockeye salmon. Mesh restrictions provide protection for United States and Canadian origin chinook stocks. Requirements for reef net release of coho and chinook salmon provide additional protection for depressed stocks of those species. Openings in Areas 7B and 7C provide opportunity to harvest non-Indian allocation of chinook destined for the Nooksack-Samish region of origin, as per preseason plan. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: August 24, 1994, 12:01 a.m.

August 23, 1994

Robert Turner  
Director

NEW SECTION

**WAC 220-47-509 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:01 a.m. Wednesday August 24th, 1994 until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* Area 7 - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily until further notice, and are required to release all coho and chinook.
- \* Area 7A - Reef nets may fish from 6:00 a.m. to 9:00 p.m. daily until further notice, and are required to release all coho and chinook. Gill nets using 5-inch minimum and 6-inch maximum mesh may fish from 12:01 a.m. to 7:00 a.m. Wednesday August 24, from 8:00 p.m. Friday August 26 to 7:00 a.m. Saturday August 27 and from 7:00 p.m. Saturday August 27 to 7:00 a.m. Sunday August 28. Purse seines may fish from 7:00 a.m. to 8:00 p.m. Wednesday August 24, from 7:00 a.m. to 7:00 p.m. Saturday August 27, and from 7:00 a.m. to 8:00 p.m. Sunday August 28.
- \* Areas 7B and 7C - Gill nets using 7-inch minimum mesh may fish until 7:00 a.m. Wednesday August 24.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7D, 7E, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 except as modified herein - Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 24, 1994:

WAC 220-47-508 Puget Sound all-citizen commercial salmon fishery. (94-81)

**WSR 94-17-172**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3775—Filed August 24, 1994, 10:20 a.m., effective September 1, 1994, 12:01 a.m.]

Date of Adoption: August 24, 1994.

Purpose: Administrative Notice 94-53 provides a simplified means for eligible food stamp households to claim the excess medical expense deduction. At food stamp certifications, the department shall verify incurred and anticipated medical expenses and the reimbursement amounts resulting in a deduction. Medical expense verification will no longer be required for monthly reporting households. Updates cross-reference to WAC 388-49-500 Medical care expenses. Deletes requirement to verify change in citizenship for monthly reporting households.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-49-110 Verification.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: CFR 273.21(i), Administrative Notices 94-53 and 94-30.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Administrative Notice 94-53 provides a simplified means for eligible food stamp households to claim the excess medical expense deduction. CFR 273.21(i) allows the state agency to designate items to be verified for monthly reporting households.

Effective Date of Rule: September 1, 1994, 12:01 a.m.

August 24, 1994

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3368, filed 4/7/92, effective 5/8/92)

**WAC 388-49-110 Verification.** (1) The department shall verify household eligibility from the following sources:

- (a) Documentary evidence;
- (b) Collateral contacts; and
- (c) Scheduled home visits.

(2) The household has primary responsibility for providing documentary evidence. The department shall offer to assist in obtaining documentary evidence if it would be difficult or impossible for the household to obtain in a timely manner.

(3) At initial application, the department shall verify:

- (a) Identity of:
  - (i) The person making the application; or
  - (ii) The authorized representative and the head of household.

(b) Immigration status of all alien household members;

(c) Residency;

(d) Gross nonexempt income;

(e) Actual utility expenses in excess of the standard utility allowance as specified in WAC 388-49-505;

(f) Medical care expenses as specified under WAC 388-49-500 (6)((~~4~~)) and (7);

(g) Dependent care expenses as specified under WAC 388-49-500 (6)(a);

(h) Disability;

(i) Resources of an alien's sponsor; and

(j) Actual shelter costs for households where all members are homeless as specified under WAC 388-49-020(36), if the shelter costs exceed the shelter amount as specified under WAC 388-49-500.

(4) At recertification, the department shall verify:

(a) A change in income(~~(-medical expenses)~~) or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than twenty-five dollars since the verification was completed; and

(b) Medical care expenses as specified under WAC 388-49-500 (6) and (7).

(5) The department shall verify for monthly reporting households the following factors on a monthly basis:

- (a) Gross nonexempt income;

- (b) Utility expenses unless the standard utility allowance is used;
- (c) ~~((Medical expenses per WAC 388-49-500(6);~~
- ~~(d))~~ Alien status, Social Security number, and residency, ~~((and citizenship))~~ if changed;
- ~~((e))~~ (d) All other questionable information.
- (6) The department shall verify questionable information.



**WSR 94-17-004**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
 [Memorandum—August 4, 1994]

On Wednesday, August 17, 1994, at 12:30 p.m., the Public Information Access Policy Taskforce will meet on Wednesday, August 17, 1994, in Hearing Room #1, John A. Cherberg Building, Capital Campus, Olympia, Washington.

**WSR 94-17-006**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—August 5, 1994]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, August 18, 1994, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A.

**WSR 94-17-008**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
 [Filed August 8, 1994, 9:38 a.m.]

Pursuant to RCW 34.05.210(6), I am requesting that you publish a notice in the State Register that the parking regulations, adopted as chapter 236-14 WAC published as permanent rules in WSR 93-20-027, were declared invalid by order of the Thurston County Superior Court, no appeal having been pursued.

John Franklin  
 Director

**WSR 94-17-018**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
 [Memorandum—August 4, 1994]

On Wednesday, August 17, 1994, at 9:30 a.m., the Public Information Access Policy Taskforce will meet in Hearing Room #1, John A. Cherberg Building, Capital Campus, Olympia, Washington.

**WSR 94-17-019**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
 [Memorandum—August 8, 1994]

On Thursday, September 8, 1994, at 6:30 p.m., the Washington State Library Commission will meet for a staff briefing at the Chart House Restaurant, 101 S.E. Columbia Way, Vancouver, WA.

On Friday, September 9, 1994, at 10:00 a.m., the Washington State Library Commission will hold its regular business meeting at the Fort Vancouver Regional Library, 1007 East Mill Plain Boulevard, Vancouver, WA.

**WSR 94-17-040**  
**RULES COORDINATOR**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**  
 [Filed August 10, 1994, 1:33 p.m.]

The rules coordinator for the Office of Insurance Commissioner, as of August 1, 1994, is Melodie Bankers, Mailstop 40255, phone 586-3574.

G. W. Taylor, Jr.  
 Deputy Commissioner  
 Policy Development  
 and Legal Affairs

**WSR 94-17-050**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**  
 [Memorandum—July 20, 1994]

**EASTERN WASHINGTON UNIVERSITY**  
**BOARD OF TRUSTEES**

1994 Meeting Schedule

Friday, January 28, 9:00 a.m., Louise Anderson Hall, First Floor Lounge

Friday, February 25, 9:00 a.m., Spokane Center, Second Floor Mall

Friday, April 8, 9:00 a.m., Louise Anderson Hall, First Floor Lounge

Special Meeting  
 Friday, June 10, 9:00 a.m., Louise Anderson Hall, First Floor Lounge

Friday, July 22, 9:00 a.m., Spokane Center, Second Floor Mall

Friday, September 23, 9:00 a.m., Louise Anderson Hall, First Floor Lounge

Friday, October 28, 9:00 a.m., Spokane Center, Second Floor Mall

Friday, December 2, 9:00 a.m., Louise Anderson Hall, First Floor Lounge

Board meetings are the fourth Friday of the month, with the exception of the combination of the March/April meeting and the November/December meeting and no meeting in August.

The regularly scheduled May and June meetings have been cancelled. There will be a special board meeting held on June 10, 1994.

MISCELLANEOUS

**WSR 94-17-051**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**  
 (Affordable Housing Advisory Board)  
 [Memorandum—August 11, 1994]

AFFORDABLE HOUSING ADVISORY BOARD  
 MEETINGS FOR 1994

PLEASE NOTE THE CHANGE FOR THE DECEMBER MEETING

February 16	9:00 a.m. to 4:00 p.m.	Governor's Conference Room
April 20	9:00 a.m. to 4:00 p.m.	Holiday Inn/SeaTac O'Hare Room
June 15	9:00 a.m. to 4:00 p.m.	Spokane Ramada Inn at the Airport Washington Room
August 17	9:00 a.m. to 4:00 p.m.	Holiday Inn/SeaTac O'Hare Room
October 19	9:00 a.m. to 4:00 p.m.	Holiday Inn/SeaTac O'Hare Room
December 7	(RESCHEDULED TO JANUARY)	
January 25, 1995	9:00 a.m. to 4:00 p.m.	Tyee Hotel/ Tumwater CoHo Room Building C

**WSR 94-17-052**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**  
 (Affordable Housing Advisory Board)  
 [Memorandum—August 11, 1994]

AFFORDABLE HOUSING ADVISORY BOARD  
 MEETINGS FOR 1995

January 25	9:00 a.m. to 4:00 p.m.	Tyee Hotel/ Tumwater CoHo Room Building C
February 15	9:00 a.m. to 4:00 p.m.	Holiday Inn/SeaTac O'Hare Room
April 19	9:00 a.m. to 4:00 p.m.	Holiday Inn/SeaTac O'Hare Room
June 21	9:00 a.m. to 4:00 p.m.	Cavanaugh's River Inn/Spokane Shoreline B Room
August 16	9:00 a.m. to 4:00 p.m.	Holiday Inn/SeaTac O'Hare Room
October 18	9:00 a.m. to 4:00 p.m.	Holiday Inn/SeaTac O'Hare Room
December 20	9:00 a.m. to 4:00 p.m.	Tyee Hotel/ Tumwater CoHo Room Building C

**WSR 94-17-053**  
**NOTICE OF PUBLIC MEETINGS**  
**SKAGIT VALLEY COLLEGE**  
 [Memorandum—August 9, 1994]

The board of trustees of Community College District No. 4 has changed the time of its regular meeting on September 12, 1994, from 3:00 p.m. to 7:15 p.m.

**WSR 94-17-060**  
**ATTORNEY GENERAL OPINION**  
**Cite as: AGO 1994 No. 11**  
 [August 8, 1994]

**SCHOOLS—SCHOOL EMPLOYEES—SALARY AND BENEFITS—HEALTH CARE AUTHORITY—RETIRED PUBLIC EMPLOYEES—COLLECTIVE BARGAINING—Relation of subsidy paid under RCW 28A.400.400 to reduce health insurance premiums for retired employees to salary and compensation limitations imposed by RCW 28A.400.200**

1. The Legislature has authorized, but has not required, that the payments to be made to the Health Care Authority under RCW 28A.400.400 to reduce health insurance premiums for retired school employees be made from certain funds appropriated in the budget for insurance benefits for current school employees.
2. Money paid to the Health Care Authority for health care benefits for retired school employees should be disregarded in calculating the amounts paid by a school district for salary and benefits for current employees for purposes of applying the compensation limitations established pursuant to RCW 28A.400.200.
3. A school district has discretion to make the payments to the Health Care Authority required by RCW 28A.400.400 out of the appropriation for employee insurance benefits, or out of other funds; therefore, the exercise of that discretion affects the wages and working conditions of current employees and is a lawful subject for collective bargaining between the employees and the district.

Requested by:  
 Honorable Betti Sheldon  
 State Senator, District 23  
 401-B Legislative Building, MS 40423  
 Olympia, WA 98504-0423

Honorable Phil Talmadge  
 State Senator, District 34  
 200 John A. Cherberg Building, MS 40478  
 Olympia, WA 98504-0478

MISCELLANEOUS

**WSR 94-17-062**  
**NOTICE OF PUBLIC MEETINGS**  
**HEALTH CARE AUTHORITY**  
(Public Employees Benefits Board)  
[Memorandum—August 11, 1994]

Please publish the following 1995 Public Employees Benefits Board (PEBB) meeting information in the Washington State Register:

Name of Meeting: Public Employees Benefits Board (PEBB)

Location: Attorney General Conference Room at Rowsix  
4224 Sixth Avenue S.E., Building 1  
Lacey, WA 98504

Time: 1:00 p.m.

Dates: January 10, 1995  
March 21, 1995  
May 9, 1995  
August 8, 1995  
September 12, 1995  
October 10, 1995  
November 14, 1995  
(PEBB Planning Conference)

**WSR 94-17-063**  
**NOTICE OF PUBLIC MEETINGS**  
**MARINE OVERSIGHT BOARD**  
[Memorandum—August 5, 1994]

The board has canceled the following public meeting: October 21, 1994.

The board has scheduled the following public meeting: On September 26, 1994, at 1:00 p.m., SeaTac International Airport, Theater, Door No. 5132, Ticketing Level (hallway area behind Mark Air ticketing), Contact Marine Oversight Board Office, Olympia, (206) 664-9130, SCAN 336-9130.

**WSR 94-17-066**  
**PROCLAMATION**  
**OFFICE OF THE GOVERNOR**  
[August 7, 1994]

**AMENDING PROCLAMATION OF AN EMERGENCY**

The fires which began on July 24, 1994, have now burned more than 200,000 acres statewide.

WHEREAS, numerous fires are present in Okanogan County which threaten lives and property;

NOW, THEREFORE, I, MIKE LOWRY, Governor of the state of Washington as a result of the aforementioned situation and under RCW 43.06 and 38.52, do hereby amend the proclamation of July 27, 1994, and further proclaim that a State of Emergency exists in Okanogan County and authorize execution of the Washington State Comprehensive Emergency Management Plan.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the state of Washington to be affixed at Olympia this seventh day of August, A.D., nineteen hundred and ninety-four.

Mike Lowry  
Governor of Washington

Attest:

Ralph Munro  
Secretary of State

**WSR 94-17-073**  
**SKAGIT VALLEY COLLEGE**  
[Filed August 15, 1994, 4:45 p.m.]

This is to notify you that Skagit Valley College is making no major changes to its Washington Administrative Code rules during the coming fiscal year.

Judi Knutzen  
Rules Coordinator

**WSR 94-17-085**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMISSION ON**  
**JUDICIAL CONDUCT**  
[Memorandum—August 15, 1994]

The Commission on Judicial Conduct rules committee meeting scheduled for 6:00 p.m. on September 1, 1994, and the business meeting scheduled for 11:00 a.m. on September 2, 1994, at the SeaTac Holiday Inn, 17338 Pacific Highway South, Seattle, WA 98188, are hereby canceled.

**WSR 94-17-086**  
**NOTICE OF PUBLIC MEETINGS**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**  
[Memorandum—August 15, 1994]

The Interagency Committee for Outdoor Recreation (IAC) will meet Monday, September 26, 1994, and Tuesday, September 27, 1994, in the Olympia/Spokane Meeting Room of the Seattle-Southcenter Nendels Inn beginning at 8:00 a.m. The hotel is located at 15901 West Valley Road in Tukwila, Exit 1, Interstate 405. This meeting is a funding recommendation session for projects for the Washington Wildlife and Recreation Program (WWRP) and state I-215 (Boating) Program. The presentations for funding consideration will begin at 9:45 a.m. Other planned agenda items include: Discussion of 1995 committee meeting dates and locations and a review of the 1995 legislative package. If you plan to participate or have materials for committee review, please submit information to IAC no later than September 6, 1994. This will allow time for distribution to committee members in a timely fashion.

MISCELLANEOUS

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 Friday, September 9, 1994, at (206) 902-3000 or TDD (206) 902-1996.

**WSR 94-17-094**  
**PROCLAMATION**  
**OFFICE OF THE GOVERNOR**  
[August 14, 1994]

**AMENDING PROCLAMATION OF AN EMERGENCY**

The fires which began on July 24, 1994, have now burned more than 200,000 acres statewide.

WHEREAS, numerous fires are present in Ferry County which threaten lives and property;

NOW, THEREFORE, I, MIKE LOWRY, Governor of the state of Washington as a result of the aforementioned situation and under RCW 43.06 and 38.52, do hereby amend the proclamation of July 27, 1994, and further proclaim that a State of Emergency exists in Ferry County and authorize execution of the Washington State Comprehensive Emergency Management Plan.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the state of Washington to be affixed at Olympia this fourteenth day of August, A.D., nineteen hundred and ninety-four.

Mike Lowry  
Governor of Washington

ATTEST:

Donald F. Whiting  
Assistant Secretary of State

**WSR 94-17-103**  
**DEPARTMENT OF HEALTH**  
[Filed August 17, 1994, 1:40 p.m.]

The Department of Health will consider the following rules for amendment or creation during Fiscal Year 1995: WAC 246-01-040 Boards and commissions; 246-01-080 Organization; 246-100-236 CD4 reporting requirements; 246-243-040 Radiation; 246-272-990 On-site sewage fees; 246-290-990 Water system fees; 246-254-053 Radiation machine facility registration fees; chapter 246-10 WAC, Practice and procedure—Secretary programs; chapter 246-11 WAC, Practice and procedure—Regulatory programs; chapter 246-50 WAC, Quality improvement program; chapter 246-232 WAC, Radioactive materials—Licensing applicability; chapter 246-233 WAC, Radioactive materials—General license; chapter 246-235 WAC, Radioactive materials—Specific licenses; chapter 246-242 WAC, Large irradiators, chapter 246-246 WAC, Environmental radiation; chapter 246-249 WAC, Low level waste management; chapter 246-255 WAC, Radiation protection—Forms; chapter 246-293 WAC, Water System Coordination Act; chapter 246-318 WAC, Hospitals; chapter 246-322 WAC, Psychiatric hospitals; chapter 246-323 WAC,

Alcoholism hospitals; chapter 246-326 WAC, Alcoholism treatment facilities; chapter 246-327 WAC, Home health agencies; chapter 246-330 WAC, Childcare; chapter 246-331 WAC, Hospice agencies; chapter 246-336 WAC, Home care agencies; chapter 246-360 WAC, Transient accommodations; chapter 246-490 WAC, Electronic birth certificates; chapter 246-780 WAC, Farmer's market nutrition program; chapter 246-790 WAC, Special supplemental food program; chapter 246-810 WAC, Counselors; and chapter 246-930 WAC, Sex offender treatment provider.

Bruce Miyahara  
Secretary

**WSR 94-17-104**  
**DEPARTMENT OF HEALTH**  
(Veterinary Board of Governors)  
[Filed August 17, 1994, 1:43 p.m.]

The following is the Washington State Veterinary Board of Governors' rules agenda for fiscal year 1995: Veterinary medication clerks, new WAC; patient records, new WAC; license reinstatement process, WAC 246-933-980; insertion of micro chips, new WAC; animal technician licensing requirements, RCW 18.92.012; and veterinary retired active license, WAC 246-933-305.

If you need any clarification please feel free to call Keith Shafer at 664-8480 or Traci Troutman at 586-4566.

Keith Shafer  
Executive Director

**WSR 94-17-105**  
**DEPARTMENT OF HEALTH**  
(Board of Optometry)  
[Filed August 17, 1994, 1:45 p.m.]

The Optometry Board will consider the following rules for amendment or creation during fiscal year 1995: Chapter 246-851 WAC, complete chapter review.

Garard Gustafson, O.D.  
Chair

**WSR 94-17-106**  
**DEPARTMENT OF HEALTH**  
(Board of Pharmacy)  
[Filed August 17, 1994, 1:48 p.m.]

The Pharmacy Board will consider the following rules for amendment or creation during fiscal year 1995: Chapter 246-856 WAC, Model procedural rules for board; chapter 246-863 WAC, Pharmacist continuing education; chapter 246-865 WAC, Extended care facilities; chapter 246-869 WAC, Patient consultation; chapter 246-869 WAC, Patient confidentiality; chapter 246-869 WAC, FAX rules; chapter 246-871 WAC, Parenteral products for nonhospitalized patients; chapter 246-873 WAC, Hospital standards; chapter 246-875 WAC, Patient medication record systems; chapter 246-881 WAC, Prescription drug price advertising; chapter 246-886 WAC, Animal control—Legend drugs; chapter 246-

MISCELLANEOUS

887 WAC, Controlled substances; chapter 246-889 WAC, Precursor substance control; chapter 246-891 WAC, Pharmacy—Prophylactics; and chapter 246-901 WAC, Examination for pharmacy assistant.

Donald H. Williams  
Executive Director  
for Maureen Sandison  
Chair

**WSR 94-17-107**  
**DEPARTMENT OF HEALTH**  
(Medical Quality Assurance Commission)  
[Filed August 17, 1994, 1:51 p.m.]

The Medical Quality Assurance Commission will consider the following rules for amendment, repeal or possible creation of new sections during fiscal year 1995: Chapter 246-920 WAC, Physicians and surgeons—Medical disciplinary board; chapter 246-917 WAC, Physicians and surgeons—Board of medical examiners; and chapter 246-918 WAC, Physician assistant—Board of medical examiners.

Beverly A. Teeter  
Program Manager

**WSR 94-17-108**  
**DEPARTMENT OF HEALTH**  
(Board of Nursing Home Administrators)  
[Filed August 17, 1994, 1:53 p.m.]

The Board of Nursing Home Administrators will consider the following rule for amendment or creation during fiscal year 1995: Chapter 246-843 WAC, Nursing home administrators.

Karen Burgess  
Program Manager

**WSR 94-17-109**  
**DEPARTMENT OF HEALTH**  
(Board of Massage)  
[Filed August 17, 1994, 1:55 p.m.]

The Board of Massage and the Massage Program will consider the following rule for amendment or creation during fiscal year 1995: Chapter 246-830 WAC, Massage.

Janice Boden  
Program Manager

**WSR 94-17-110**  
**DEPARTMENT OF HEALTH**  
(Examining Board of Psychology)  
[Filed August 17, 1994, 1:58 p.m.]

The Examining Board of Psychology will consider the following rule for amendment or creation during fiscal year

1995: Chapter 246-924 WAC, Psychology.

Terry West  
Program Manager

**WSR 94-17-111**  
**DEPARTMENT OF HEALTH**  
(Board on Fitting and Dispensing of Hearing Aids)  
[Filed August 17, 1994, 2:00 p.m.]

The Board of Fitting and Dispensing of Hearing Aids will consider the following rule for amendment or creation during fiscal year 1995: Chapter 246-828 WAC, Hearing aids.

Janice Boden  
Program Manager

**WSR 94-17-112**  
**DEPARTMENT OF HEALTH**  
(Dental Hygiene Examining Committee)  
[Filed August 17, 1994, 2:02 p.m.]

This will serve as notice that the Washington State Dental Hygiene Examining Committee and the secretary of health plan to conduct rule hearings in 1995 relating to the following chapter: Chapter 246-815 WAC, Dental hygienists.

Sue Shoblom  
Executive Director

**WSR 94-17-113**  
**DEPARTMENT OF HEALTH**  
(Dental Quality Assurance Commission)  
[Filed August 17, 1994, 2:05 p.m.]

This will serve as notice that the Washington State Dental Quality Assurance Commission plans to conduct rule hearings in 1995 relating to the following chapters: Chapter 246-816 WAC, Dentists—Dental disciplinary board and chapter 246-818 WAC, Dentists—Dental examining board.

Sue Shoblom  
Executive Director

**WSR 94-17-114**  
**DEPARTMENT OF HEALTH**  
(Chiropractic Quality Assurance Commission)  
[Filed August 17, 1994, 2:07 p.m.]

This will serve as notice that the Washington State Chiropractic Quality Assurance Commission plans to conduct rule hearings in 1995 relating to the following chapters: Chapter 246-806 WAC, Board of chiropractic examiners and chapter 246-807 WAC, Chiropractic disciplinary board.

Sue Shoblom  
Executive Director

MISCELLANEOUS

**WSR 94-17-115**  
**DEPARTMENT OF HEALTH**  
 (State Board of Health)  
 [Filed August 17, 1994, 2:10 p.m.]

The State Board of Health will consider the following rules for amendment or creation during fiscal year 1995: Chapter 246-100 WAC, TB requirements; chapter 246-100 WAC, HIV/AIDS requirements; chapter 246-100 WAC, Immunizations; chapter 246-170 WAC, TB requirements; chapter 246-282 WAC, Shellfish; chapter 246-260 WAC, Water recreation and bathing beaches; chapter 246-217 WAC, Food worker permits; chapter 246-360 WAC, Transient accommodations; chapter 246-366 WAC, Primary/secondary schools; and WAC 246-290-100 Water system plan.

Sylvia Beck  
 Executive Director

**WSR 94-17-122**  
**DEPARTMENT OF HEALTH**  
 (Nursing Care Quality Assurance Commission)  
 [Filed August 19, 1994, 9:29 a.m.]

The Washington State Nursing Care Quality Assurance Commission will consider the following rules for amendment or creation during fiscal year 1995: Chapter 246-838 WAC, the law relating to licensed practical nursing; and chapter 246-839 WAC, the law relating to registered nursing.

**WSR 94-17-139**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Wheat Commission)  
 [Memorandum—August 19, 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 date, location, and time change is submitted at least twenty 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 20 (1:00 p.m.),  
 21 (1:30 p.m.) and 22 (8:30 a.m.)  
 Washington Athletic Club  
 1325 Sixth Street  
 Seattle, WA

**WSR 94-17-141**  
**NOTICE OF PUBLIC MEETINGS**  
**PARKS AND RECREATION**  
**COMMISSION**  
 [Memorandum—August 22, 1994]

The location for the October 21, 1994, meeting of the Washington State Parks and Recreation Commission has been changed from Olympia to Spokane. All commission meetings begin at 9:00 a.m. on the day scheduled.

The location for the October meeting will be announced at the close of the September 9 meeting and may also be obtained thereafter by writing to the Director, Washington State Parks and Recreation Commission, P.O. Box 42650, Olympia, WA 98504-2650 or by calling (206) 753-5758.

In accordance with Executive Order 83-19, meeting sites will be selected which are barrier free to the greatest extent feasible. Braille or taped agenda items for the visually impaired and interpreters for those with hearing impairments will be provided if requested with adequate notice. Such requests should usually be made at least ten working days in advance of the scheduled meeting date and should be sent to the state parks address in the above paragraph.

**WSR 94-17-155**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION COMMISSION**  
 [Memorandum—August 22, 1994]

The September 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, September 14, and 9:00 a.m. on Thursday, September 15, 1994, in the Great Northern Room, Best Western Ellensburg Inn, 1700 Canyon Road, Ellensburg, WA. There will be committee meetings at 9:00 a.m., Wednesday, September 14, in the Great Northern and Columbia Rooms at the Best Western Ellensburg Inn.

The Transportation Commission will conduct a joint workshop with the Legislative Transportation Committee to discuss the Commission's TRANS 2000 public involvement project on Friday, September 16, 1994, time and location are to be determined. Call the commission office at (206) 705-7070 for further information.

The October 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, October 19, and 9:00 a.m. on Thursday, October 20, 1994, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be committee meetings at 9:00 a.m., Wednesday, October 19, in the Transportation Building, Rooms 1D2 and 3F21, Olympia, Washington.

**WSR 94-17-165**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**  
 [Memorandum—August 23, 1994]

The Washington State Human Rights Commission will hold a special commission meeting on September 29, 1994. The

meeting will be held by telephone conference call beginning at 2:00 p.m. The conference call will originate at the office of the Washington State Human Rights Commission, 711 South Capitol Way, Suite 402, Olympia, WA 98504-2490, (206) 753-4876. The meeting is being held to close cases. An executive session will be convened if necessary.

### WSR 94-17-180

#### NOTICE OF PUBLIC MEETINGS HEALTH SERVICES COMMISSION

[Memorandum—August 22, 1994]

**Regular Commission Meetings:** The following is the revised schedule of the Washington Health Services Commission's regular meetings in 1994. All meetings will begin at 9:00 a.m. and end about 6:00 p.m. (unless we schedule an evening public hearing). Meeting dates, times, and locations are subject to change, due to unforeseen circumstances.

Day/Date/City	Facility/Address
Thursday September 8 Yakima	Red Lion Inn 1507 North First Street
Tuesday September 20 Lacey	Worthington Conference Center Saint Martin's College 5300 Pacific Avenue Southeast
Thursday November 15 Kirkland	Auditorium, Red Zone, First Floor, Room 551, Evergreen Hospital Medical Center, 12040 Kirkland Northeast 128th Avenue
Wednesday December 14 Everett	Cascade Room, General Hospital Medical Office December 14 Building, 132 P Rockefeller Avenue

**Commission Workshop:** From Wednesday, October 26, through Friday October 28, 1994, the commission will conduct workshop in open, public session to take action on rules and other work program tasks. The workshop will begin each day at 8:00 a.m. and will end about 5:30 p.m. The workshop will be held in the ballroom of the Samuelson Union Building, Central Washington University, in Ellensburg, Washington.

**Commission Staff Meetings:** During 1994, commission staff meetings will be held weekly on Tuesdays, beginning at 9:00 a.m., with the following exceptions:

- Monday, August 29, beginning at 9:00 a.m.
- Tuesday, September 13, beginning at 8:00 a.m.
- Tuesday, November 8, beginning at 8:00 a.m.

The staff meetings are held at the Attorney General's Conference Center, Rowsix, Building 1, 4224 Sixth Avenue Southeast, Lacey, WA.

### WSR 94-17-181

#### HEALTH SERVICES COMMISSION

[Filed August 24, 1994, 11:10 a.m.]

August 24, 1994

#### WASHINGTON HEALTH SERVICES COMMISSION Health Care Entities Reporting Requirements Proposed Legislation for the Statewide Health Services Information System

The Health Services Act of 1993 authorizes the commission to determine the necessity of additional reporting requirements for health care entities for use in measuring whether the health care system is operating as efficiently as possible. The commission is to report its findings to the legislature by January 1, 1995. (RCW 70.170.110)

The commission has determined that (1) health care entity reporting requirements will be substantively different within a reformed health care system; and (2) the commission needs the authority to add, delete, and modify the list of reporting requirements to align the statewide health services information system with: (a) New health service delivery and financing mechanisms; (b) total quality management and continuous quality improvement systems; (c) performance and outcome measures; and (d) health status indicators. The foregoing are methods of improving operating efficiencies, the measurement of which may require a wholly different approach to data capture and reporting.

To accommodate new data capture and reporting methods and analyses, the commission intends to propose new legislation requesting statutory authority to add, delete, and modify the list of health care entity reporting requirements.

Please deliver or mail your written comments on the above policy recommendations to the Washington Health Services Commission, P.O. Box 41187, Olympia, WA 98504-1187, so that we receive them by no later than Friday, October 7, 1994. If you want a more detailed written description of the policy recommendation, please mail a written request and a self-addressed, 10" x 13" manila envelope to the commission mail box listed above. Eight public hearings will be held on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times, and locations of these hearings.

August 24, 1994

#### WASHINGTON HEALTH SERVICES COMMISSION Medical Risk Adjustment

RCW 43.72.040(7) directs the commission to determine the need for medical risk adjustment mechanisms and states that in designing these mechanisms the commission shall consider whether registered employer health plans should be included. The specifications for registered employer health plans are virtually identical to those for certified health plans, except that they do not have to accept any state resident for enrollment in their plan.

In the design of medical risk distribution mechanisms, the commission is required to balance the benefits of price competition with the need to protect certified health plans from any unsustainable negative effects of adverse selection. The four basic components of the commission's recommended approach are: (1) All certified health plans in a

geographic region would set their own premiums on a community rated basis; (2) each certified health plan would be required to contribute a fixed monthly per capita amount to one (possibly two) state-managed risk pool(s); (3) an enrollment risk profile would be constructed for each certified health plan, based on enrollment demographics and other traditional underwriting factors; and (4) a catastrophic risk profile may also be constructed retrospectively for each certified health plan, based on the number and expected resource use of individual catastrophic cases treated by the plan during the year. The commission will also determine how the implementation and ongoing application of the medical risk adjustment mechanisms will be governed and administered. The initial commission recommendations on these topics are:

- Medical risk adjustment mechanisms should be developed. The state will work with health plans and technical experts to develop an initial recommendation for medical risk adjustment mechanisms for submission to the legislature.
- Registered employer health plans should be required to participate in any risk adjustment mechanism developed by the commission. Requiring all certified and registered employer health plans to participate in the risk adjustment mechanism assures true community rating and protects all insurers from unsustainable losses due to adverse selection.
- A risk pool for adjusting enrollment differences between plans should be developed, and the need for a catastrophic risk pool should be investigated further.
- The medical risk adjustment mechanism shall be privately administered and jointly governed by all certified health plans, according to guiding principles established by the commission and with oversight by the office of the insurance commissioner.

Please deliver or mail your written comments on the above policy recommendation to the Washington Health Services Commission, P.O. Box 41191, Olympia, WA 98504-1191, so that we receive them by no later than Friday, October 7, 1994. If you want a more detailed written description of the policy recommendation, please mail a written request and a self-addressed, 10" x 13" manila envelope to the commission mail box listed above. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Request for Legislative Authority for  
Joint Venture Partnership for HSIS

The commission finds it essential to establish a joint venture partnership between public agencies, health plans and providers, health care purchasers and consumer organizations to implement the statewide health services information system (HSIS). The functions of the joint venture will include ongoing development, implementation, governance and finance for various portions of HSIS, including parts of the

central information system and parts of the plan based information systems.

The commission believes that a joint venture partnership is the best method for implementing the commission's vision for HSIS and the needs assessment and data plan developed by the department of health. This will ensure that all entities affected by HSIS have an opportunity to participate in the decision-making process. The commission also believes that data requirements need to be coordinated across multiple users to reduce unnecessary duplication of data collection and reporting efforts. More important, a joint venture will offer greater flexibility to respond to rapid technological change as well as provide access to new sources of capital to implement and maintain the central information system.

The commission intends to initiate new legislation seeking the authority to develop a joint venture partnership for HSIS. Where appropriate, portions of HSIS will remain within the public domain, while other portions will remain exclusive to private entities. The joint governing structure will focus primarily on areas of data standardization, collection, reporting, dissemination, and other processes that will benefit from collaborative participation in decision-making by all health care reporting entities and users of data. The joint financing structure will focus on projects that integrate decentralized datasets and provide access to authorized data common to multiple users.

Please deliver or mail your written comments on the above policy recommendations to the Washington Health Services Commission, P.O. Box 41187, Olympia, WA 98504-1187, so that we receive them by no later than Friday, October 7, 1994. If you want a more detailed written description of the policy recommendation, please mail a written request and a self-addressed, 10" x 13" manila envelope to the commission mail box listed above. Eight public hearings will be held on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times, and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Proposed Legislative Change on  
Monitoring Capital Expenditures

The Health Services Act of 1993 requires the commission and the health care facilities authority to develop joint standards for evaluating and approving major capital expenditure financing through the authority. Additionally, the act requires the commission to establish reporting requirements for monitoring all capital expenditures in excess of one million dollars and to report to the legislature on an annual basis.

The task force on capital expenditures and the commission studied the implications of this section of the act and concluded that the costs and burden to the commission, the authority, and to health care reporting entities for implementing this section of the act would outweigh the benefits to be gained in cost savings. Additionally, it was concluded that other cost containment efforts, including the commission's ongoing monitoring of total health system costs would sufficiently address this issue.

In response, the commission intends to initiate legislation repealing that portion of RCW 43.72.040(11) which states: "The Washington health care facilities authority and the commission shall develop standards jointly for evaluating and approving major capital expenditure financing through the Washington health care facilities authority, as authorized pursuant to chapter 70.37 RCW. By December 1, 1994, the commission and the authority shall submit jointly to the legislature such proposed standards. The commission and the authority shall, after legislative review, but no later than June 1, 1995, publish such standards. Upon publication, the authority may not approve financing for major capital expenditures unless approved by the commission."

Additionally, the commission intends to initiate legislation amending the first two sentences of RCW 43.72.040(11) to read: "As part of its ongoing monitoring of total health system costs, the commission shall periodically analyze capital expenditures and take necessary action as indicated."

Please deliver or mail your written comments on the above policy recommendations to the Washington Health Services Commission, P.O. Box 41192, Olympia, WA 98504-1192, so that we receive them by no later than Friday, October 7, 1994. If you want a more detailed written description of the policy recommendation, please mail a written request and a self-addressed, 10" x 13" manila envelope to the commission mail box listed above. Eight public hearings will be held on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times, and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Definition of a Qualified Employee

RCW 43.72.010(20) defines a qualified employee as "an employee who is employed at least thirty hours during a week or one hundred twenty hours during a calendar month." RCW 43.72.220 (2)(a), (3)(a) and (4)(a) require employers to offer the UBP, and pay at least 50% of the premium of the lowest cost available package, for all qualified employees and their dependents. These requirements have been interpreted as meaning that if an employee works at least thirty hours in any one week, the employer is required to pay for an entire month's benefits for that employee (and dependents, as applicable). Further, defining a qualified employee on a weekly basis when insurance coverage is offered on a monthly basis adds considerable administrative complexity.

The commission is recommending requesting a statutory change to the definition of qualified employee. The new definition would be "an employee who is employed at least one hundred twenty hours during a calendar month." This would eliminate the potential problems caused by the "thirty hours during a week" definition, without significantly changing the impact on employees. If this change is made, it would also then be logical to remove the phrase "thirty hours during a week" from the definition of part-time employee prorated coverage in RCW 43.72.220 (2)(b), (3)(b) and (4)(b), since it would be unnecessary. The prorated formula is already based on a monthly calculation, using one

hundred twenty hours as the definition of a qualified employee.

Defining qualified employee on a monthly basis only will require removing the "thirty hours during a week" language from the statutory definition of qualified employee and also from the specification of employees who are covered on a prorated basis. In adopting a one hundred twenty hours per month definition of a qualified employee, note that employees below this threshold would still continue to receive a prorated employer contribution based on hours worked in the month. The commission intends to seek statutory changes to the Health Services Act of 1993 to reflect the above recommendations.

Please deliver or mail your written comments on the above policy recommendation to the Washington Health Services Commission, P.O. Box 41251, Olympia, WA 98504-1251, so that we receive them by no later than Friday, October 7, 1994. If you want a more detailed written description of the proposed statutory language, please mail a written request and a self-addressed, 10" x 13" manila envelope to the commission mail box listed above. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the schedule that follows these listings for the dates, times and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Seasonal Employment

The Health Services Act was amended during the 1994 legislative session by ESHB 2443 to remove the exclusion of seasonal employees and establish a seasonal employment advisory committee to assist the commission in development of coverage mechanisms for seasonal employees and employers. The act, as amended, defines seasonal employer by standard industry codes, requires the commission to define seasonal employee, to conduct a financial impact analysis; and to consider the appropriateness of using the part-time depository under development by the health care authority for seasonal employees. Guidance is given regarding coverage mechanisms should they need to be modified to meet the unique characteristics and needs of seasonal employees and their employers. In preparation for rule development, the commission has taken the following policy positions and welcomes public comment.

Assisted by the financial impact study being conducted with the assistance of the office of financial management and Washington State University, and the findings of the health care authority with regard to the development of a depository for part-time employees, the commission will determine if a modification of the coverage mechanism is needed. Any modification of the contribution formula for seasonal employers will be limited to those industries specifically listed in section (1) of ESHB 2443 (agriculture including forestry and timber tracts). Should the contribution formula be modified, the employer contribution will be limited to the first thirty hours worked each week. The act does not require employers of seasonal employees who qualify for health benefits through another full-time employer to participate in the cost of the uniform benefit package. In this regard, the commission may adopt a second seasonal

employer definition, expanding the list of industries beyond those currently listed.

The act defines a "qualified employee" as one who is employed at least thirty hours during a week or one hundred twenty hours during a calendar month. The commission intends to request a statutory change to limit this definition to one hundred twenty hours in a month. This will reduce the likelihood that an employee would qualify for full participation by several employers in the same month. If, however, a seasonal employee works for a single employer for one hundred twenty hours in a month, he or she would be considered qualified.

The commission intends to use the part-time depository for seasonal employees. If a different coverage mechanism is required, a separate fund within the depository will be created. The commission recognizes that seasonal employees will require assistance with plan enrollment and that language barriers need to be addressed, and welcomes suggestions as to how to meet these needs.

Please deliver or mail your written comments on these policy decisions to the Washington Health Services Commission, P.O. Box 41196, Olympia, WA 98504-1196, so we receive them no later than Friday, October 7, 1994. If you want a detailed written description of the policy recommendation, please mail a written request and a self-addressed envelope to the commission mail box above. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Taft-Hartley and Public Trusts

The commission is required by RCW 43.72.040 and ESHB 1721 to evaluate Taft-Hartley and public trusts and to recommend to the legislature by December 1, 1994 how these trusts should be included in health care reform. An organized labor advisory committee was appointed to assist the commission in this determination. The commission has developed a trust model and is recommending that the Health Services Act be amended to include a trust model similar to a registered employer health plan.

Proposed legislation would define "multiemployer health plan" as a voluntary employees' beneficiary association, providing collectively bargained benefits to employees and dependents, governed by a board of trustees comprised of equal representation of union and employer representatives. These trusts, public and private, would offer the uniform benefits package to qualified employees and dependents pursuant to the employer participation section of the act (RCW 43.72.220) beginning July 1, 1995, and be required to meet most of the requirements for registered employer health plans (RCW 43.72.120).

Taft-Hartley and public trusts have strong support from unions, employers and public sector officials. They have historically provided cost effective benefits and have assured continuity of access for workers who frequently change employers. Trusts would be modified to offer the uniform benefits package, offer preventive services with no point of

service copayments, and to participate in medical risk adjustment and in the health services information system.

Please deliver or mail your written comments on the proposed legislation to the Washington Health Services Commission, P.O. Box 41197, Olympia, WA 98504-1197, so we receive them no later than Friday, October 7, 1994. If you want a copy of the proposed legislation, please mail a written request and a self-addressed envelope to the commission address noted above. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Proposed Legislation on Conflicts of Interest

There has been minimal enforcement of chapter 19.68 RCW — the current Washington law prohibiting health care provider rebates, kickbacks, and other financial interests that conflict with the best interests of the consumer-patient. Chapter 19.68 RCW is rigid, over-broad, and very difficult to understand. The legislation proposed by the commission's task force on provider conflicts of interest, titled the "Health Services Conflict of Interest Act," will replace chapter 19.68 RCW with understandable and flexible legislation regulating provider conflicts of interest. The proposed legislation addresses health facility and third-party payer conflict of interest, as well as health care provider conflicts of interest.

The intent section of the proposed legislation recognized how financial interests may give rise to self-referrals, which, in turn, can result in overutilization of health services. In addition, with the advent of managed competition, there is a recognition of how financial interests could result in underutilization of health services.

The proposed legislation recognizes the need for flexibility in regulating the myriad of contractual and referral arrangements that may arise as health reform occurs. Flexibility is assured in the legislation by the grant of rule-making authority to the commission. The commission is authorized to determine by rule which referral arrangements and practices are permitted or prohibited if the health services provider, facility, or third-party payer has a financial interest in the referral. The commission is required to consider specific principles when enacting rules.

The proposed legislation includes three different remedies. First, the attorney general is charged with enforcing this legislation under the Consumer Protection Act, except there is no private right of action. Second, the attorney general has the authority to issue a cease and desist order and assess civil penalties in an administrative action. Third, if the entity violating the Health Services Conflict of Interest Act is a licensed health care provider, licensed health facility, or a certified third-party payor, the entity's license or certification is subject to disciplinary action, including suspension or revocation.

At least one member of the task force supports the following dissenting views: (1) Conflict of interest regulations are not an appropriate means of addressing the problem of underutilization of health services; (2) overall prohibition

of self-dealing transactions by health care providers should be retained in the law, with the commission given regulatory authority to define the exact terms of the prohibition and to grant exceptions where necessary and appropriate; and (3) consumers and competitors should have the right to privately enforce violations of the provider conflict of interest rules.

Please deliver or mail your written comments on the proposed legislation to the Washington Health Services Commission, P.O. Box 41185, Olympia, WA 98504-1185, so we receive them by no later than Friday, October 7, 1994. If you want a copy of the proposed legislation, please mail a written request and a self-addressed, 10" x 13" manila envelope to the commission address noted above.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Defining the Lowest Cost Uniform Benefits Package

There are two requirements of the Health Services Act which require identification of the lowest cost uniform benefits package in a geographic area. The first requirement is the designation of a certified health plan as the lowest cost uniform benefits package in an area, which means that the plan must be offered by all employers in the area. The second requirement is the employer mandate to pay at least fifty percent of the premium cost of the lowest cost package in the area. Concerns have been raised about defining the lowest cost package strictly on a dollar amount, due to capacity concerns and because the marketing incentives in being designated the lowest cost plan are so extreme that they could cause plans to cut provider reimbursement below reasonable levels and seriously compromise quality of care. The concerns over CHP quality are already being addressed by an extensive quality improvement process, with financial solvency and network adequacy requirements being addressed elsewhere as part of CHP certification standards. The commission's recommendations are:

- Define the lowest cost package in terms of plan premium and capacity to enroll members in the geographic area, defined as individual county or aggregations of whole counties, as appropriate. The specific quantitative approach to defining the lowest cost package will require further study.
- An employer must offer a lowest cost plan in any worksite location (county) with at least ten percent of the workforce (requirement waived if less than 5 employees).
- Multiple CHPs can be designated as the lowest cost package in a geographic area. This recommendation may require a statutory change to the Health Services Act.
- No CHP can be designated as a lowest cost package until it meets a threshold enrollment capacity.
- Employers must offer a lowest cost package initially, and then at least every other year thereafter, as long as the premium in the second year for the selected plan is within a fixed percentage of the next year's lowest-cost-package premium. The employer must always contribute at least fifty percent of the premium cost of the lowest price package it offers.

- Certified health plans will have a semi-annual filing for determination of the lowest cost package, but with an annual rate guarantee to purchasers.

Please deliver or mail your written comments on the above policy recommendation to the Washington Health Services Commission, P.O. Box 41186, Olympia, WA 98504-1186, so that we receive them by no later than Friday, October 7, 1994. If you want a more detailed written description of the policy recommendation, please mail a written request and self-addressed, 10" x 13" manila envelope to the commission mail box listed above. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Uniform Set of Health Services

The Health Services Act requires the commission to establish, and modify as necessary, in consultation with the state board of health and department of health, and in coordination with the planning process set forth in RCW 43.70.520, a uniform set of health services. The model is to be based on the recommendations of the health care cost control and access commission established under House Concurrent Resolution No. 4443 adopted by the legislature in 1990. The final report of that commission defines the uniform set of health services as consisting of all appropriate and effective health services to which Washington residents are ensured access. The uniform set is conceived as having three overlapping components: Personal health services, core public health functions, and health system support.

Personal health services, both clinical and nonclinical, are characterized by an encounter or exchange to improve or maintain the health or functioning of an individual. Core public health functions are population based services provided by state and local health departments to prevent disease and injury, promote health, and protect individuals and groups from hazards in the environment. Health system support includes services to overcome access barriers, health-related research, and health personnel education and training.

Two parts of the uniform set are currently under development. The commission is recommending a uniform benefits package for public review this fall and legislative approval in January. The department of health is preparing the public health improvement plan (PHIP), containing recommendations and a plan for public health system responsibilities and organization. The PHIP will be ready for public review in September and submission to the legislature by December 1, 1994.

Because of budgetary, political and economic constraints, the uniform set of health services will initially be confined to those services to which access is ensured. Some appropriate and effective personal health services will be offered as supplemental benefits and will not be included in the uniform benefits package. Not all of the core public health functions of assessment, policy development, and assurance are likely to be in place by July 1, 1995. Similarly, many supportive services, such as the health services

information system, are currently under development. It is the goal of the commission that the full system of services will be phased in through 1999.

Please deliver or mail your written comments on these policy decisions to the Washington Health Services Commission, P.O. Box 41195, Olympia, WA 98504-1195, so we receive them no later than Friday, October 7, 1994. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times, and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Inclusion Of Health Professions Training Costs in the  
Uniform Benefits Package

The Health Services Act states that the commission has "the power and duty . . . to consider the extent to which health professions training activities should be included within the health service system." The health professions include both physician and nonphysician health care providers. Reform of health professions training will address two key issues: Producing adequate numbers and types of providers, especially primary care providers; training providers how to deliver services appropriately to meet the diverse needs of communities. The funding mechanism for health professions training must provide the proper incentives to achieve these critical areas of health reform.

Currently, public and private insurance payments for patient services are an important funding source for physician training. A combination of federal grants, tuition fees, and state appropriations are the principal funding sources for other health professions training programs.

The department of health is charged with developing the health personnel resource plan (HPRP), a state-wide plan addressing health profession training needs and funding requirements. In addition, the commission formed an issue investigation group on health professions training costs to focus specifically on options for financing training costs.

The statutory committee for the HPRP and the issue investigation group both recommended the establishment of a state health training education fund. The HPRP statutory committee recommended that the commission have initial oversight of the fund during a transition period and that the HPRP statutory committee assume oversight afterwards. The issue investigation group recommended that the commission have continued oversight of the fund. The issue investigation group felt that patient revenue would be most immediately affected during the transition to a reformed system and that assurances are needed to maintain this funding source at its present level. Therefore, the issue investigation group recommended that a fixed percentage of the uniform benefits package (UBP) premium be set aside to create this fund, noting that the fund could be expanded to include other training funds sources, such as state appropriations.

The issue investigation group also presented options for funding health professions training outside of the UBP: Maintaining the present funding mechanism or establishing a health education fund through tax revenues.

Please deliver or mail your written comments on the above policy recommendation to the Washington Health Services Commission, P.O. Box 41252, Olympia, WA 98504-1252, so that we receive them by no later than Friday, October 7, 1994. If you want a more detailed written description of the policy recommendation, please mail a written request and a self-addressed, 10" x 13" manila envelope to the commission mail box listed above. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times and locations of these hearings.

August 24, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Inclusion of Medical Research Costs in the Uniform  
Benefits Package

The Health Services Act states that the commission "has the power and duty . . . to consider the extent to which medical research should be included within the health service system." The commission has adopted the definition of medical research advanced by the Clinton administration in its health care proposal. This definition uses the single term "investigational intervention" to describe research, experimental and investigative services. Investigative interventions may include preventative, diagnostic, or treatment measures.

There are several components of medical research costs. Costs associated with the conduct of a clinical trial (data monitoring, etc.) are typically funded by government grants, nongovernment granting agencies, and pharmaceutical or biotechnology companies. Research costs associated with patient care include medical care costs that would be accrued as part of standard patient care. Current funding for the patient care component of research is predominantly through public and private health insurance.

Access to research trials by Washington residents varies widely and depends on a number of factors, including information available to the consumer, language within specific benefit plans, geographic location, and litigation. Insurers vary considerably in the resources applied to research-oriented medical care. The commission formed an issue investigation group on medical research to make recommendations on options for financing research patient care costs. The issue investigation group's recommendations address the following goals: Ensuring quality of research trials; ensuring equity in access to trials; preserving and enhancing nonhealth insurance funding mechanisms; and ensuring equitable financial responsibility for research providers and certified health plans.

The issue investigation group recommended the inclusion of research costs associated with patient care in the uniform benefits package (UBP) as a percentage of the premium dollar fixed at the current level of funding for medical research. The group also recommended establishing a reinsurance pool to help address adverse selection for certified health plans. A final recommendation is to establish a state research review board with administrative oversight of clinical research activity levels and funding.

The issue investigation group presented alternative options which it did not recommend, including: Funding patient care research costs within the UBP only up to the amount of standard therapy costs; funding investigational therapies within the UBP without a reinsurance mechanism; setting aside a fixed proportion of the UBP premium to create a state-wide fund. The group felt that these alternatives were less likely to achieve the goals of ensuring appropriate access to research trials and providing an equitable financial mechanism for consumers, research providers, and certified health plans.

Please deliver or mail your written comments on the above policy recommendation to the Washington Health Services Commission, P.O. Box 41252, Olympia, WA 98504-1252, so that we receive them by no later than Friday, October 7, 1994. If you want a more detailed written description of the policy recommendation, please mail a written request and a self-addressed, 10" x 13" manila envelope to the commission mail box listed above. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times and locations of these hearings.

August 22, 1994

WASHINGTON HEALTH SERVICES COMMISSION  
Proposed Legislation for Expanded Consumer Choice

Consumer choice of health plans and of physicians would be enhanced if individual employees were able to choose their health care coverage from health insurance purchasing cooperatives (HIPC), as well as from the other options offered by their employer. Currently, the act requires employers to offer three certified health plans, or purchase coverage through the health insurance purchasing cooperative or through the Basic Health Plan. When employers contract with three certified health plans, their employees will not have the same choice of plans and providers as residents purchasing through the HIPC. The commission plans to sponsor legislation that would require employers to offer the option to purchase coverage through the HIPC to individual employees. Employees would pay any added fees from the HIPC if they exercised this choice. There are several reasons this legislative change would be beneficial to Washington residents.

Enables individuals to choose their own physician. Providing access to all certified health plans in the area would enable individuals to sign up with their provider's health plan. It would give residents access to the physicians and other providers of their choice.

Helps families obtain coverage from the same certified health plan. Families will have difficulty signing up for the same plan if, for example, their health plan is offered by the wife's employer but not by the husband's. Allowing employees to purchase coverage through the HIPC solves this problem.

Provides continuity of coverage and real portability. When an individual gets a new job, it is possible that the prior health plan may not be offered by the new employer. Letting these individuals purchase coverage through the

HIPC allows enrollees and their families to continue with their usual providers even when their job changes.

Facilitates coordination of premium payments. Complex health care claims processing and administrative hassles can be avoided when family members sign up for the same health plan. Coordination of premium payments can be handled by the HIPC, rather than burdening individuals and employers with excessive paperwork.

Provides access to state subsidies for low-income workers. If employers do not purchase coverage through the HIPC or the Basic Health Plan, their low-income employees may be denied access to state subsidies that make their premiums more affordable. The HIPC can work with the Basic Health Plan to coordinate premium subsidies for low-income residents and their families.

Please deliver or mail your written comments on the above policy recommendation to the Washington Health Services Commission, P.O. Box 41194, Olympia, WA 98504-1194, so that we receive them by no later than Friday, October 7, 1994. Eight public hearings will be held around the state between September 27 and October 13, 1994, to receive public testimony on this and other commission policy recommendations and proposed rules. Refer to the hearing schedule that follows these listings for the dates, times and locations of these hearings.

COMMISSION PUBLIC HEARINGS

The following is the schedule of eight public hearings to be held on the policy recommendations:

Day/Date	Location	Starting Times
Tuesday September 27	Spokane Spokane City Hall 808 West Spokane Falls Boulevard	9:00 a.m. 1:00 p.m. 6:00 p.m.
Thursday September 29	Pasco Franklin County P.U.D. 1411 West Clark	1:00 p.m. 6:00 p.m.
Friday September 30	Yakima Cavanaugh's at the Yakima Center 607 East Yakima Avenue	1:00 p.m. 6:00 p.m.
Monday October 3	Tacoma (Fife) Executive Inn 5700 Pacific Avenue East	9:00 a.m. 1:00 p.m. 6:00 p.m.
Wednesday October 5	Longview Montecello Hotel 1405 17th Avenue	1:00 p.m. 6:00 p.m.
Friday October 7	Burlington Burlington Community/Senior Center 1011 Greenleaf Avenue	1:00 p.m. 6:00 p.m.
Tuesday October 11	Lacey Worthington Conference Center Saint Martin's College 5300 Pacific Avenue Southeast	1:00 p.m. 6:00 p.m.
Thursday October 13	Seattle Lopez/Fidalgo Rooms Seattle Center 305 Harrison Street	9:00 a.m. 1:00 p.m. 6:00 p.m.

Assistance for persons with disabilities is available for all the above hearings. Please contact Terry Taylor at (206) 407-0152 at least one week prior to the date of the hearing.

MISCELLANEOUS

**Reviser's note:** The spelling errors in the above material occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 94-17-200**  
**ATTORNEY GENERAL OPINION**

[Filed August 24, 1994, 11:46 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION**  
**WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by September 7, 1994. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by September 7, 1994, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (206) 753-4114, or by writing to the Solicitor General, Office of the Attorney General, 905 Plum Street, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion requests:

94-8-2 William H. Hawkins, Island County Prosecuting Attorney

Question regarding statute interpretation relating to compensation of superior court reporters.

94-8-4 Mary Riveland, Director, Department of Ecology

Questions regarding whether reauthorization of the solid waste collection tax would be considered a new tax under Initiative 601.

**WSR 94-17-201**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Memorandum—August 19, 1994]

This addendum expands on the information provided August 1, 1994, regarding the September 19-20 special meeting of the Board of Natural Resources.

The Board of Natural Resources will hold a two-day workshop at Pack Forest Conference Center, 9010 453rd Street East, in Eatonville.

The workshop will begin at 9 a.m. and end at 10:00 p.m. on September 19. It will reconvene at 8 a.m. on September 20 and end at 2:30 p.m.

The board will consider the following matters: The Olympic Experimental State Forest; and overview of trust responsibilities; overview of the board's role; historical perspective on trust land management in Washington; current and future global markets for natural resources; factors influencing market changes; and significant issues Department of Natural Resources managers may face in the future.

An executive session may be held. Public comment will not be taken.

**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	16-200-805	AMD-P	94-05-060	16-223-010	REP	94-03-023
1-21-010	AMD	94-12-075	16-200-805	AMD	94-08-034	16-223-020	REP	94-03-023
1-21-170	AMD-P	94-09-045	16-212-020	AMD-P	94-06-058	16-223-030	REP	94-03-023
1-21-170	AMD	94-12-075	16-212-020	AMD	94-10-002	16-223-040	REP	94-03-023
4-25-020	REP-P	94-13-060	16-212-030	AMD-P	94-06-058	16-223-050	REP	94-03-023
4-25-030	REP-P	94-13-060	16-212-030	AMD	94-10-002	16-223-060	REP	94-03-023
4-25-080	REP-P	94-13-060	16-212-060	AMD-P	94-06-058	16-223-070	REP	94-03-023
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4-25-320	REP	94-02-070	16-219	AMD-C	94-08-033	16-228-255	REP	94-13-195
4-25-410	NEW-P	94-13-059	16-219-015	AMD-P	94-05-092	16-228-260	REP-P	94-09-017
4-25-521	NEW	94-02-068	16-219-015	AMD	94-09-028	16-228-260	REP	94-13-195
4-25-522	NEW	94-02-068	16-219-017	NEW-P	94-05-092	16-228-265	REP-P	94-09-017
4-25-625	NEW-P	94-13-062	16-219-017	NEW	94-09-028	16-228-265	REP	94-13-195
4-25-627	NEW-P	94-13-062	16-219-017	AMD-E	94-15-050	16-228-275	REP-P	94-09-017
4-25-780	NEW	94-10-039	16-219-018	NEW-P	94-05-092	16-228-275	REP	94-13-195
4-25-810	NEW	94-02-072	16-219-018	NEW	94-09-028	16-304-040	AMD-P	94-09-046
4-25-811	NEW	94-02-072	16-219-020	AMD-P	94-05-092	16-304-040	AMD	94-12-046
4-25-812	NEW	94-02-072	16-219-020	AMD	94-09-028	16-304-050	AMD-P	94-09-046
4-25-813	NEW	94-02-072	16-219-022	NEW-P	94-05-092	16-304-050	AMD	94-12-046
4-25-820	NEW	94-02-071	16-219-022	NEW	94-09-028	16-304-110	AMD-P	94-09-046
4-25-910	NEW-P	94-13-061	16-219-025	AMD-P	94-05-092	16-304-110	AMD	94-12-046
4-25-920	NEW	94-02-069	16-219-025	AMD	94-09-028	16-304-130	AMD-P	94-09-046
16-32-009	NEW-P	94-09-072	16-219-027	NEW-P	94-05-092	16-304-130	AMD	94-12-046
16-32-009	NEW	94-12-053	16-219-027	NEW	94-09-028	16-313-015	AMD-P	94-09-046
16-32-010	REP-P	94-09-072	16-219-027	AMD-E	94-15-050	16-313-015	AMD	94-12-046
16-32-010	REP	94-12-053	16-219-029	NEW-P	94-05-092	16-313-035	AMD-P	94-09-046
16-32-011	NEW-P	94-09-072	16-219-029	NEW	94-09-028	16-313-035	AMD	94-12-046
16-32-011	NEW	94-12-053	16-219-030	REP-P	94-05-092	16-316-0901	AMD-P	94-09-046
16-38-001	REP	94-05-009	16-219-030	REP	94-09-028	16-316-0901	AMD	94-12-046
16-38-010	REP	94-05-009	16-219-031	NEW-P	94-05-092	16-316-105	AMD-P	94-09-046
16-38-020	REP	94-05-009	16-219-031	NEW	94-09-028	16-316-105	AMD	94-12-046
16-54-035A	NEW-E	94-09-004	16-219-033	NEW-E	94-15-050	16-316-230	AMD-P	94-09-046
16-86-015	AMD	94-05-008	16-219-100	NEW-P	94-05-061	16-316-230	AMD	94-12-046
16-103-001	AMD	94-05-040	16-219-100	NEW	94-08-035	16-316-350	AMD-P	94-09-046
16-103-010	NEW-E	94-13-074	16-219-105	NEW-P	94-05-061	16-316-350	AMD	94-12-046
16-103-010	NEW-P	94-14-034	16-219-105	NEW	94-08-035	16-316-440	AMD-P	94-09-046
16-103-010	NEW-W	94-14-060	16-221-001	REP	94-03-024	16-316-440	AMD	94-12-046
16-103-010	NEW-P	94-15-056	16-221-010	REP	94-03-024	16-316-474	AMD-P	94-09-046
16-103-020	NEW-E	94-13-074	16-221-020	REP	94-03-024	16-316-474	AMD	94-12-046
16-103-020	NEW-P	94-14-034	16-221-030	REP	94-03-024	16-316-717	AMD-P	94-09-046
16-103-020	NEW-W	94-14-060	16-221-040	REP	94-03-024	16-316-717	AMD	94-12-046
16-103-020	NEW-P	94-15-056	16-223-001	REP	94-03-023	16-316-727	AMD-P	94-09-046
16-108-010	AMD-P	94-05-074	16-223-002	REP	94-03-023	16-316-727	AMD	94-12-046
16-108-010	AMD-W	94-07-038	16-223-004	REP	94-03-023	16-316-800	AMD-P	94-09-046
16-125	PREP	94-16-100	16-223-005	REP	94-03-023	16-316-800	AMD	94-12-046

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16-316-820	AMD	94-12-046	16-620-280	AMD	94-13-070
16-316-830	AMD-P	94-09-046	16-620-290	AMD-P	94-10-075
16-316-830	AMD	94-12-046	16-620-290	AMD	94-13-070
16-324-640	REP-P	94-01-110	16-620-340	AMD-P	94-10-075
16-324-640	REP	94-11-070	16-620-340	AMD	94-13-070
16-400-210	AMD-E	94-04-091	16-620-380	AMD-P	94-10-075
16-400-210	AMD-P	94-13-041	16-620-380	AMD	94-13-070
16-400-210	AMD	94-16-060	16-620-400	NEW-P	94-10-075
16-403-145	AMD-P	94-05-050	16-620-400	NEW	94-13-070
16-403-145	AMD	94-07-133	16-620-410	NEW-P	94-10-075
16-403-150	AMD-P	94-05-050	16-620-410	NEW	94-13-070
16-403-150	AMD	94-07-133	16-675-010	AMD-P	94-09-054
16-403-290	AMD-P	94-05-050	16-675-010	AMD	94-12-035
16-403-290	AMD	94-07-133	16-675-029	NEW-P	94-09-054
16-415-010	REP	94-03-026	16-675-029	NEW	94-12-035
16-415-020	REP	94-03-026	16-675-030	AMD-P	94-09-054
16-415-030	REP	94-03-026	16-675-030	AMD	94-12-035
16-415-040	REP	94-03-026	16-675-039	NEW-P	94-09-054
16-432-010	REP	94-03-025	16-675-039	NEW	94-12-035
16-432-020	REP	94-03-025	16-675-040	AMD-P	94-09-054
16-432-030	REP	94-03-025	16-675-040	AMD	94-12-035
16-432-040	REP	94-03-025	16-678-001	REP	94-03-022
16-432-050	REP	94-03-025	16-678-010	REP	94-03-022
16-432-060	REP	94-03-025	16-680-001	REP	94-03-021
16-432-070	REP	94-03-025	16-680-010	REP	94-03-021
16-432-080	REP	94-03-025	16-680-015	REP	94-03-021
16-432-090	REP	94-03-025	16-694-001	AMD-P	94-09-055
16-432-100	REP	94-03-025	16-694-001	AMD	94-12-034
16-432-110	REP	94-03-025	44-06	AMD	94-13-039
16-432-120	REP	94-03-025	44-06-010	AMD-P	94-06-050
16-432-130	REP	94-03-025	44-06-010	AMD	94-13-039
16-470-92005	NEW-C	94-06-003	44-06-020	AMD-P	94-06-050
16-470-92005	NEW-W	94-06-051	44-06-020	AMD	94-13-039
16-470-92010	NEW-C	94-06-003	44-06-030	AMD-P	94-06-050
16-470-92010	NEW-W	94-06-051	44-06-030	AMD	94-13-039
16-470-92015	NEW-C	94-06-003	44-06-040	AMD-P	94-06-050
16-470-92015	NEW-W	94-06-051	44-06-040	AMD	94-13-039
16-470-92020	NEW-C	94-06-003	44-06-050	AMD-P	94-06-050
16-470-92020	NEW-W	94-06-051	44-06-050	AMD	94-13-039
16-470-92025	NEW-C	94-06-003	44-06-060	AMD-P	94-06-050
16-470-92025	NEW-W	94-06-051	44-06-060	AMD	94-13-039
16-470-92030	NEW-C	94-06-003	44-06-070	AMD-P	94-06-050
16-470-92030	NEW-W	94-06-051	44-06-070	AMD	94-13-039
16-470-92035	NEW-C	94-06-003	44-06-080	AMD-P	94-06-050
16-470-92035	NEW-W	94-06-051	44-06-080	AMD	94-13-039
16-470-92040	NEW-C	94-06-003	44-06-085	NEW-P	94-06-050
16-470-92040	NEW-W	94-06-051	44-06-085	NEW	94-13-039
16-482-016	AMD-P	94-01-111	44-06-090	AMD-P	94-06-050
16-482-016	AMD	94-11-069	44-06-090	AMD	94-13-039
16-514-020	AMD-P	94-05-073	44-06-110	AMD-P	94-06-050
16-514-020	AMD	94-08-091	44-06-110	AMD	94-13-039
16-580-040	AMD-P	94-05-066	44-06-120	AMD-P	94-06-050
16-580-040	AMD	94-08-090	44-06-120	AMD	94-13-039
16-602-025	NEW	94-05-049	44-06-130	AMD-P	94-06-050
16-602-027	NEW-P	94-09-052	44-06-140	AMD-P	94-06-050
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16-604-008	NEW-P	94-10-074	44-06-150	NEW-P	94-06-050
16-604-008	NEW	94-13-069	44-06-150	NEW	94-13-039
16-604-010	AMD-P	94-10-074	44-06-160	NEW-P	94-06-050
16-604-010	AMD	94-13-069	44-06-160	NEW	94-13-039
16-604-012	NEW-P	94-10-074	50-60	PREP	94-17-125
16-604-012	NEW	94-13-069	50-60-010	NEW	94-03-009
16-605A-001	NEW-P	94-10-076	50-60-020	NEW	94-03-009
16-605A-001	NEW	94-13-068	50-60-030	NEW	94-03-009
16-605A-010	NEW-P	94-10-076	50-60-040	NEW	94-03-009
16-605A-010	NEW	94-13-068	50-60-040	AMD-E	94-17-054
16-620-010	AMD-P	94-10-075	50-60-045	NEW-E	94-17-054
16-620-010	AMD	94-13-070	50-60-050	NEW	94-03-009
16-620-015	NEW-P	94-10-075	50-60-060	NEW	94-03-009
16-620-015	NEW	94-13-070	50-60-060	AMD-E	94-17-054
16-620-270	REP-P	94-10-075	50-60-070	NEW	94-03-009
16-620-270	REP	94-13-070	50-60-080	NEW	94-03-009
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50-60-085	NEW-E	94-17-054			
50-60-090	NEW	94-03-009			
50-60-100	NEW	94-03-009			
50-60-110	NEW	94-03-009			
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50-60-170	AMD-E	94-17-054			
50-60-180	NEW	94-03-009			
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51-04-018	AMD	94-05-058			
51-04-020	AMD	94-05-058			
51-04-025	AMD	94-05-058			
51-04-030	AMD-W	94-05-102			
51-04-030	PREP	94-12-015			
51-04-030	AMD-P	94-16-114			
51-04-060	AMD	94-05-058			
51-11	PREP	94-12-017			
51-11-0105	AMD-P	94-16-116			
51-11-0108	AMD-P	94-16-116			
51-11-0201	AMD	94-05-059			
51-11-0402	AMD	94-05-059			
51-11-0502	AMD-E	94-05-007			
51-11-0502	AMD	94-05-059			
51-11-0502	AMD-P	94-16-116			
51-11-0525	AMD	94-05-059			
51-11-0527	AMD	94-05-059			
51-11-0530	AMD-P	94-16-116			
51-11-0601	AMD	94-05-059			
51-11-0602	AMD	94-05-059			
51-11-0603	AMD	94-05-059			
51-11-0625	AMD	94-05-059			
51-11-0625	AMD-P	94-16-116			
51-11-0626	AMD	94-05-059			
51-11-0626	AMD-P	94-16-116			
51-11-0627	AMD	94-05-059			
51-11-0627	AMD-P	94-16-116			
51-11-0628	AMD	94-05-059			
51-11-0628	AMD-P	94-16-116			
51-11-0629	AMD	94-05-059			
51-11-0629	AMD-P	94-16-116			
51-11-0630	AMD	94-05-059			
51-11-0630	AMD-P	94-16-116			
51-11-0900	AMD-P	94-16-116			
51-11-1006	AMD-E	94-05-007			
51-11-1006	AMD	94-05-059			
51-11-1011	NEW-E	94-05-007			
51-11-1143	AMD-P	94-16-116			
51-13	PREP	94-12-016			
51-13-106	AMD-P	94-16-117			
51-13-201	AMD-P	94-16-117			
51-13-302	AMD-P	94-16-117			
51-13-304	AMD-P	94-16-117			
51-13-402	AMD-P	94-16-117			
51-13-501	AMD-P	94-16-117			
51-13-502	AMD-P	94-16-117			
51-26-0909	NEW-P	94-16-115			
51-26-1007	NEW-P	94-16-115			
51-26-1009	NEW-P	94-16-115			
51-26-1020	NEW-P	94-16-115			
51-26-1301	NEW-P	94-16-115			
51-26-1803	AMD-P	94-16-115			
51-26-1810	AMD-P	94-16-115			
51-26-1820	AMD-P	94-16-115			
51-26-1830	AMD-P	94-16-115			
51-26-2200	AMD-P	94-16-115			
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51-30-004	NEW-P	94-16-143	51-30-1909	NEW-P	94-16-143	51-34-9100	NEW-P	94-16-113
51-30-005	NEW-P	94-16-143	51-30-2200	NEW-P	94-16-143	51-34-9101	NEW-P	94-16-113
51-30-007	NEW-P	94-16-143	51-30-2211	NEW-P	94-16-143	51-34-9102	NEW-P	94-16-113
51-30-008	NEW-P	94-16-143	51-30-2400	NEW-P	94-16-143	51-34-9103	NEW-P	94-16-113
51-30-009	NEW-P	94-16-143	51-30-2406	NEW-P	94-16-143	51-34-9104	NEW-P	94-16-113
51-30-0100	NEW-P	94-16-143	51-30-2900	NEW-P	94-16-143	51-34-9105	NEW-P	94-16-113
51-30-0104	NEW-P	94-16-143	51-30-2902	NEW-P	94-16-143	51-34-9106	NEW-P	94-16-113
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51-30-0204	NEW-P	94-16-143	51-30-2904	NEW-P	94-16-143	51-34-9108	NEW-P	94-16-113
51-30-0207	NEW-P	94-16-143	51-30-2910	NEW-P	94-16-143	51-35-001	NEW-P	94-16-113
51-30-0217	NEW-P	94-16-143	51-30-3400	NEW-P	94-16-143	51-35-002	NEW-P	94-16-113
51-30-0220	NEW-P	94-16-143	51-30-3404	NEW-P	94-16-143	51-35-003	NEW-P	94-16-113
51-30-0300	NEW-P	94-16-143	51-30-93115	NEW-P	94-16-143	51-35-007	NEW-P	94-16-113
51-30-0302	NEW-P	94-16-143	51-30-93116	NEW-P	94-16-143	51-35-008	NEW-P	94-16-113
51-30-0304	NEW-P	94-16-143	51-30-93117	NEW-P	94-16-143	51-35-09000	NEW-P	94-16-113
51-30-0305	NEW-P	94-16-143	51-30-93118	NEW-P	94-16-143	51-35-52000	NEW-P	94-16-113
51-30-0307	NEW-P	94-16-143	51-30-93119	NEW-P	94-16-143	51-35-52400	NEW-P	94-16-113
51-30-0310	NEW-P	94-16-143	51-30-93120	NEW-P	94-16-143	51-35-52404	NEW-P	94-16-113
51-30-0311	NEW-P	94-16-143	51-32-001	NEW-P	94-16-118	51-35-52411	NEW-P	94-16-113
51-30-0313	NEW-P	94-16-143	51-32-002	NEW-P	94-16-118	51-35-52417	NEW-P	94-16-113
51-30-0400	NEW-P	94-16-143	51-32-003	NEW-P	94-16-118	51-35-52500	NEW-P	94-16-113
51-30-0403	NEW-P	94-16-143	51-32-004	NEW-P	94-16-118	51-35-52501	NEW-P	94-16-113
51-30-0405	NEW-P	94-16-143	51-32-005	NEW-P	94-16-118	51-35-52502	NEW-P	94-16-113
51-30-0417	NEW-P	94-16-143	51-32-007	NEW-P	94-16-118	51-35-52503	NEW-P	94-16-113
51-30-0500	NEW-P	94-16-143	51-32-008	NEW-P	94-16-118	51-35-52504	NEW-P	94-16-113
51-30-0502	NEW-P	94-16-143	51-32-0200	NEW-P	94-16-118	51-35-52505	NEW-P	94-16-113
51-30-0510	NEW-P	94-16-143	51-32-0223	NEW-P	94-16-118	51-35-52506	NEW-P	94-16-113
51-30-0600	NEW-P	94-16-143	51-32-0300	NEW-P	94-16-118	51-35-52507	NEW-P	94-16-113
51-30-0601	NEW-P	94-16-143	51-32-0327	NEW-P	94-16-118	51-35-52508	NEW-P	94-16-113
51-30-0800	NEW-P	94-16-143	51-32-0500	NEW-P	94-16-118	51-35-52509	NEW-P	94-16-113
51-30-0804	NEW-P	94-16-143	51-32-0504	NEW-P	94-16-118	51-35-52600	NEW-P	94-16-113
51-30-0900	NEW-P	94-16-143	51-32-0600	NEW-P	94-16-118	55-01-010	AMD-E	94-06-032
51-30-0902	NEW-P	94-16-143	51-32-0601	NEW-P	94-16-118	55-01-010	AMD-W	94-07-075
51-30-0904	NEW-P	94-16-143	51-32-0605	NEW-P	94-16-118	55-01-010	AMD-E	94-14-017
51-30-1000	NEW-P	94-16-143	51-32-1300	NEW-P	94-16-118	55-01-020	AMD-E	94-06-032
51-30-1001	NEW-P	94-16-143	51-32-1312	NEW-P	94-16-118	55-01-020	AMD-W	94-07-075
51-30-1004	NEW-P	94-16-143	51-32-1313	NEW-P	94-16-118	55-01-020	AMD-E	94-14-017
51-30-1005	NEW-P	94-16-143	51-34-001	NEW-P	94-16-113	55-01-030	AMD-E	94-06-032
51-30-1006	NEW-P	94-16-143	51-34-002	NEW-P	94-16-113	55-01-030	AMD-W	94-07-075
51-30-1007	NEW-P	94-16-143	51-34-003	NEW-P	94-16-113	55-01-030	AMD-E	94-14-017
51-30-1009	NEW-P	94-16-143	51-34-007	NEW-P	94-16-113	55-01-040	AMD-E	94-06-032
51-30-1014	NEW-P	94-16-143	51-34-008	NEW-P	94-16-113	55-01-040	AMD-W	94-07-075
51-30-1019	NEW-P	94-16-143	51-34-0200	NEW-P	94-16-113	55-01-040	AMD-E	94-14-017
51-30-1030	NEW-P	94-16-143	51-34-0206	NEW-P	94-16-113	55-01-050	AMD-E	94-06-032
51-30-1100	NEW-P	94-16-143	51-34-0216	NEW-P	94-16-113	55-01-050	AMD-W	94-07-075
51-30-1101	NEW-P	94-16-143	51-34-0219	NEW-P	94-16-113	55-01-050	AMD-E	94-14-017
51-30-1102	NEW-P	94-16-143	51-34-0223	NEW-P	94-16-113	55-01-060	AMD-E	94-06-032
51-30-1103	NEW-P	94-16-143	51-34-0900	NEW-P	94-16-113	55-01-060	AMD-W	94-07-075
51-30-1104	NEW-P	94-16-143	51-34-0901	NEW-P	94-16-113	55-01-060	AMD-E	94-14-017
51-30-1105	NEW-P	94-16-143	51-34-0902	NEW-P	94-16-113	55-01-070	AMD-E	94-06-032
51-30-1106	NEW-P	94-16-143	51-34-1000	NEW-P	94-16-113	55-01-070	AMD-W	94-07-075
51-30-1107	NEW-P	94-16-143	51-34-1003	NEW-P	94-16-113	55-01-070	AMD-E	94-14-017
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132B-300	AMD-P	94-16-090	132H-160-390	REP	94-04-098	132R-190-100	AMD	94-07-019
132B-300-010	AMD-P	94-16-090	132H-160-400	REP	94-04-098	132R-190-110	AMD	94-07-019
132B-300-020	AMD-P	94-16-090	132H-160-430	REP	94-04-098	132V-300-020	AMD-W	94-03-082
132B-310-010	NEW-P	94-16-091	132H-160-440	REP	94-04-098	132Y-125-004	AMD	94-03-010
132B-310-020	NEW-P	94-16-091	132H-160-492	REP	94-04-098	136-130-040	AMD-P	94-06-028
132B-310-030	NEW-P	94-16-091	132H-160-520	REP	94-04-098	136-130-040	AMD	94-10-022
132B-310-040	NEW-P	94-16-091	132H-160-600	REP	94-04-098	136-130-060	AMD-P	94-06-029
132B-310-050	NEW-P	94-16-091	132H-160-610	REP	94-04-098	136-130-060	AMD	94-10-020
132F-08-001	REP-P	94-05-097A	132H-160-620	REP	94-04-098	136-160-010	REP-P	94-13-182
132F-08-005	REP-P	94-05-097A	132H-160-630	REP	94-04-098	136-160-010	REP	94-16-111
132F-08-010	REP-P	94-05-097A	132H-160-640	REP	94-04-098	136-160-020	REP-P	94-13-182
132F-08-080	REP-P	94-05-097A	132H-160-650	REP	94-04-098	136-160-020	REP	94-16-111
132F-08-090	REP-P	94-05-097A	132H-160-660	REP	94-04-098	136-160-030	REP-P	94-13-182
132F-08-100	REP-P	94-05-097A	132H-160-670	REP	94-04-098	136-160-030	REP	94-16-111
132F-08-110	REP-P	94-05-097A	132H-160-680	REP	94-04-098	136-160-040	REP-P	94-13-182
132F-08-120	REP-P	94-05-097A	132H-160-690	REP	94-04-098	136-160-040	REP	94-16-111
132F-08-130	REP-P	94-05-097A	132J-108-050	AMD	94-04-051	136-160-050	AMD-P	94-06-028
132F-08-140	REP-P	94-05-097A	132J-116-010	AMD	94-04-052	136-160-050	AMD	94-10-022
132F-08-230	REP-P	94-05-097A	132J-116-020	REP	94-04-052	136-160-050	REP-P	94-13-182
132F-08-240	REP-P	94-05-097A	132J-116-021	NEW	94-04-052	136-160-050	REP	94-16-111
132F-08-250	REP-P	94-05-097A	132J-116-040	AMD	94-04-052	136-160-060	AMD-P	94-06-030
132F-08-260	REP-P	94-05-097A	132J-116-050	AMD	94-04-052	136-160-060	AMD	94-10-023
132F-08-270	REP-P	94-05-097A	132J-116-060	AMD	94-04-052	136-160-060	REP-P	94-13-182
132F-08-280	REP-P	94-05-097A	132J-116-070	REP	94-04-052	136-160-060	REP	94-16-111
132F-08-290	REP-P	94-05-097A	132J-116-080	AMD	94-04-052	136-160-065	REP-P	94-13-182
132F-08-300	REP-P	94-05-097A	132J-116-090	AMD	94-04-052	136-160-065	REP	94-16-111
132F-08-310	REP-P	94-05-097A	132J-116-100	AMD	94-04-052	136-161-010	NEW-P	94-13-182
132F-08-320	REP-P	94-05-097A	132J-116-110	AMD	94-04-052	136-161-010	NEW	94-16-111
132F-08-330	REP-P	94-05-097A	132J-116-120	AMD	94-04-052	136-161-020	NEW-P	94-13-182
132F-08-340	REP-P	94-05-097A	132J-116-130	AMD	94-04-052	136-161-020	NEW	94-16-111
132F-08-350	REP-P	94-05-097A	132J-116-140	AMD	94-04-052	136-161-030	NEW-P	94-13-182
132F-08-360	REP-P	94-05-097A	132J-116-150	AMD	94-04-052	136-161-030	NEW	94-16-111
132F-08-400	REP-P	94-05-097A	132J-116-160	AMD	94-04-052	136-161-040	NEW-P	94-13-182
132F-08-410	REP-P	94-05-097A	132J-116-170	AMD	94-04-052	136-161-040	NEW	94-16-111
132F-08-420	REP-P	94-05-097A	132J-116-180	AMD	94-04-052	136-161-050	NEW-P	94-13-182
132F-08-430	REP-P	94-05-097A	132J-116-190	AMD	94-04-052	136-161-050	NEW	94-16-111
132F-08-440	REP-P	94-05-097A	132J-116-200	REP	94-04-052	136-161-060	NEW-P	94-13-182
132F-08-450	REP-P	94-05-097A	132J-116-210	AMD	94-04-052	136-161-060	NEW	94-16-111
132F-08-460	REP-P	94-05-097A	132J-116-220	AMD	94-04-052	136-161-070	NEW-P	94-13-182
132F-08-470	REP-P	94-05-097A	132J-116-240	AMD	94-04-052	136-161-070	NEW	94-16-111
132F-08-480	REP-P	94-05-097A	132J-128-010	REP	94-04-053	136-161-080	NEW-P	94-13-182
132F-104-030	AMD-P	94-05-097A	132J-128-020	REP	94-04-053	136-161-080	NEW	94-16-111
132F-104-811	AMD-P	94-05-097A	132J-128-030	REP	94-04-053	136-161-090	NEW-P	94-13-182
132F-104-813	AMD-P	94-05-097A	132J-128-040	REP	94-04-053	136-161-090	NEW	94-16-111
132F-104-815	AMD-P	94-05-097A	132J-128-050	REP	94-04-053	136-161-100	NEW-P	94-13-182
132F-104-819	AMD-P	94-05-097A	132J-128-060	REP	94-04-053	136-161-100	NEW	94-16-111
132F-108-010	NEW-P	94-05-097A	132J-128-070	REP	94-04-053	136-165-010	NEW-P	94-13-184
132F-108-020	NEW-P	94-05-097A	132J-128-080	REP	94-04-053	136-165-010	NEW	94-16-109
132F-108-030	NEW-P	94-05-097A	132J-128-090	REP	94-04-053	136-165-020	NEW-P	94-13-184
132F-108-040	NEW-P	94-05-097A	132J-128-100	REP	94-04-053	136-165-020	NEW	94-16-109
132F-108-050	NEW-P	94-05-097A	132J-128-110	REP	94-04-053	136-165-030	NEW-P	94-13-184
132F-108-060	NEW-P	94-05-097A	132J-128-120	REP	94-04-053	136-165-030	NEW	94-16-109
132F-108-070	NEW-P	94-05-097A	132J-128-130	REP	94-04-053	136-165-040	NEW-P	94-13-184
132F-108-080	NEW-P	94-05-097A	132J-128-140	REP	94-04-053	136-165-040	NEW	94-16-109
132F-108-090	NEW-P	94-05-097A	132J-128-200	NEW	94-04-053	136-165-050	NEW-P	94-13-184
132F-108-100	NEW-P	94-05-097A	132J-128-210	NEW	94-04-053	136-165-050	NEW	94-16-109
132F-108-110	NEW-P	94-05-097A	132J-136-020	REP	94-04-054	136-165-050	NEW	94-16-109
132F-108-120	NEW-P	94-05-097A	132J-136-025	REP	94-04-054	136-167-010	NEW-P	94-13-183
132F-108-130	NEW-P	94-05-097A	132J-136-030	REP	94-04-054	136-167-010	NEW	94-16-110
132F-108-140	NEW-P	94-05-097A	132J-136-040	REP	94-04-054	136-167-020	NEW-P	94-13-183
132H-160-040	REP	94-04-098	132J-136-050	REP	94-04-054	136-167-020	NEW	94-16-110
132H-160-050	REP	94-04-098	132P-33	PREP	94-17-135B	136-167-030	NEW-P	94-13-183
132H-160-056	REP	94-04-098	132P-116	PREP	94-17-135A	136-167-030	NEW	94-16-110
132H-160-059	REP	94-04-098	132R-190-010	AMD	94-07-019	136-167-040	NEW-P	94-13-183
132H-160-070	REP	94-04-098	132R-190-020	AMD	94-07-019	136-167-040	NEW	94-16-110
132H-160-080	REP	94-04-098	132R-190-030	AMD	94-07-019	136-170-010	AMD-P	94-13-185
132H-160-120	REP	94-04-098	132R-190-035	AMD	94-07-019	136-170-010	AMD	94-16-112
132H-160-140	REP	94-04-098	132R-190-040	AMD	94-07-019	136-170-030	AMD-P	94-13-185
132H-160-150	REP	94-04-098	132R-190-050	AMD	94-07-019	136-170-030	AMD	94-16-112
132H-160-260	REP	94-04-098	132R-190-060	AMD	94-07-019	136-170-040	NEW-P	94-13-185
132H-160-320	REP	94-04-098	132R-190-070	AMD	94-07-019	136-170-040	NEW	94-16-112
132H-160-330	REP	94-04-098	132R-190-080	AMD	94-07-019	136-180-040	AMD-P	94-06-031
132H-160-350	REP	94-04-098	132R-190-090	AMD	94-07-019	136-180-040	AMD	94-10-021
						137-56-010	AMD	94-07-065

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
137-56-015	AMD	94-07-065	162-22-050	AMD-W	94-04-087
137-56-030	AMD	94-07-065	162-22-060	AMD-W	94-04-087
137-56-040	AMD	94-07-065	162-22-070	AMD-W	94-04-087
137-56-050	AMD	94-07-065	162-22-080	AMD-W	94-04-087
137-56-060	AMD	94-07-065	162-22-090	AMD-W	94-04-087
137-56-070	AMD	94-07-065	162-22-100	AMD-W	94-04-087
137-56-080	AMD	94-07-065	162-26-010	AMD-W	94-04-087
137-56-090	AMD	94-07-065	162-26-020	AMD-W	94-04-087
137-56-095	AMD	94-07-065	162-26-030	AMD-W	94-04-087
137-56-100	AMD	94-07-065	162-26-040	AMD-W	94-04-087
137-56-110	AMD	94-07-065	162-26-050	AMD-W	94-04-087
137-56-120	AMD	94-07-065	162-26-060	AMD-W	94-04-087
137-56-140	AMD	94-07-065	162-26-070	AMD-W	94-04-087
137-56-150	AMD	94-07-065	162-26-080	AMD-W	94-04-087
137-56-160	AMD	94-07-065	162-26-090	AMD-W	94-04-087
137-56-170	AMD	94-07-065	162-26-100	AMD-W	94-04-087
137-56-175	NEW	94-07-065	162-26-110	AMD-W	94-04-087
137-56-180	AMD	94-07-065	162-26-120	AMD-W	94-04-087
137-56-190	REP	94-07-065	162-26-130	AMD-W	94-04-087
137-56-200	AMD	94-07-065	162-26-140	AMD-W	94-04-087
137-56-210	AMD	94-07-065	162-30-010	AMD-W	94-04-087
137-56-220	AMD	94-07-065	162-30-020	AMD-W	94-04-087
137-56-230	AMD	94-07-065	162-30-030	NEW-W	94-04-087
137-56-240	AMD	94-07-065	162-30-035	NEW-W	94-04-087
137-56-250	AMD	94-07-065	162-30-040	NEW-W	94-04-087
148-120-010	NEW-P	94-08-066	162-30-050	NEW-W	94-04-087
148-120-010	NEW	94-13-058	162-30-060	NEW-W	94-04-087
148-120-015	NEW-P	94-08-066	162-30-070	NEW-W	94-04-087
148-120-015	NEW	94-13-058	162-30-080	NEW-W	94-04-087
148-120-100	NEW-P	94-08-066	162-30-090	NEW-W	94-04-087
148-120-100	NEW	94-13-058	162-30-100	NEW-W	94-04-087
148-120-120	NEW-P	94-08-066	173-19-100	AMD-P	94-03-093
148-120-120	NEW	94-13-058	173-19-100	AMD	94-16-085
148-120-200	NEW-P	94-08-066	173-19-120	AMD-P	94-03-092
148-120-200	NEW	94-13-058	173-19-120	AMD	94-10-081
148-120-205	NEW-P	94-08-066	173-19-2401	AMD-C	94-05-038
148-120-205	NEW	94-13-058	173-19-2401	AMD	94-07-013
148-120-210	NEW-P	94-08-066	173-19-2520	AMD-P	94-14-086
148-120-210	NEW	94-13-058	173-19-2521	AMD-P	94-17-168
148-120-220	NEW-P	94-08-066	173-19-2602	AMD-P	94-04-107
148-120-220	NEW	94-13-058	173-19-2602	AMD	94-10-082
148-120-225	NEW-P	94-08-066	173-19-3303	AMD-P	94-07-120
148-120-225	NEW	94-13-058	173-19-3303	AMD	94-13-046
148-120-230	NEW-P	94-08-066	173-19-3506	AMD-W	94-07-074
148-120-230	NEW	94-13-058	173-19-3506	AMD-P	94-10-040
148-120-234	NEW-P	94-08-066	173-19-3506	AMD	94-14-029
148-120-234	NEW	94-13-058	173-19-3507	AMD-P	94-17-126
148-120-236	NEW-P	94-08-066	173-19-360	AMD-P	94-10-041
148-120-236	NEW	94-13-058	173-19-360	AMD	94-14-030
162-12-100	AMD-W	94-04-087	173-19-390	AMD	94-03-095
162-12-110	REP-W	94-04-087	173-19-4203	AMD-P	94-07-119
162-12-120	AMD-W	94-04-087	173-19-4203	AMD	94-13-047
162-12-130	AMD-W	94-04-087	173-19-4205	AMD-P	94-03-094
162-12-135	AMD-W	94-04-087	173-19-4205	AMD	94-10-080
162-12-140	AMD-W	94-04-087	173-34-010	REP-P	94-03-071
162-12-150	AMD-W	94-04-087	173-34-010	REP	94-07-078
162-12-160	AMD-W	94-04-087	173-34-020	REP-P	94-03-071
162-12-170	AMD-W	94-04-087	173-34-020	REP	94-07-078
162-12-180	AMD-W	94-04-087	173-34-030	REP-P	94-03-071
162-18-010	REP-W	94-04-087	173-34-030	REP	94-07-078
162-18-020	REP-W	94-04-087	173-34-040	REP-P	94-03-071
162-18-030	REP-W	94-04-087	173-34-040	REP	94-07-078
162-18-040	REP-W	94-04-087	173-34-050	REP-P	94-03-071
162-18-050	REP-W	94-04-087	173-34-050	REP	94-07-078
162-18-060	REP-W	94-04-087	173-58-010	AMD-P	94-05-037
162-18-070	REP-W	94-04-087	173-58-010	AMD	94-12-001
162-18-080	REP-W	94-04-087	173-58-020	AMD-P	94-05-037
162-18-090	REP-W	94-04-087	173-58-020	AMD	94-12-001
162-18-100	REP-W	94-04-087	173-58-090	AMD-P	94-05-037
162-22-010	AMD-W	94-04-087	173-58-090	AMD	94-12-001
162-22-020	AMD-W	94-04-087	173-60-010	AMD-P	94-05-037
162-22-030	REP-W	94-04-087	173-60-010	AMD	94-12-001
162-22-040	REP-W	94-04-087	173-60-020	AMD-P	94-05-037
173-60-020	AMD	94-12-001	173-60-050	AMD-P	94-05-037
173-60-050	AMD-P	94-05-037	173-60-050	AMD	94-12-001
173-60-070	AMD-P	94-05-037	173-60-070	AMD-P	94-05-037
173-60-070	AMD	94-12-001	173-60-070	AMD	94-12-001
173-70-010	REP-P	94-05-037	173-70-010	REP	94-12-001
173-70-010	REP	94-12-001	173-70-020	REP-P	94-05-037
173-70-020	REP-P	94-05-037	173-70-020	REP	94-12-001
173-70-030	REP-P	94-05-037	173-70-030	REP	94-05-037
173-70-030	REP	94-12-001	173-70-030	REP	94-12-001
173-70-040	REP-P	94-05-037	173-70-040	REP-P	94-05-037
173-70-040	REP	94-12-001	173-70-040	REP	94-12-001
173-70-050	REP-P	94-05-037	173-70-050	REP-P	94-05-037
173-70-050	REP	94-12-001	173-70-060	REP-P	94-05-037
173-70-060	REP-P	94-05-037	173-70-060	REP	94-12-001
173-70-070	REP-P	94-05-037	173-70-070	REP-P	94-05-037
173-70-070	REP	94-12-001	173-70-070	REP	94-12-001
173-70-080	REP-P	94-05-037	173-70-080	REP-P	94-05-037
173-70-080	REP	94-12-001	173-70-080	REP	94-12-001
173-70-090	REP-P	94-05-037	173-70-090	REP-P	94-05-037
173-70-090	REP	94-12-001	173-70-090	REP	94-12-001
173-70-100	REP-P	94-05-037	173-70-100	REP-P	94-05-037
173-70-100	REP	94-12-001	173-70-110	REP-P	94-05-037
173-70-110	REP-P	94-05-037	173-70-110	REP	94-12-001
173-70-120	REP-P	94-05-037	173-70-120	REP-P	94-05-037
173-70-120	REP	94-12-001	173-70-120	REP	94-12-001
173-95-010	REP	94-04-030	173-95-010	REP	94-04-030
173-95-020	REP	94-04-030	173-95-020	REP	94-04-030
173-95-030	REP	94-04-030	173-95-030	REP	94-04-030
173-95-040	REP	94-04-030	173-95-040	REP	94-04-030
173-95-050	REP	94-04-030	173-95-050	REP	94-04-030
173-95-060	REP	94-04-030	173-95-060	REP	94-04-030
173-95-070	REP	94-04-030	173-95-070	REP	94-04-030
173-95-080	REP	94-04-030	173-95-080	REP	94-04-030
173-95-090	REP	94-04-030	173-95-090	REP	94-04-030
173-95-100	REP	94-04-030	173-95-100	REP	94-04-030
173-95-110	REP	94-04-030	173-95-110	REP	94-04-030
173-95-120	REP	94-04-030	173-95-120	REP	94-04-030
173-95-130	REP	94-04-030	173-95-130	REP	94-04-030
173-95-140	REP	94-04-030	173-95-140	REP	94-04-030
173-95-150	REP	94-04-030	173-95-150	REP	94-04-030
173-95-160	REP	94-04-030	173-95-160	REP	94-04-030
173-180A-010	NEW	94-10-084	173-180A-010	NEW	94-10-084
173-180A-020	NEW	94-10-084	173-180A-020	NEW	94-10-084
173-180A-030	NEW	94-10-084	173-180A-030	NEW	94-10-084
173-180A-040	NEW	94-10-084	173-180A-040	NEW	94-10-084
173-180A-050	NEW	94-10-084	173-180A-050	NEW	94-10-084
173-180A-060	NEW	94-10-084	173-180A-060	NEW	94-10-084
173-180A-070	NEW	94-10-084	173-180A-070	NEW	94-10-084
173-180A-080	NEW	94-10-084	173-180A-080	NEW	94-10-084
173-180A-090	NEW	94-10-084	173-180A-090	NEW	94-10-084
173-180A-100	NEW	94-10-084	173-180A-100	NEW	94-10-084
173-180A-110	NEW	94-10-084	173-180A-110	NEW	94-10-084
173-180A-120	NEW	94-10-084	173-180A-120	NEW	94-10-084
173-180A-130	NEW	94-10-084	173-180A-130	NEW	94-10-084
173-180A-140	NEW	94-10-084	173-180A-140	NEW	94-10-084
173-180A-150	NEW	94-10-084	173-180A-150	NEW	94-10-084
173-180B-010	NEW	94-10-083	173-180B-010	NEW	94-10-083
173-180B-020	NEW	94-10-083	173-180B-020	NEW	94-10-083
173-180B-030	NEW	94-10-083	173-180B-030	NEW	94-10-083
173-180B-040	NEW	94-10-083	173-180B-040	NEW	94-10-083
173-180B-050	NEW	94-10-083	173-180B-050	NEW	94-10-083
173-180B-060	NEW	94-10-083	173-180B-060	NEW	94-10-083
173-180B-070	NEW	94-10-083	173-180B-070	NEW	94-10-083
173-180B-080	NEW	94-10-083	173-180B-080	NEW	94-10-083
173-180B-090	NEW	94-10-083	173-180B-090	NEW	94-10-083
173-180B-100	NEW	94-10-083	173-180B-100	NEW	94-10-083
173-180B-110	NEW	94-10-083	173-180B-110	NEW	94-10-083
173-180B-120	NEW	94-10-083	173-180B-120	NEW	94-10-083
173-180B-130	NEW	94-10-083	173-180B-130	NEW	94-10-083

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173-202-020	AMD-E	94-04-108	173-402-010	REP-P	94-10-078	173-440-900	REP-P	94-10-078
173-202-020	AMD-P	94-08-071	173-402-010	REP	94-14-067	173-440-900	REP	94-14-067
173-202-020	AMD-E	94-12-054	173-402-020	REP-P	94-10-078	173-460-020	AMD	94-03-072
173-202-020	AMD	94-17-011	173-402-020	REP	94-14-067	173-460-030	AMD	94-03-072
173-204	PREP	94-13-161	173-406-100	NEW-P	94-17-127	173-460-040	AMD	94-03-072
173-224	AMD-C	94-05-082	173-406-101	NEW-P	94-17-127	173-460-050	AMD	94-03-072
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173-224-020	AMD-P	94-02-080	173-406-103	NEW-P	94-17-127	173-460-080	AMD	94-03-072
173-224-020	AMD	94-10-027	173-406-104	NEW-P	94-17-127	173-460-090	AMD	94-03-072
173-224-030	AMD-P	94-02-080	173-406-105	NEW-P	94-17-127	173-460-100	AMD	94-03-072
173-224-030	AMD	94-10-027	173-406-106	NEW-P	94-17-127	173-460-110	AMD	94-03-072
173-224-040	AMD-P	94-02-080	173-406-200	NEW-P	94-17-127	173-460-150	AMD	94-03-072
173-224-040	AMD	94-10-027	173-406-201	NEW-P	94-17-127	173-460-160	AMD	94-03-072
173-224-050	AMD-P	94-02-080	173-406-202	NEW-P	94-17-127	173-492-070	AMD	94-07-040
173-224-050	AMD	94-10-027	173-406-300	NEW-P	94-17-127	173-548-010	AMD-E	94-15-013
173-224-070	REP-P	94-02-080	173-406-301	NEW-P	94-17-127	173-548-015	NEW-E	94-15-013
173-224-070	REP-W	94-15-070	173-406-302	NEW-P	94-17-127	173-548-030	AMD-E	94-15-013
173-224-090	AMD-P	94-02-080	173-406-303	NEW-P	94-17-127	173-563-090	PREP	94-13-162
173-224-090	AMD	94-10-027	173-406-400	NEW-P	94-17-127	173-563-015	AMD-P	94-14-085
173-224-100	AMD-P	94-02-080	173-406-401	NEW-P	94-17-127	173-563-015	AMD-C	94-15-073
173-224-100	AMD	94-10-027	173-406-402	NEW-P	94-17-127	173-564-040	AMD-P	94-14-085
173-224-120	REP-P	94-02-080	173-406-500	NEW-P	94-17-127	173-564-040	AMD-C	94-15-073
173-224-120	REP-W	94-15-070	173-406-501	NEW-P	94-17-127	180-16-200	AMD	94-03-104
173-303	AMD-C	94-08-092	173-406-502	NEW-P	94-17-127	180-16-222	AMD-P	94-16-128
173-303-071	AMD	94-12-018	173-406-600	NEW-P	94-17-127	180-16-223	AMD-P	94-16-061
173-303-104	AMD	94-12-018	173-406-601	NEW-P	94-17-127	180-24-310	AMD-P	94-08-103
173-320-010	REP-P	94-03-071	173-406-602	NEW-P	94-17-127	180-24-310	AMD	94-13-018
173-320-010	REP	94-07-078	173-406-603	NEW-P	94-17-127	180-24-312	AMD-P	94-08-103
173-320-020	REP-P	94-03-071	173-406-604	NEW-P	94-17-127	180-24-312	AMD	94-13-018
173-320-020	REP	94-07-078	173-406-605	NEW-P	94-17-127	180-24-315	AMD-P	94-08-103
173-320-030	REP-P	94-03-071	173-406-700	NEW-P	94-17-127	180-24-315	AMD	94-13-018
173-320-030	REP	94-07-078	173-406-701	NEW-P	94-17-127	180-24-320	AMD-P	94-08-103
173-320-040	REP-P	94-03-071	173-406-702	NEW-P	94-17-127	180-24-320	AMD	94-13-018
173-320-040	REP	94-07-078	173-406-703	NEW-P	94-17-127	180-24-325	AMD-P	94-08-103
173-320-050	REP-P	94-03-071	173-406-704	NEW-P	94-17-127	180-24-325	AMD	94-13-018
173-320-050	REP	94-07-078	173-406-705	NEW-P	94-17-127	180-24-355	AMD-P	94-08-103
173-320-060	REP-P	94-03-071	173-406-706	NEW-P	94-17-127	180-24-355	AMD	94-13-018
173-320-060	REP	94-07-078	173-406-800	NEW-P	94-17-127	180-26-025	PREP	94-15-035
173-320-070	REP-P	94-03-071	173-406-801	NEW-P	94-17-127	180-26-025	AMD-P	94-16-062
173-320-070	REP	94-07-078	173-406-802	NEW-P	94-17-127	180-27-115	PREP	94-15-035
173-320-080	REP-P	94-03-071	173-406-900	NEW-P	94-17-127	180-29-130	AMD-P	94-08-104
173-320-080	REP	94-07-078	173-406-1000	NEW-P	94-17-127	180-29-130	AMD	94-13-019
173-335-010	REP-P	94-03-071	173-422	PREP	94-16-094	180-29-135	AMD-P	94-05-088
173-335-010	REP	94-07-078	173-422-020	AMD	94-05-039	180-29-135	AMD-C	94-08-068
173-335-020	REP-P	94-03-071	173-422-030	AMD	94-05-039	180-29-135	AMD	94-14-028
173-335-020	REP	94-07-078	173-422-050	AMD	94-05-039	180-29-147	NEW-P	94-05-088
173-335-030	REP-P	94-03-071	173-422-070	AMD	94-05-039	180-29-147	NEW-C	94-08-068
173-335-030	REP	94-07-078	173-422-075	AMD	94-05-039	180-29-147	NEW	94-14-028
173-335-040	REP-P	94-03-071	173-422-095	AMD	94-05-039	180-29-170	AMD-P	94-05-088
173-335-040	REP	94-07-078	173-422-130	AMD	94-05-039	180-29-170	AMD-C	94-08-068
173-335-050	REP-P	94-03-071	173-422-140	REP	94-05-039	180-29-170	AMD	94-14-028
173-335-050	REP	94-07-078	173-422-160	AMD	94-05-039	180-33-025	AMD-P	94-08-105
173-400	NEW-C	94-08-072	173-422-170	AMD	94-05-039	180-33-025	AMD	94-13-020
173-400	NEW-C	94-10-079	173-430-010	AMD-P	94-16-096	180-40-235	AMD	94-03-102
173-400-045	NEW-P	94-04-106	173-430-020	AMD-P	94-16-096	180-50-115	AMD	94-03-104
173-400-045	NEW	94-17-070	173-430-030	AMD-P	94-16-096	180-50-120	AMD	94-03-104
173-400-101	NEW-P	94-04-105	173-430-040	AMD-P	94-16-096	180-51-050	AMD	94-03-100
173-400-101	NEW	94-10-042	173-430-050	AMD-P	94-16-096	180-51-050	AMD-P	94-08-067
173-400-116	NEW-P	94-04-106	173-430-060	AMD-P	94-16-096	180-51-050	AMD	94-13-017
173-400-116	NEW	94-17-070	173-430-070	AMD-P	94-16-096	180-51-075	AMD	94-03-104
173-401	AMD-C	94-08-073	173-430-080	AMD-P	94-16-096	180-51-105	AMD	94-03-103
173-401-200	AMD-P	94-04-104	173-430-090	NEW-P	94-16-096	180-75-016	AMD-P	94-16-129
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173-401-510	AMD-P	94-04-104	173-440-010	REP-P	94-10-078	180-75-061	AMD-P	94-16-129
173-401-510	AMD	94-11-105	173-440-010	REP	94-14-067	180-75-065	AMD-P	94-16-132
173-401-530	NEW-P	94-04-104	173-440-020	REP-P	94-10-078	180-75-085	AMD-P	94-16-132
173-401-530	NEW	94-11-105	173-440-020	REP	94-14-067	180-75-087	AMD-P	94-16-132
173-401-531	NEW-P	94-04-104	173-440-030	REP-P	94-10-078	180-75-110	PREP	94-15-021
173-401-531	NEW	94-11-105	173-440-030	REP	94-14-067	180-78-025	AMD-P	94-16-130
173-401-532	NEW-P	94-04-104	173-440-040	REP-P	94-10-078	180-78-065	AMD-P	94-16-130
173-401-532	NEW	94-11-105	173-440-040	REP	94-14-067	180-78-085	REP-P	94-16-130
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180-78-120	REP-P	94-16-130	180-96-058	NEW	94-03-101	194-22-040	PREP	94-08-070
180-78-140	AMD-P	94-16-130	180-96-060	REP	94-03-101	194-22-040	NEW-P	94-11-128
180-78-141	NEW-P	94-16-130	180-96-065	REP	94-03-101	194-22-050	PREP	94-08-070
180-78-180	AMD-P	94-16-130	180-96-070	REP	94-03-101	194-22-050	NEW-P	94-11-128
180-78-205	AMD-P	94-16-131	180-96-075	REP	94-03-101	194-22-060	PREP	94-08-070
180-78-210	AMD-P	94-16-131	182-12-110	AMD-E	94-08-027	194-22-060	NEW-P	94-11-128
180-78-235	AMD-P	94-16-131	182-12-110	AMD-E	94-16-054	194-22-070	PREP	94-08-070
180-78-245	AMD-P	94-16-131	182-12-111	AMD-E	94-08-027	194-22-070	NEW-P	94-11-128
180-78-255	AMD-P	94-16-131	182-12-111	AMD-E	94-16-054	194-22-080	PREP	94-08-070
180-78-257	NEW-P	94-16-131	182-12-115	AMD-E	94-08-027	194-22-080	NEW-P	94-11-128
180-78-265	AMD-P	94-16-131	182-12-115	AMD-E	94-16-054	194-22-090	PREP	94-08-070
180-78-266	NEW-P	94-05-034	182-12-122	AMD-E	94-08-027	194-22-090	NEW-P	94-11-128
180-78-266	NEW	94-08-055	182-12-122	AMD-E	94-16-054	194-22-100	PREP	94-08-070
180-78-270	AMD-P	94-16-130	182-14-010	NEW-E	94-08-028	194-22-100	NEW-P	94-11-128
180-78-275	AMD-P	94-16-130	182-14-010	NEW-E	94-16-058	194-22-110	PREP	94-08-070
180-78-280	AMD-P	94-16-130	182-14-020	NEW-E	94-08-028	194-22-110	NEW-P	94-11-128
180-78-285	AMD-P	94-16-130	182-14-020	NEW-E	94-16-058	194-22-120	PREP	94-08-070
180-78-290	REP-P	94-16-130	182-14-030	NEW-E	94-08-028	194-22-120	NEW-P	94-11-128
180-78-300	REP-P	94-16-130	182-14-030	NEW-E	94-16-058	194-22-130	PREP	94-08-070
180-78-305	REP-P	94-16-130	182-14-040	NEW-E	94-08-028	194-22-130	NEW-P	94-11-128
180-78-315	REP-P	94-16-130	182-14-040	NEW-E	94-16-058	194-22-140	PREP	94-08-070
180-78-320	REP-P	94-16-130	182-14-050	NEW-E	94-08-028	194-22-140	NEW-P	94-11-128
180-79-005	AMD-P	94-16-132	182-14-050	NEW-E	94-16-058	194-22-150	PREP	94-08-070
180-79-049	AMD-P	94-16-130	182-14-060	NEW-E	94-08-028	194-22-150	NEW-P	94-11-128
180-79-115	AMD-P	94-16-129	182-14-060	NEW-E	94-16-058	194-22-160	PREP	94-08-070
180-79-120	AMD-P	94-16-131	182-14-070	NEW-E	94-08-028	194-22-160	NEW-P	94-11-128
180-79-121	NEW-P	94-16-130	182-14-070	NEW-E	94-16-058	194-22-170	PREP	94-08-070
180-79-122	AMD-P	94-16-131	182-14-080	NEW-E	94-08-028	194-22-170	NEW-P	94-11-128
180-79-123	AMD-P	94-16-131	182-14-080	NEW-E	94-16-058	194-22-180	PREP	94-08-070
180-79-125	AMD-P	94-16-130	182-14-090	NEW-E	94-08-028	194-22-180	NEW-P	94-11-128
180-79-128	AMD-P	94-16-130	182-14-090	NEW-E	94-16-058	194-22-190	PREP	94-08-070
180-79-131	AMD-P	94-16-130	182-14-100	NEW-E	94-08-028	194-22-190	NEW-P	94-11-128
180-79-140	AMD-P	94-16-131	182-14-100	NEW-E	94-16-058	197-11	PREP	94-15-038
180-79-230	AMD-P	94-16-130	192-10-320	PREP	94-14-061	197-11-225	NEW-E	94-12-032
180-79-241	AMD-P	94-08-106	192-12-030	PREP	94-14-061	197-11-228	NEW-E	94-12-032
180-79-241	AMD	94-13-021	192-12-150	PREP	94-14-061	197-11-230	NEW-E	94-12-032
180-82-001	NEW-P	94-16-132	192-16-036	PREP	94-14-061	197-11-232	NEW-E	94-12-032
180-82-005	NEW-P	94-16-132	192-16-040	PREP	94-14-061	197-11-235	NEW-E	94-12-032
180-82-006	NEW-P	94-16-132	192-16-042	PREP	94-14-061	204-10-040	AMD-E	94-15-010
180-82-007	NEW-P	94-16-132	192-16-045	PREP	94-14-061	204-10-040	AMD-P	94-16-069
180-82-008	NEW-P	94-16-132	192-16-047	PREP	94-14-061	204-24-050	AMD-E	94-02-081
180-82-009	NEW-P	94-16-132	192-23-320	PREP	94-14-061	204-24-050	AMD-P	94-02-082
180-82-010	NEW-P	94-16-132	192-28-145	AMD-P	94-04-124	204-24-050	AMD	94-08-069
180-82-011	NEW-P	94-16-132	192-28-145	AMD	94-10-044	204-30-010	REP	94-05-024
180-82-020	NEW-P	94-16-132	192-34-010	NEW	94-07-115	204-30-020	REP	94-05-024
180-82-030	NEW-P	94-16-132	192-34-015	NEW	94-07-115	204-30-030	REP	94-05-024
180-82-040	NEW-P	94-16-132	192-34-020	NEW	94-07-115	204-30-040	REP	94-05-024
180-82-050	NEW-P	94-16-132	192-34-025	NEW	94-07-115	204-30-050	REP	94-05-024
180-82-065	NEW-P	94-16-132	194-20-010	PREP	94-08-070	204-30-060	REP	94-05-024
180-82-070	NEW-P	94-16-132	194-20-020	PREP	94-08-070	204-30-070	REP	94-05-024
180-82-100	NEW-P	94-16-132	194-20-030	PREP	94-08-070	204-30-080	REP	94-05-024
180-82-110	NEW-P	94-16-132	194-20-040	PREP	94-08-070	204-38-030	AMD-P	94-15-007
180-82-115	NEW-P	94-16-132	194-20-050	PREP	94-08-070	204-38-030	AMD	94-17-167
180-82-120	NEW-P	94-16-132	194-20-060	PREP	94-08-070	204-91A-010	AMD-P	94-15-008
180-82-130	NEW-P	94-16-132	194-20-070	PREP	94-08-070	204-91A-030	AMD-P	94-15-008
180-82-140	NEW-P	94-16-132	194-20-080	PREP	94-08-070	204-91A-040	AMD-P	94-15-008
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180-95-030	AMD	94-03-103	194-20-110	PREP	94-08-070	204-91A-080	AMD-P	94-15-008
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180-96-025	REP	94-03-101	194-20-180	PREP	94-08-070	208-04-020	NEW	94-09-010
180-96-030	REP	94-03-101	194-20-190	PREP	94-08-070	208-04-030	NEW	94-09-010
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220-20-021	AMD-C	94-12-007	220-47-412	AMD	94-15-001	220-49-015	REP-P	94-03-106
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220-57-480	AMD	94-14-069	220-110-220	AMD-P	94-11-126	222-38-030	AMD-P	94-17-156
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220-57-495	AMD	94-14-069	220-110-240	AMD-P	94-11-126	223-08-010	NEW-E	94-07-062
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220-57-49700H	REP-E	94-11-127	220-110-270	AMD-P	94-11-126	223-08-148	NEW-E	94-07-062
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220-57-50500V	NEW-E	94-08-014	220-110-280	AMD-P	94-11-126	223-08-148	NEW	94-12-030
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220-57-50500W	NEW-E	94-10-036	220-110-290	AMD-P	94-11-126	223-08-162	NEW-P	94-07-097
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220-57A-00100B	NEW-E	94-12-012	222-16	AMD-C	94-15-024	223-08-252	NEW	94-12-030
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230-08-160	AMD	94-11-095	232-12-166	AMD-P	94-06-043	232-28-514	NEW-P	94-14-091
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230-08-260	AMD	94-11-095	232-12-168	AMD	94-06-014	232-28-61941	NEW	94-06-012
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230-12-050	AMD-P	94-10-005	232-28-02202	NEW-P	94-04-057	232-28-61945	NEW	94-09-068
230-12-050	AMD	94-13-099	232-28-02202	NEW	94-11-032	232-28-61946	NEW-P	94-06-039
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230-12-070	AMD	94-13-099	232-28-02203	NEW	94-11-033	232-28-61947	NEW-P	94-06-040
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230-20-103	NEW	94-16-008	232-28-02210	NEW	94-11-037	232-28-61952	NEW-P	94-14-108
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230-20-220	AMD	94-07-084	232-28-02230	NEW	94-11-039	232-28-61954	NEW	94-17-083
230-20-230	AMD-P	94-04-024	232-28-02240	NEW-P	94-04-064	232-28-61955	NEW-E	94-16-083
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230-20-244	NEW-C	94-16-011	232-28-02250	NEW-P	94-04-065	236-15-015	NEW-P	94-16-036
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230-20-400	AMD	94-07-084	232-28-02270	NEW-P	94-04-067	236-15-300	NEW-P	94-16-036
230-20-680	AMD-P	94-04-024	232-28-02270	NEW	94-11-043	236-15-700	NEW-P	94-16-036
230-20-680	AMD	94-07-084	232-28-02280	NEW-P	94-04-068	236-15-800	NEW-P	94-16-036
230-20-685	AMD-P	94-16-009	232-28-02280	NEW	94-11-044	236-15-900	NEW-P	94-16-036
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230-25-200	AMD	94-11-095	232-28-227	REP	94-11-048	240-20	PREP	94-16-133
230-30-050	AMD-P	94-07-083	232-28-228	REP-P	94-04-115	240-20-001	NEW-P	94-05-100
230-30-050	AMD	94-11-095	232-28-228	REP	94-11-047	240-20-001	NEW-E	94-05-101
230-30-060	AMD-P	94-04-024	232-28-236	REP-P	94-05-079	240-20-001	NEW	94-10-030
230-30-060	AMD	94-07-084	232-28-236	REP	94-11-050	240-20-001	NEW	94-11-081
230-30-070	AMD-P	94-16-010	232-28-237	REP-P	94-05-078	240-20-010	NEW-P	94-05-100
230-30-072	AMD-P	94-04-024	232-28-237	REP	94-11-051	240-20-010	NEW-E	94-05-101
230-30-072	AMD	94-07-084	232-28-238	REP-P	94-04-117	240-20-010	NEW	94-10-030
230-30-072	AMD-P	94-17-089	232-28-238	REP	94-11-049	240-20-010	NEW	94-11-081
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230-30-102	AMD-P	94-04-024	232-28-240	NEW-P	94-04-114	240-20-015	NEW-E	94-05-101
230-30-102	AMD	94-07-084	232-28-240	NEW	94-11-046	240-20-015	NEW	94-10-030
230-30-103	AMD-P	94-04-024	232-28-240	AMD-P	94-17-145	240-20-015	NEW	94-11-081
230-30-103	AMD	94-07-084	232-28-241	NEW-P	94-04-115	240-20-015	NEW-P	94-05-100
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230-40-010	AMD-P	94-10-006	232-28-242	NEW-P	94-04-116	240-20-020	NEW	94-10-030
230-40-010	AMD	94-13-098	232-28-242	NEW	94-11-048	240-20-020	NEW	94-11-081
230-40-050	AMD-E	94-13-100	232-28-242	AMD-P	94-14-087	240-20-025	NEW-P	94-05-100
230-40-050	AMD-P	94-13-112	232-28-24201	NEW-E	94-11-078	240-20-025	NEW-E	94-05-101
230-40-050	AMD	94-17-091	232-28-243	NEW-P	94-04-117	240-20-025	NEW	94-10-030
230-40-055	AMD-P	94-04-024	232-28-243	NEW	94-11-049	240-20-025	NEW	94-11-081
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245-02-135	NEW-P	94-12-078	245-04-310	NEW-P	94-17-184	246-11-390	AMD	94-04-078
245-02-135	NEW-W	94-17-179	245-04-320	NEW-P	94-17-184	246-11-400	AMD	94-04-078
245-02-140	NEW-P	94-12-078	245-04-330	NEW-P	94-17-184	246-11-420	AMD	94-04-078
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245-02-155	NEW-W	94-17-179	245-08-050	NEW-P	94-17-183	246-11-510	AMD	94-04-078
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245-02-160	NEW-W	94-17-179	246-01-080	PREP	94-15-066	246-11-540	AMD	94-04-078
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245-02-180	NEW-P	94-12-078	246-10-114	AMD	94-04-079	236-15-015	NEW-P	94-16-036
245-02-180	NEW-W	94-17-179	246-10-115	AMD	94-04-079	236-15-050	NEW-P	94-16-036
245-03-010	NEW-P	94-17-190	246-10-123	AMD	94-04-079	236-15-100	NEW-P	94-16-036
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246-254-090	AMD-P	94-07-107	246-290-020	AMD-P	94-08-075	246-291-050	NEW	94-14-002
246-254-090	AMD	94-11-011	246-290-020	AMD	94-14-001	246-291-060	NEW-P	94-06-008
246-254-100	AMD-P	94-07-107	246-290-025	NEW-P	94-08-075	246-291-060	NEW	94-14-002
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246-338-030	AMD	94-17-099	246-454-001	AMD	94-12-089	246-818-015	NEW	94-08-011
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246-338-990	AMD	94-17-099	246-454-020	AMD	94-12-089	246-818-991	NEW	94-02-058
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246-450-001	REP	94-12-089	246-454-050	AMD-P	94-09-026	246-824-210	NEW-W	94-15-069
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246-450-020	REP-P	94-09-026	246-454-060	REP	94-12-089	246-824-230	NEW-P	94-02-057
246-450-020	REP	94-12-089	246-454-070	AMD-P	94-09-026	246-824-230	NEW	94-06-047
246-450-030	REP-P	94-09-026	246-454-070	AMD	94-12-089	246-824-990	AMD-P	94-05-032
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246-839-310	PREP	94-11-079	246-878-060	NEW	94-08-101	246-922-400	NEW	94-14-082
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246-839-320	PREP	94-11-079	246-878-070	NEW	94-08-101	246-922-405	NEW	94-14-082
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246-839-330	PREP	94-11-079	246-878-080	NEW	94-08-101	246-922-410	NEW	94-14-082
246-839-340	PREP	94-10-056	246-878-090	NEW-P	94-02-079	246-922-415	NEW-P	94-08-079
246-839-340	PREP	94-11-079	246-878-090	NEW	94-08-101	246-922-415	NEW	94-14-082
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246-839-350	PREP	94-11-079	246-878-100	NEW	94-08-101	246-922-500	NEW	94-09-008
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246-930-200	AMD	94-13-179	250-44-050	AMD-P	94-10-001	251-23-030	REP-W	94-04-010
246-930-210	AMD-P	94-09-027	250-44-110	AMD-P	94-10-001	251-23-040	REP-W	94-04-010
246-930-210	AMD	94-13-179	250-44-130	AMD-P	94-10-001	251-23-050	REP-W	94-04-010
246-930-220	AMD-P	94-09-027	250-61-010	AMD-P	94-17-166	251-23-060	REP-W	94-04-010
246-930-220	AMD	94-13-179	250-61-020	AMD-P	94-17-166	253-02-040	AMD-P	94-12-092
246-930-300	AMD-P	94-09-027	250-61-030	AMD-P	94-17-166	253-02-040	AMD-C	94-17-013
246-930-300	AMD	94-13-179	250-61-040	AMD-P	94-17-166	253-16-090	AMD-P	94-12-092
246-930-301	AMD-P	94-09-027	250-61-050	AMD-P	94-17-166	253-16-090	AMD-C	94-17-013
246-930-301	AMD	94-13-179	250-61-060	AMD-P	94-17-166	259-04-060	AMD-E	94-07-059
246-930-310	AMD-P	94-09-027	250-61-070	AMD-P	94-17-166	259-04-060	AMD-P	94-07-096
246-930-310	AMD	94-13-179	250-61-080	AMD-P	94-17-166	259-04-060	AMD	94-12-029
246-930-320	AMD-P	94-09-027	250-61-090	AMD-P	94-17-166	260-12-010	AMD-W	94-09-003
246-930-320	AMD	94-13-179	250-61-100	AMD-P	94-17-166	260-12-090	REP-W	94-09-003
246-930-330	AMD-P	94-09-027	250-61-110	AMD-P	94-17-166	260-24-010	AMD-W	94-09-003
246-930-330	AMD	94-13-179	250-61-120	AMD-P	94-17-166	260-24-080	AMD-W	94-09-003
246-930-340	AMD-P	94-09-027	250-61-130	AMD-P	94-17-166	260-24-110	AMD-W	94-09-003
246-930-340	AMD	94-13-179	250-61-140	AMD-P	94-17-166	260-24-120	AMD-W	94-09-003
246-930-410	AMD-P	94-09-027	250-61-150	AMD-P	94-17-166	260-24-140	AMD-W	94-09-003
246-930-410	AMD	94-13-179	250-61-160	AMD-P	94-17-166	260-24-150	AMD-W	94-09-003
246-930-420	NEW-P	94-09-027	250-61-170	AMD-P	94-17-166	260-24-170	AMD-W	94-09-003
246-930-420	NEW	94-13-179	250-61-180	AMD-P	94-17-166	260-24-180	AMD-W	94-09-003
246-930-430	NEW-P	94-09-027	250-61-190	AMD-P	94-17-166	260-24-200	AMD-W	94-09-003
246-930-430	NEW	94-13-179	250-61-200	NEW-P	94-17-166	260-24-210	AMD-W	94-09-003
246-930-490	NEW-P	94-09-027	250-61-210	NEW-P	94-17-166	260-24-285	AMD-W	94-09-003
246-930-490	NEW	94-13-179	250-61-220	NEW-P	94-17-166	260-24-290	AMD-W	94-09-003
246-930-990	AMD-P	94-09-027	250-62-010	NEW-W	94-06-018	260-24-315	AMD-W	94-09-003
246-930-990	AMD	94-13-179	250-62-020	NEW-W	94-06-018	260-24-440	AMD-W	94-09-003
246-937-020	NEW-E	94-08-051	250-62-030	NEW-W	94-06-018	260-24-460	AMD-W	94-09-003
246-937-020	NEW-P	94-08-052	250-62-040	NEW-W	94-06-018	260-24-470	AMD-W	94-09-003
246-937-030	NEW-E	94-08-051	250-62-050	NEW-W	94-06-018	260-24-500	AMD-W	94-09-003
246-937-030	NEW-P	94-08-052	250-62-060	NEW-W	94-06-018	260-24-510	AMD-W	94-09-003
246-937-040	NEW-E	94-08-051	250-62-070	NEW-W	94-06-018	260-24-520	AMD-W	94-09-003
246-937-040	NEW-P	94-08-052	250-62-080	NEW-W	94-06-018	260-34-030	AMD-W	94-09-003
246-937-070	NEW-E	94-08-051	250-62-090	NEW-W	94-06-018	260-36-080	AMD	94-04-002
246-937-070	NEW-P	94-08-052	250-62-100	NEW-W	94-06-018	260-48-322	AMD-P	94-05-077
246-937-080	NEW-E	94-08-051	250-62-110	NEW-W	94-06-018	260-48-322	AMD-W	94-17-072
246-937-080	NEW-P	94-08-052	250-62-120	NEW-W	94-06-018	260-48-324	AMD-P	94-05-076
246-937-090	NEW-E	94-08-051	250-62-130	NEW-W	94-06-018	260-48-324	AMD-W	94-17-072
246-937-090	NEW-P	94-08-052	250-62-140	NEW-W	94-06-018	260-48-328	AMD-P	94-05-075
246-937-990	NEW-P	94-08-076	250-62-150	NEW-W	94-06-018	260-48-328	AMD-W	94-17-072
246-937-990	NEW-E	94-08-077	250-62-160	NEW-W	94-06-018	260-70-010	AMD-W	94-09-003



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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
275-57-080	NEW-S	94-17-118	275-57-450	NEW-P	94-12-005	284-10-170	NEW-W	94-03-085
275-57-090	NEW-P	94-12-005	275-57-450	NEW-S	94-17-118	284-10-180	NEW-W	94-03-085
275-57-090	NEW-S	94-17-118	275-57-460	NEW-P	94-12-005	284-10-190	NEW-W	94-03-085
275-57-100	NEW-P	94-12-005	275-57-460	NEW-S	94-17-118	284-10-200	NEW-W	94-03-085
275-57-100	NEW-S	94-17-118	275-57-470	NEW-P	94-12-005	284-12-090	AMD-P	94-11-100
275-57-110	NEW-P	94-12-005	275-57-470	NEW-S	94-17-118	284-12-270	AMD-P	94-11-100
275-57-110	NEW-S	94-17-118	275-59-072	NEW-E	94-03-004	284-12-270	AMD	94-14-110
275-57-120	NEW-P	94-12-005	275-59-072	NEW-P	94-03-005	284-13-110	REP-P	94-05-089
275-57-120	NEW-S	94-17-118	275-59-072	NEW	94-06-025	284-13-110	REP-C	94-08-013
275-57-130	NEW-P	94-12-005	275-156-010	AMD-P	94-07-087	284-13-110	REP-C	94-10-024
275-57-130	NEW-S	94-17-118	275-156-010	AMD	94-12-006	284-13-110	REP	94-12-077
275-57-140	NEW-P	94-12-005	275-156-015	AMD-P	94-07-087	284-13-120	REP-P	94-05-089
275-57-140	NEW-S	94-17-118	275-156-015	AMD	94-12-006	284-13-120	REP-C	94-08-013
275-57-150	NEW-P	94-12-005	275-156-020	AMD-P	94-07-087	284-13-120	REP-C	94-10-024
275-57-150	NEW-S	94-17-118	275-156-020	AMD	94-12-006	284-13-120	REP	94-12-077
275-57-160	NEW-P	94-12-005	275-156-025	AMD-P	94-07-087	284-13-130	REP-P	94-05-089
275-57-160	NEW-S	94-17-118	275-156-025	AMD	94-12-006	284-13-130	REP-C	94-08-013
275-57-170	NEW-P	94-12-005	275-156-030	AMD-P	94-07-087	284-13-130	REP-C	94-10-024
275-57-170	NEW-S	94-17-118	275-156-030	AMD	94-12-006	284-13-130	REP	94-12-077
275-57-180	NEW-P	94-12-005	284-07-010	AMD-P	94-17-116	284-13-140	REP-P	94-05-089
275-57-180	NEW-S	94-17-118	284-07-014	REP-P	94-17-116	284-13-140	REP-C	94-08-013
275-57-190	NEW-P	94-12-005	284-07-024	REP-P	94-17-116	284-13-140	REP-C	94-10-024
275-57-190	NEW-S	94-17-118	284-07-026	REP-P	94-17-116	284-13-140	REP	94-12-077
275-57-200	NEW-P	94-12-005	284-07-060	AMD	94-04-045	284-13-150	REP-P	94-05-089
275-57-200	NEW-S	94-17-118	284-07-100	AMD	94-04-045	284-13-150	REP-C	94-08-013
275-57-210	NEW-P	94-12-005	284-07-110	AMD	94-04-045	284-13-150	REP-C	94-10-024
275-57-210	NEW-S	94-17-118	284-07-130	AMD	94-04-045	284-13-150	REP	94-12-077
275-57-220	NEW-P	94-12-005	284-07-140	AMD	94-04-045	284-13-800	NEW-P	94-05-089
275-57-220	NEW-S	94-17-118	284-07-180	AMD	94-04-045	284-13-800	NEW-C	94-08-013
275-57-230	NEW-P	94-12-005	284-07-220	AMD	94-04-045	284-13-800	NEW-C	94-10-024
275-57-230	NEW-S	94-17-118	284-10	NEW-C	94-02-065	284-13-800	NEW-W	94-12-077
275-57-240	NEW-P	94-12-005	284-10	NEW-C	94-03-048	284-13-810	NEW-P	94-05-089
275-57-240	NEW-S	94-17-118	284-10	NEW-C	94-08-006	284-13-810	NEW-C	94-08-013
275-57-250	NEW-P	94-12-005	284-10-010	NEW-E	94-03-084	284-13-810	NEW-C	94-10-024
275-57-250	NEW-S	94-17-118	284-10-010	NEW-W	94-03-085	284-13-810	NEW-W	94-12-077
275-57-260	NEW-P	94-12-005	284-10-010	NEW-P	94-04-126	284-13-810	NEW-W	94-05-089
275-57-260	NEW-S	94-17-118	284-10-010	NEW	94-08-060	284-13-820	NEW-C	94-08-013
275-57-270	NEW-P	94-12-005	284-10-015	NEW-E	94-03-084	284-13-820	NEW-C	94-10-024
275-57-270	NEW-S	94-17-118	284-10-015	NEW-W	94-03-085	284-13-820	NEW-W	94-12-077
275-57-280	NEW-P	94-12-005	284-10-015	NEW-P	94-04-126	284-13-820	NEW-W	94-05-089
275-57-280	NEW-S	94-17-118	284-10-015	NEW	94-08-060	284-13-830	NEW-P	94-08-013
275-57-290	NEW-P	94-12-005	284-10-020	NEW-E	94-03-084	284-13-830	NEW-C	94-10-024
275-57-290	NEW-S	94-17-118	284-10-020	NEW-W	94-03-085	284-13-830	NEW-W	94-12-077
275-57-300	NEW-P	94-12-005	284-10-020	NEW-P	94-04-126	284-17-120	AMD-P	94-11-100
275-57-300	NEW-S	94-17-118	284-10-020	NEW	94-08-060	284-17-120	AMD	94-14-033
275-57-310	NEW-P	94-12-005	284-10-030	NEW-E	94-03-084	284-17-121	AMD-P	94-11-100
275-57-310	NEW-S	94-17-118	284-10-030	NEW-W	94-03-085	284-17-121	AMD	94-14-033
275-57-320	NEW-P	94-12-005	284-10-030	NEW-P	94-04-126	284-17-220	AMD-P	94-11-100
275-57-320	NEW-S	94-17-118	284-10-030	NEW	94-08-060	284-17-220	AMD	94-14-033
275-57-330	NEW-P	94-12-005	284-10-050	NEW-P	94-04-125	284-17-250	AMD-P	94-11-100
275-57-330	NEW-S	94-17-118	284-10-050	NEW	94-08-081	284-17-250	AMD	94-14-033
275-57-340	NEW-P	94-12-005	284-10-050	AMD-P	94-11-082	284-17-260	AMD-P	94-11-100
275-57-340	NEW-S	94-17-118	284-10-050	AMD	94-13-216	284-17-260	AMD	94-14-033
275-57-350	NEW-P	94-12-005	284-10-060	NEW-E	94-03-084	284-17-290	AMD-P	94-11-100
275-57-350	NEW-S	94-17-118	284-10-060	NEW-W	94-03-085	284-17-290	AMD	94-14-033
275-57-360	NEW-P	94-12-005	284-10-060	NEW-P	94-04-126	284-17-320	AMD-P	94-11-100
275-57-360	NEW-S	94-17-118	284-10-060	NEW	94-08-060	284-17-320	AMD	94-14-033
275-57-370	NEW-P	94-12-005	284-10-070	NEW-E	94-03-084	284-17-400	AMD-P	94-11-100
275-57-370	NEW-S	94-17-118	284-10-070	NEW-W	94-03-085	284-17-400	AMD	94-14-033
275-57-380	NEW-P	94-12-005	284-10-070	NEW-P	94-04-126	284-17-410	AMD-P	94-11-100
275-57-380	NEW-S	94-17-118	284-10-070	NEW	94-08-060	284-17-410	AMD	94-14-033
275-57-390	NEW-P	94-12-005	284-10-080	NEW-W	94-03-085	284-17-420	AMD-P	94-11-100
275-57-390	NEW-S	94-17-118	284-10-090	NEW-E	94-03-084	284-17-420	AMD	94-14-033
275-57-400	NEW-P	94-12-005	284-10-090	NEW-W	94-03-085	284-23-600	NEW-P	94-15-105
275-57-400	NEW-S	94-17-118	284-10-090	NEW-P	94-04-126	284-23-610	NEW-P	94-15-105
275-57-410	NEW-P	94-12-005	284-10-090	NEW	94-08-060	284-23-620	NEW-P	94-15-105
275-57-410	NEW-S	94-17-118	284-10-100	NEW-W	94-03-085	284-23-630	NEW-P	94-15-105
275-57-420	NEW-P	94-12-005	284-10-110	NEW-W	94-03-085	284-23-640	NEW-P	94-15-105
275-57-420	NEW-S	94-17-118	284-10-120	NEW-W	94-03-085	284-23-650	NEW-P	94-15-105
275-57-430	NEW-P	94-12-005	284-10-130	NEW-W	94-03-085	284-23-660	NEW-P	94-15-105
275-57-430	NEW-S	94-17-118	284-10-140	NEW-W	94-03-085	284-23-670	NEW-P	94-15-105
275-57-440	NEW-P	94-12-005	284-10-150	NEW-W	94-03-085	284-23-680	NEW-P	94-15-105
275-57-440	NEW-S	94-17-118	284-10-160	NEW-W	94-03-085			

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
284-23-690	NEW-P	94-15-105	286-04-010	AMD-P	94-13-196	286-13-100	NEW	94-17-095
284-23-700	NEW-P	94-15-105	286-04-010	AMD	94-17-095	286-13-110	NEW-P	94-13-196
284-23-710	NEW-P	94-15-105	286-04-015	NEW-P	94-13-196	286-13-110	NEW	94-17-095
284-23-720	NEW-P	94-15-105	286-04-015	NEW	94-17-095	286-13-115	NEW-P	94-13-196
284-23-730	NEW-P	94-15-105	286-04-020	AMD-P	94-13-196	286-13-115	NEW	94-17-095
284-24-055	REP-P	94-17-176	286-04-020	AMD	94-17-095	286-13-120	NEW-P	94-13-196
284-24-060	AMD-P	94-17-176	286-04-030	AMD-P	94-13-196	286-13-120	NEW	94-17-095
284-30	PREP	94-05-056	286-04-030	AMD	94-17-095	286-26-010	AMD-P	94-13-196
284-30-450	PREP	94-05-070	286-04-050	AMD-P	94-13-196	286-26-010	AMD	94-17-095
284-30-450	NEW-P	94-15-104	286-04-050	AMD	94-17-095	286-26-020	AMD-P	94-13-196
284-43-040	NEW-P	94-10-077	286-04-060	AMD-P	94-13-196	286-26-020	AMD	94-17-095
284-44	PREP	94-05-056	286-04-060	AMD	94-17-095	286-26-030	AMD-P	94-13-196
284-44-500	NEW-P	94-15-103	286-04-065	NEW-P	94-13-196	286-26-030	AMD	94-17-095
284-46	PREP	94-05-056	286-04-065	NEW	94-17-095	286-26-040	REP-P	94-13-196
284-46-500	NEW-P	94-15-103	286-04-070	AMD-P	94-13-196	286-26-040	REP	94-17-095
284-50-330	AMD-P	94-15-103	286-04-070	AMD	94-17-095	286-26-055	REP-P	94-13-196
284-51-010	AMD-P	94-11-122	286-06-085	NEW-P	94-13-196	286-26-055	REP	94-17-095
284-51-015	NEW-P	94-11-122	286-04-085	NEW	94-17-095	286-26-060	REP-P	94-13-196
284-51-020	AMD-P	94-11-122	286-04-090	NEW-P	94-13-196	286-26-060	REP	94-17-095
284-51-030	AMD-P	94-11-122	286-04-090	NEW	94-17-095	286-26-070	REP-P	94-13-196
284-51-040	AMD-P	94-11-122	286-06-010	REP-P	94-13-196	286-26-070	REP	94-17-095
284-51-045	NEW-P	94-11-122	286-06-010	REP	94-17-095	286-26-080	NEW-P	94-13-196
284-51-050	AMD-P	94-11-122	286-06-030	REP-P	94-13-196	286-26-080	NEW	94-17-095
284-51-060	AMD-P	94-11-122	286-06-030	REP	94-17-095	286-26-090	NEW-P	94-13-196
284-51-070	REP-P	94-11-122	286-06-040	REP-P	94-13-196	286-26-090	NEW	94-17-095
284-51-075	AMD-P	94-11-122	286-06-040	REP	94-17-095	286-26-100	NEW-P	94-13-196
284-51-120	AMD-P	94-11-122	286-06-050	AMD-P	94-13-196	286-26-100	NEW	94-17-095
284-51-130	AMD-P	94-11-122	286-06-050	AMD	94-17-095	286-30-010	NEW-P	94-13-196
284-51-140	AMD-P	94-11-122	286-06-060	AMD-P	94-13-196	286-30-010	NEW	94-17-095
284-51-150	AMD-P	94-11-122	286-06-060	AMD	94-17-095	286-30-020	NEW-P	94-13-196
284-51-160	REP-P	94-11-122	286-06-065	NEW-P	94-13-196	286-30-020	NEW	94-17-095
284-51-170	AMD-P	94-11-122	286-06-065	NEW	94-17-095	286-30-030	NEW-P	94-13-196
284-54	AMD-C	94-13-217	286-06-070	AMD-P	94-13-196	286-30-030	NEW	94-17-095
284-54-020	AMD-P	94-09-050	286-06-070	AMD	94-17-095	286-30-040	NEW-P	94-13-196
284-54-020	AMD-S	94-11-096	286-06-080	AMD-P	94-13-196	286-30-040	NEW	94-17-095
284-54-020	AMD	94-14-100	286-06-080	AMD	94-17-095	286-35-010	NEW-P	94-13-196
284-54-150	AMD-P	94-09-050	286-06-090	AMD-P	94-13-196	286-35-010	NEW	94-17-095
284-54-150	AMD-S	94-11-096	286-06-090	AMD	94-17-095	286-35-020	NEW-P	94-13-196
284-54-150	AMD	94-14-100	286-06-100	AMD-P	94-13-196	286-35-020	NEW	94-17-095
284-54-200	NEW-P	94-09-050	286-06-100	AMD	94-17-095	286-35-030	NEW-P	94-13-196
284-54-200	NEW-S	94-11-096	286-06-110	AMD-P	94-13-196	286-35-030	NEW	94-17-095
284-54-200	NEW	94-14-100	286-06-110	AMD	94-17-095	286-35-040	NEW-P	94-13-196
284-54-210	NEW-P	94-09-050	286-06-120	AMD-P	94-13-196	286-35-040	NEW	94-17-095
284-54-210	NEW-S	94-11-096	286-06-120	AMD	94-17-095	286-35-050	NEW-P	94-13-196
284-54-210	NEW	94-14-100	286-06-130	REP-P	94-13-196	286-35-050	NEW	94-17-095
284-54-260	NEW-P	94-09-050	286-06-130	REP	94-17-095	286-35-060	NEW-P	94-13-196
284-54-260	NEW-S	94-11-096	286-06-140	REP-P	94-13-196	286-35-060	NEW	94-17-095
284-54-260	NEW	94-14-100	286-06-140	REP	94-17-095	286-35-070	NEW-P	94-13-196
284-54-270	NEW-P	94-09-050	286-06-150	REP-P	94-13-196	286-35-070	NEW	94-17-095
284-54-270	NEW-S	94-11-096	286-06-150	REP	94-17-095	286-35-080	NEW-P	94-13-196
284-54-270	NEW	94-14-100	286-06-990	REP-P	94-13-196	286-35-080	NEW	94-17-095
284-87-040	AMD-P	94-09-049	286-06-990	REP	94-17-095	286-35-090	NEW-P	94-13-196
284-87-040	AMD	94-13-006	286-13-010	NEW-P	94-13-196	286-35-090	NEW	94-17-095
284-87-090	AMD-P	94-09-049	286-13-010	NEW	94-17-095	286-40-010	NEW-P	94-13-196
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284-87-100	AMD-P	94-09-049	286-13-020	NEW	94-17-095	286-40-020	NEW-P	94-13-196
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284-97-060	PREP	94-05-071	286-13-060	NEW	94-17-095	286-40-060	NEW-P	94-13-196
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296-306-003	AMD-W	94-10-007	296-306-170	AMD-E	94-06-044	308-13-150	PREP	94-17-017
296-306-010	AMD	94-06-068	296-306-170	AMD-P	94-12-095	308-13-160	AMD	94-04-044
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296-306-015	AMD	94-06-068	296-306-170	AMD-W	94-17-068	308-18-150	AMD-W	94-11-026
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296-306-020	AMD-P	94-15-095	296-306-175	AMD-W	94-10-007	308-56A-160	AMD	94-17-044
296-306-025	REP-W	94-10-007	296-306-175	AMD-P	94-12-095	308-56A-322	NEW-W	94-08-057
296-306-030	AMD-W	94-10-007	296-306-175	AMD-E	94-14-027	308-56A-323	NEW-W	94-08-057
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296-306-050	REP-W	94-10-007	296-306-180	AMD-P	94-12-095	308-62-010	REP-P	94-04-017
296-306-055	REP-W	94-10-007	296-306-180	AMD-E	94-14-027	308-62-010	REP	94-08-025
296-306-057	AMD	94-06-068	296-306-200	AMD	94-06-068	308-62-020	REP-P	94-04-017
296-306-060	AMD-W	94-10-007	296-306-200	AMD	94-06-068	308-62-020	REP	94-08-025
296-306-061	AMD-E	94-06-044	296-306-250	AMD	94-06-068	308-62-030	REP-P	94-04-017
296-306-061	REP-W	94-10-007	296-306-260	AMD	94-06-068	308-62-030	REP	94-08-025
296-306-061	AMD-P	94-12-095	296-306-265	AMD	94-06-068	308-62-030	REP	94-08-025
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296-306-06103	NEW-P	94-12-095	296-306-400	AMD	94-06-068	308-65-040	AMD	94-12-052
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296-306-075	REP-W	94-10-007	296-350-040	AMD	94-15-096	308-66-190	AMD-W	94-17-045
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296-306-100	REP-W	94-10-007	296-350-240	AMD-P	94-10-010	308-72-665	NEW	94-11-055
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296-306-130	REP-W	94-10-007	296-350-255	AMD	94-15-096	308-77-010	AMD	94-11-029
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296-306-14503	NEW-P	94-12-095	296-350-35055	AMD	94-15-096	308-91-040	AMD	94-13-012
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296-306-14507	NEW-P	94-12-095	296-350-470	AMD-P	94-10-010	308-93-330	AMD-W	94-03-018
296-306-14507	NEW-E	94-14-027	296-350-470	AMD	94-15-096	308-93-630	REP-W	94-03-018
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296-306-14511	NEW-P	94-12-095	296-360-005	AMD	94-15-096	308-96A-175	AMD	94-17-044
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317-40-030	NEW-P	94-12-093	332-18-030	REP	94-14-051	352-32-195	AMD	94-16-026
317-40-030	NEW	94-16-076	332-18-040	REP-P	94-09-062	352-32-210	AMD-P	94-10-069
317-40-040	NEW-P	94-12-093	332-18-040	REP	94-14-051	352-32-210	AMD	94-13-081
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317-40-085	NEW	94-16-076	332-18-05006	NEW-P	94-09-062	352-32-255	AMD	94-08-036
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338-26-105	REP	94-10-065	388-28-480	REP-P	94-07-114	388-29-150	REP	94-09-001
388-26-120	REP-P	94-07-114	388-28-480	REP	94-10-065	388-29-160	REP-P	94-06-035
338-26-120	REP	94-10-065	388-28-481	REP-P	94-07-114	388-29-160	REP	94-09-001
388-26-145	REP-P	94-07-114	388-28-481	REP	94-10-065	388-29-180	REP-P	94-06-035
338-26-145	REP	94-10-065	388-28-482	REP-P	94-07-114	388-29-180	REP	94-09-001
388-26-149	REP-P	94-07-114	388-28-482	REP	94-10-065	388-29-200	REP-P	94-06-035
338-26-149	REP	94-10-065	388-28-483	REP-P	94-07-114	388-29-200	REP	94-09-001
388-28-005	REP-P	94-07-114	388-28-483	REP	94-10-065	388-29-210	REP-P	94-06-035
388-28-005	REP	94-10-065	388-28-484	AMD-P	94-05-029	388-29-210	REP	94-09-001
388-28-300	REP-P	94-07-114	388-28-484	REP-P	94-07-114	388-29-220	REP-P	94-06-035
388-28-300	REP	94-10-065	388-28-484	AMD	94-08-020	388-29-220	REP	94-09-001
388-28-350	REP-P	94-07-114	388-28-484	REP	94-10-065	388-29-230	REP-P	94-06-035
388-28-350	REP	94-10-065	388-28-485	REP-P	94-07-114	388-29-230	REP	94-09-001
388-28-355	REP-P	94-07-114	388-28-485	REP	94-10-065	388-29-270	REP-P	94-06-035
388-28-355	REP	94-10-065	388-28-500	REP-P	94-07-114	388-29-270	REP	94-09-001
388-28-360	REP-P	94-07-114	388-28-500	REP	94-10-065	388-29-280	REP-P	94-06-035
388-28-360	REP	94-10-065	388-28-515	REP-P	94-07-114	388-29-280	REP	94-09-001
388-28-365	REP-P	94-07-114	388-28-515	REP	94-10-065	388-29-295	AMD	94-04-035
388-28-365	REP	94-10-065	388-28-520	REP-P	94-07-114	388-29-295	REP-P	94-06-035
388-28-370	REP	94-04-043	388-28-520	REP	94-10-065	388-29-295	REP	94-09-001
388-28-370	REP-P	94-07-114	388-28-530	AMD-P	94-05-016	388-33-015	REP-P	94-07-114
388-28-370	REP	94-10-065	388-28-530	REP-P	94-07-114	388-33-015	REP	94-10-065
388-28-380	REP-P	94-07-114	388-28-530	AMD	94-08-016	388-33-020	REP-P	94-07-114
388-28-380	REP	94-10-065	388-28-530	REP	94-10-065	388-33-020	REP	94-10-065
388-28-385	REP-P	94-07-114	388-28-532	REP-P	94-07-114	388-33-025	REP-P	94-07-114
388-28-385	REP	94-10-065	388-28-532	REP	94-10-065	388-33-025	REP	94-10-065
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388-28-390	REP-P	94-07-114	388-28-535	REP	94-10-065	388-33-045	REP	94-10-065
388-28-390	AMD	94-08-015	388-28-555	REP-P	94-07-114	388-33-050	REP-P	94-07-114
388-28-390	REP	94-10-065	388-28-555	REP	94-10-065	388-33-050	REP	94-10-065
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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	PREP	94-16-024
388-33-095	REP	94-10-065	388-33-457	REP-P	94-07-114	388-43-120	NEW-E	94-04-032
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388-33-115	REP	94-10-065	388-33-458	REP-P	94-07-114	388-44-010	REP	94-05-045
388-33-120	REP-P	94-07-114	388-33-458	REP	94-10-065	388-44-020	REP	94-05-045
388-33-120	REP	94-10-065	388-33-459	REP-P	94-07-114	388-44-035	REP	94-05-045
388-33-125	REP-P	94-07-114	388-33-459	REP	94-10-065	388-44-046	REP	94-05-045
388-33-125	REP	94-10-065	388-33-460	REP-P	94-07-114	388-44-050	REP	94-05-045
388-33-135	REP-P	94-07-114	388-33-460	REP	94-10-065	388-44-110	REP	94-05-045
388-33-135	REP	94-10-065	388-33-525	REP-P	94-07-114	388-44-115	REP	94-05-045
388-33-140	REP-P	94-07-114	388-33-525	REP	94-10-065	388-44-120	REP	94-05-045
388-33-140	REP	94-10-065	388-33-535	REP-P	94-07-114	388-44-125	REP	94-05-045
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388-33-165	REP	94-10-065	388-33-545	REP-P	94-07-114	388-44-140	REP	94-05-045
388-33-170	REP-P	94-07-114	388-33-545	REP	94-10-065	388-44-145	REP	94-05-045
388-33-170	REP	94-10-065	388-33-550	REP-P	94-07-114	388-44-150	REP	94-05-045
388-33-190	REP-P	94-07-114	388-33-550	REP	94-10-065	388-44-160	REP	94-05-045
388-33-190	REP	94-10-065	388-33-576	REP-P	94-07-114	388-44-250	REP	94-05-045
388-33-195	REP-P	94-07-114	388-33-576	REP	94-10-065	388-44-280	REP	94-05-045
388-33-195	REP	94-10-065	388-33-579	REP-P	94-07-114	388-44-330	REP	94-05-045
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388-33-230	REP	94-10-065	388-33-585	REP-P	94-07-114	388-49-015	AMD	94-13-203
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388-33-235	REP	94-10-065	388-33-595	REP-P	94-07-114	388-49-020	AMD-P	94-13-133
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388-33-240	REP	94-10-065	388-33-605	REP-P	94-07-114	388-49-020	AMD	94-16-038
388-33-335	REP-P	94-07-114	388-33-605	REP	94-10-065	388-49-020	AMD-P	94-17-134
388-33-335	REP	94-10-065	388-38-010	REP-P	94-07-114	388-49-100	PREP	94-14-046
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388-33-355	REP	94-10-065	388-38-030	REP-P	94-07-114	388-49-110	PREP	94-14-018
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388-33-375	REP	94-10-065	388-38-045	REP-P	94-07-114	388-49-190	PREP	94-13-116
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388-33-376	REP	94-10-065	388-38-050	REP-P	94-07-114	388-49-190	AMD	94-16-039
388-33-377	REP-P	94-07-114	388-38-050	REP	94-10-065	388-49-210	PREP	94-13-117
388-33-377	REP	94-10-065	388-38-0501	REP-P	94-07-114	388-49-210	AMD-P	94-13-131
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388-33-382	REP	94-10-065	388-38-110	REP-P	94-07-114	388-49-330	PREP	94-13-129
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388-33-385	REP	94-10-065	388-38-120	REP-P	94-07-114	388-49-330	AMD	94-17-175
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388-33-387	REP	94-10-065	388-38-150	REP-P	94-07-114	388-49-360	PREP	94-14-045
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388-33-400	REP-P	94-07-114	388-38-172	REP	94-10-065	388-49-410	AMD	94-16-041
388-33-400	REP	94-10-065	388-38-200	REP-P	94-07-114	388-49-420	PREP	94-17-098
388-33-420	REP-P	94-07-114	388-38-200	REP	94-10-065	388-49-430	AMD-P	94-13-026
388-33-420	REP	94-10-065	388-38-220	REP-P	94-07-114	388-49-430	AMD	94-16-041
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388-33-425	REP	94-10-065	388-38-225	REP-P	94-07-114	388-49-460	PREP	94-13-114
388-33-430	REP-P	94-07-114	388-38-225	REP	94-10-065	388-49-460	AMD-P	94-13-130
388-33-430	REP	94-10-065	388-38-230	REP-P	94-07-114	388-49-460	AMD	94-16-042
388-33-440	REP-P	94-07-114	388-38-230	REP	94-10-065	388-49-460	PREP	94-17-160
388-33-440	REP	94-10-065	388-38-250	REP-P	94-07-114	388-49-470	AMD-P	94-12-003
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388-33-444	REP	94-10-065	388-38-260	REP-P	94-07-114	388-49-500	PREP	94-17-064
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388-33-446	REP	94-10-065	388-38-265	REP-P	94-07-114	388-49-500	AMD-E	94-17-080
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388-33-447	REP	94-10-065	388-38-270	REP-P	94-07-114	388-49-505	AMD-P	94-15-048
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388-49-590	AMD-C	94-06-027	388-81-175	REP-P	94-07-114	388-83-033	RESCIND	94-11-063
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388-49-630	AMD-P	94-15-057	388-82-006	REP	94-10-065	388-83-041	REP-P	94-07-114
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388-49-670	AMD	94-16-043	388-82-010	REP-P	94-07-114	388-83-046	REP	94-10-065
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388-59-030	REP	94-04-033	388-82-126	REP	94-10-065	388-83-210	REP-P	94-07-114
388-59-040	REP	94-04-033	388-82-130	REP-P	94-07-114	388-83-210	REP	94-10-065
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388-81-010	REP	94-10-065	388-82-160	AMD-P	94-08-044	388-85-115	REP	94-10-065
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388-81-043	REP	94-10-065	388-83-020	REP-P	94-07-114	388-86-095	PREP	94-16-099
388-81-044	REP-P	94-07-114	388-83-020	REP	94-10-065	388-86-098	AMD-P	94-04-022
388-81-044	REP	94-10-065	388-83-025	REP-P	94-07-114	388-86-098	AMD-E	94-04-023
388-81-047	REP-P	94-07-114	388-83-025	REP	94-10-065	388-86-098	AMD	94-07-030
388-81-047	REP	94-10-065	388-83-026	REP-P	94-07-114	388-86-100	PREP	94-16-097
388-81-050	REP-P	94-07-114	388-83-026	REP	94-10-065	388-87-300	REP-E	94-08-045
388-81-050	REP	94-10-065	388-83-029	REP-P	94-07-114	388-87-300	REP-P	94-08-046
388-81-052	REP-P	94-07-114	388-83-029	REP	94-10-065	388-87-300	REP	94-11-057
388-81-052	REP	94-10-065	388-83-031	REP-P	94-07-114	388-92-005	REP-P	94-07-114
388-81-055	REP-P	94-07-114	388-83-031	REP	94-10-065	388-92-005	REP	94-10-065
388-81-055	REP	94-10-065	388-83-03101	REP-P	94-07-114	388-92-015	REP-P	94-07-114
388-81-060	REP-P	94-07-114	388-83-03101	REP	94-10-065	388-92-015	REP	94-10-065
388-81-060	REP	94-10-065	388-83-032	REP-P	94-07-114	388-92-025	REP-P	94-07-114
388-81-065	REP-P	94-07-114	388-83-032	AMD-E	94-08-043	388-92-025	REP	94-10-065
388-81-065	REP-E	94-08-045	388-83-032	AMD-P	94-08-044	388-92-027	REP-P	94-07-114

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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-92-027	REP	94-10-065	388-95-360	REP	94-10-065	388-96-904	AMD	94-12-043
388-92-030	REP-P	94-07-114	388-95-360	AMD-W	94-11-059	388-97-005	NEW-P	94-13-052
388-92-030	REP	94-10-065	388-95-360	RESCIND	94-11-063	388-97-010	NEW-P	94-13-052
388-92-034	REP-P	94-07-114	388-95-380	REP-P	94-07-114	388-97-015	NEW-P	94-13-052
388-92-034	REP	94-10-065	388-95-380	REP	94-10-065	388-97-020	NEW-P	94-13-052
388-92-036	REP-P	94-07-114	388-95-390	REP-P	94-07-114	388-97-025	NEW-P	94-13-052
388-92-036	AMD-E	94-08-041	388-95-390	REP	94-10-065	388-97-030	NEW-P	94-13-052
388-92-036	AMD-P	94-08-042	388-95-395	REP-P	94-07-114	388-97-035	NEW-P	94-13-052
388-92-036	REP	94-10-065	388-95-395	REP	94-10-065	388-97-040	NEW-P	94-13-052
388-92-036	AMD-W	94-11-060	388-95-400	REP-P	94-07-114	388-97-045	NEW-P	94-13-052
388-92-036	RESCIND	94-11-062	388-95-400	REP	94-10-065	388-97-050	NEW-P	94-13-052
388-92-040	REP-P	94-07-114	388-96-010	AMD-P	94-07-109	388-97-055	NEW-P	94-13-052
388-92-040	REP	94-10-065	388-96-010	AMD	94-12-043	388-97-060	NEW-P	94-13-052
388-92-041	AMD-E	94-05-027	388-96-113	AMD-P	94-07-109	388-97-065	NEW-P	94-13-052
388-92-041	AMD-P	94-05-028	388-96-113	AMD	94-12-043	388-97-070	NEW-P	94-13-052
388-92-041	REP-P	94-07-114	388-96-134	AMD-P	94-07-109	388-97-075	NEW-P	94-13-052
388-92-041	AMD	94-07-131	388-96-134	AMD	94-12-043	388-97-080	NEW-P	94-13-052
388-92-041	REP	94-10-065	388-96-217	AMD-P	94-07-109	388-97-085	NEW-P	94-13-052
388-92-045	REP-P	94-07-114	388-96-217	AMD	94-12-043	388-97-090	NEW-P	94-13-052
388-92-045	REP	94-10-065	388-96-221	AMD-P	94-07-109	388-97-095	NEW-P	94-13-052
388-92-050	REP-P	94-07-114	388-96-221	AMD	94-12-043	388-97-100	NEW-P	94-13-052
388-92-050	REP	94-10-065	388-96-226	AMD-P	94-07-109	388-97-105	NEW-P	94-13-052
388-93-005	REP-P	94-07-114	388-96-226	AMD	94-12-043	388-97-110	NEW-P	94-13-052
388-93-005	REP	94-10-065	388-96-228	AMD-P	94-07-109	388-97-115	NEW-P	94-13-052
388-93-010	REP-P	94-07-114	388-96-228	AMD	94-12-043	388-97-120	NEW-P	94-13-052
388-93-010	REP	94-10-065	388-96-525	AMD-P	94-07-109	388-97-125	NEW-P	94-13-052
388-93-015	REP-P	94-07-114	388-96-525	AMD	94-12-043	388-97-130	NEW-P	94-13-052
388-93-015	REP	94-10-065	388-96-533	AMD-P	94-07-109	388-97-135	NEW-P	94-13-052
388-93-020	REP-P	94-07-114	388-96-533	AMD	94-12-043	388-97-140	NEW-P	94-13-052
388-93-020	REP	94-10-065	388-96-534	AMD-P	94-07-109	388-97-145	NEW-P	94-13-052
388-93-025	REP-P	94-07-114	388-96-534	AMD	94-12-043	388-97-150	NEW-P	94-13-052
388-93-025	REP	94-10-065	388-96-559	AMD-P	94-07-109	388-97-155	NEW-P	94-13-052
388-93-030	REP-P	94-07-114	388-96-559	AMD	94-12-043	388-97-160	NEW-P	94-13-052
388-93-030	REP	94-10-065	388-96-565	AMD-P	94-07-109	388-97-165	NEW-P	94-13-052
388-93-035	REP-P	94-07-114	388-96-565	AMD	94-12-043	388-97-170	NEW-P	94-13-052
388-93-035	REP	94-10-065	388-96-585	AMD-P	94-07-109	388-97-175	NEW-P	94-13-052
388-93-040	REP-P	94-07-114	388-96-585	AMD	94-12-043	388-97-180	NEW-P	94-13-052
388-93-040	REP	94-10-065	388-96-704	AMD-P	94-07-109	388-97-185	NEW-P	94-13-052
388-93-045	REP-P	94-07-114	388-96-704	AMD	94-12-043	388-97-190	NEW-P	94-13-052
388-93-045	REP	94-10-065	388-96-707	REP-P	94-07-109	388-97-195	NEW-P	94-13-052
388-93-050	REP-P	94-07-114	388-96-707	REP	94-12-043	388-97-205	NEW-P	94-13-052
388-93-050	REP	94-10-065	388-96-709	AMD-P	94-07-109	388-97-210	NEW-P	94-13-052
388-93-055	REP-P	94-07-114	388-96-709	AMD	94-12-043	388-97-220	NEW-P	94-13-052
388-93-055	REP	94-10-065	388-96-710	AMD-P	94-07-109	388-97-225	NEW-P	94-13-052
388-93-060	REP-P	94-07-114	388-96-710	AMD	94-12-043	388-97-230	NEW-P	94-13-052
388-93-060	REP	94-10-065	388-96-719	AMD-P	94-07-109	388-97-235	NEW-P	94-13-052
388-93-065	REP-P	94-07-114	388-96-719	AMD	94-12-043	388-97-240	NEW-P	94-13-052
388-93-065	REP	94-10-065	388-96-721	REP-P	94-07-109	388-97-245	NEW-P	94-13-052
388-93-075	REP-P	94-07-114	388-96-721	REP	94-12-043	388-97-250	NEW-P	94-13-052
388-93-075	REP	94-10-065	388-96-722	AMD-P	94-07-109	388-97-255	NEW-P	94-13-052
388-93-080	REP-P	94-07-114	388-96-722	AMD	94-12-043	388-97-260	NEW-P	94-13-052
388-93-080	REP	94-10-065	388-96-727	AMD-P	94-07-109	388-97-265	NEW-P	94-13-052
388-95-300	REP-P	94-07-114	388-96-727	AMD	94-12-043	388-97-270	NEW-P	94-13-052
388-95-300	REP	94-10-065	388-96-735	AMD-P	94-07-109	388-97-275	NEW-P	94-13-052
388-95-310	REP-P	94-07-114	388-96-735	AMD	94-12-043	388-97-280	NEW-P	94-13-052
388-95-310	REP	94-10-065	388-96-737	AMD-P	94-07-109	388-97-285	NEW-P	94-13-052
388-95-320	REP-P	94-07-114	388-96-737	AMD	94-12-043	388-97-290	NEW-P	94-13-052
388-95-320	REP	94-10-065	388-96-745	AMD-P	94-07-109	388-97-295	NEW-P	94-13-052
388-95-335	REP-P	94-07-114	388-96-745	AMD	94-12-043	388-97-300	NEW-P	94-13-052
388-95-335	REP	94-10-065	388-96-753	NEW-P	94-07-109	388-97-305	NEW-P	94-13-052
388-95-337	AMD-P	94-05-025	388-96-753	NEW	94-12-043	388-97-310	NEW-P	94-13-052
388-95-337	REP-P	94-07-114	388-96-754	AMD-P	94-07-109	388-97-315	NEW-P	94-13-052
388-95-337	AMD	94-07-130	388-96-754	AMD	94-12-043	388-97-320	NEW-P	94-13-052
388-95-337	REP	94-10-065	388-96-763	AMD-P	94-07-109	388-97-325	NEW-P	94-13-052
388-95-340	REP-P	94-07-114	388-96-763	AMD	94-12-043	388-97-330	NEW-P	94-13-052
388-95-340	AMD-E	94-08-041	388-96-774	AMD-P	94-07-109	388-97-335	NEW-P	94-13-052
388-95-340	AMD-P	94-08-042	388-96-774	AMD	94-12-043	388-97-340	NEW-P	94-13-052
388-95-340	REP	94-10-065	388-96-774	AMD	94-14-016	388-97-345	NEW-P	94-13-052
388-95-340	AMD-W	94-11-060	388-96-776	NEW-P	94-07-109	388-97-350	NEW-P	94-13-052
388-95-340	RESCIND	94-11-062	388-96-776	NEW	94-12-043	388-97-355	NEW-P	94-13-052
388-95-360	REP-P	94-07-114	388-96-777	NEW-P	94-07-109	388-97-360	NEW-P	94-13-052
388-95-360	AMD-E	94-08-043	388-96-777	NEW	94-12-043	388-97-365	NEW-P	94-13-052
388-95-360	AMD-P	94-08-044	388-96-904	AMD-P	94-07-109	388-97-370	NEW-P	94-13-052



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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-215-1500	NEW-P	94-07-114	388-218-1010	AMD-P	94-13-008	388-218-1500	NEW-P	94-07-114
388-215-1500	NEW	94-10-065	388-218-1010	AMD-E	94-13-009	388-218-1500	NEW	94-10-065
388-215-1520	NEW-P	94-07-114	388-218-1010	AMD	94-16-044	388-218-1510	NEW-P	94-07-114
388-215-1520	NEW	94-10-065	388-218-1050	NEW-P	94-07-114	388-218-1510	NEW	94-10-065
388-215-1540	NEW-P	94-07-114	388-218-1050	NEW	94-10-065	388-218-1515	NEW-P	94-07-114
388-215-1540	NEW	94-10-065	388-218-1050	AMD-P	94-13-008	388-218-1515	NEW	94-10-065
388-215-1560	NEW-P	94-07-114	388-218-1050	AMD-E	94-13-009	388-218-1520	NEW-P	94-07-114
388-215-1560	NEW	94-10-065	388-218-1050	AMD	94-16-044	388-218-1520	NEW	94-10-065
388-215-1600	NEW-P	94-07-114	388-218-1100	NEW-P	94-07-114	388-218-1530	NEW-P	94-07-114
388-215-1600	NEW	94-10-065	388-218-1100	NEW	94-10-065	388-218-1530	NEW	94-10-065
388-215-1610	NEW-P	94-07-114	388-218-1110	NEW-P	94-07-114	388-218-1540	NEW-P	94-07-114
388-215-1610	NEW	94-10-065	388-218-1110	NEW	94-10-065	388-218-1540	NEW	94-10-065
388-215-1610	PREP	94-17-159	388-218-1120	NEW-P	94-07-114	388-218-1600	NEW-P	94-07-114
388-215-1620	NEW-P	94-07-114	388-218-1120	NEW	94-10-065	388-218-1600	NEW	94-10-065
388-215-1620	NEW	94-10-065	388-218-1130	NEW-P	94-07-114	388-218-1605	NEW-P	94-07-114
388-215-1620	PREP	94-17-158	388-218-1130	NEW	94-10-065	388-218-1605	NEW	94-10-065
388-215-1650	NEW-P	94-07-114	388-218-1130	AMD-P	94-13-008	388-218-1610	NEW-P	94-07-114
388-215-1650	NEW	94-10-065	388-218-1130	AMD-E	94-13-009	388-218-1610	NEW	94-10-065
388-216-2000	NEW-P	94-07-114	388-218-1130	AMD	94-16-044	388-218-1620	NEW-P	94-07-114
388-216-2000	NEW	94-10-065	388-218-1140	NEW-P	94-07-114	388-218-1620	NEW	94-10-065
388-216-2050	NEW-P	94-07-114	388-218-1140	NEW	94-10-065	388-218-1630	NEW-P	94-07-114
388-216-2050	NEW	94-10-065	388-218-1200	NEW-P	94-07-114	388-218-1630	NEW	94-10-065
388-216-2075	NEW-P	94-07-114	388-218-1200	NEW	94-10-065	388-218-1640	NEW-P	94-07-114
388-216-2075	NEW	94-10-065	388-218-1200	AMD-P	94-13-008	388-218-1640	NEW	94-10-065
388-216-2100	NEW-P	94-07-114	388-218-1200	AMD-E	94-13-009	388-218-1650	NEW-P	94-07-114
388-216-2100	NEW	94-10-065	388-218-1200	AMD	94-16-044	388-218-1650	NEW	94-10-065
388-216-2150	NEW-P	94-07-114	388-218-1210	NEW-P	94-07-114	388-218-1660	NEW-P	94-07-114
388-216-2150	NEW	94-10-065	388-218-1210	NEW	94-10-065	388-218-1660	NEW	94-10-065
388-216-2200	NEW-P	94-07-114	388-218-1210	AMD-P	94-13-008	388-218-1670	NEW-P	94-07-114
388-216-2200	NEW	94-10-065	388-218-1210	AMD-E	94-13-009	388-218-1670	NEW	94-10-065
388-216-2250	NEW-P	94-07-114	388-218-1210	AMD	94-16-044	388-218-1680	NEW-P	94-07-114
388-216-2250	NEW	94-10-065	388-218-1220	NEW-P	94-07-114	388-218-1680	NEW	94-10-065
388-216-2300	NEW-P	94-07-114	388-218-1220	NEW	94-10-065	388-218-1690	NEW-P	94-07-114
388-216-2300	NEW	94-10-065	388-218-1220	AMD-P	94-13-008	388-218-1690	NEW	94-10-065
388-216-2350	NEW-P	94-07-114	388-218-1220	AMD-E	94-13-009	388-218-1695	NEW-P	94-07-114
388-216-2350	NEW	94-10-065	388-218-1220	AMD	94-16-044	388-218-1695	NEW	94-10-065
388-216-2450	NEW-P	94-07-114	388-218-1230	NEW-P	94-07-114	388-218-1700	NEW-P	94-07-114
388-216-2450	NEW	94-10-065	388-218-1230	NEW	94-10-065	388-218-1700	NEW	94-10-065
388-216-2500	NEW-P	94-07-114	388-218-1230	AMD-P	94-13-008	388-218-1710	NEW-P	94-07-114
388-216-2500	NEW	94-10-065	388-218-1230	AMD-E	94-13-009	388-218-1710	NEW	94-10-065
388-216-2550	NEW-P	94-07-114	388-218-1230	AMD	94-16-044	388-218-1720	NEW-P	94-07-114
388-216-2550	NEW	94-10-065	388-218-1300	NEW-P	94-07-114	388-218-1720	NEW	94-10-065
388-216-2560	NEW-P	94-07-114	388-218-1300	NEW	94-10-065	388-218-1730	NEW-P	94-07-114
388-216-2560	NEW	94-10-065	388-218-1310	NEW-P	94-07-114	388-218-1730	NEW	94-10-065
388-216-2570	NEW-P	94-07-114	388-218-1310	NEW	94-10-065	388-218-1740	NEW-P	94-07-114
388-216-2570	NEW	94-10-065	388-218-1320	NEW-P	94-07-114	388-218-1740	NEW	94-10-065
388-216-2580	NEW-P	94-07-114	388-218-1320	NEW	94-10-065	388-218-1800	NEW-P	94-07-114
388-216-2580	NEW	94-10-065	388-218-1330	NEW-P	94-07-114	388-218-1800	NEW	94-10-065
388-216-2590	NEW-P	94-07-114	388-218-1330	NEW	94-10-065	388-218-1810	NEW-P	94-07-114
388-216-2590	NEW	94-10-065	388-218-1340	NEW-P	94-07-114	388-218-1810	NEW	94-10-065
388-216-2600	NEW-P	94-07-114	388-218-1340	NEW	94-10-065	388-218-1820	NEW-P	94-07-114
388-216-2600	NEW	94-10-065	388-218-1350	NEW-P	94-07-114	388-218-1820	NEW	94-10-065
388-216-2650	NEW-P	94-07-114	388-218-1350	NEW	94-10-065	388-218-1830	NEW-P	94-07-114
388-216-2650	NEW	94-10-065	388-218-1360	NEW-P	94-07-114	388-218-1830	NEW	94-10-065
388-216-2800	NEW-P	94-07-114	388-218-1360	NEW	94-10-065	388-218-1900	NEW-P	94-07-114
388-216-2800	NEW	94-10-065	388-218-1400	NEW-P	94-07-114	388-218-1900	NEW	94-10-065
388-216-2850	NEW-P	94-07-114	388-218-1400	NEW	94-10-065	388-218-1910	NEW-P	94-07-114
388-216-2850	NEW	94-10-065	388-218-1410	NEW-P	94-07-114	388-218-1910	NEW	94-10-065
388-216-2900	NEW-P	94-07-114	388-218-1410	NEW	94-10-065	388-218-1920	NEW-P	94-07-114
388-216-2900	NEW	94-10-065	388-218-1420	NEW-P	94-07-114	388-218-1920	NEW	94-10-065
388-217-3000	NEW	94-04-043	388-218-1420	NEW	94-10-065	388-218-1930	NEW-P	94-07-114
388-217-3050	NEW	94-04-043	388-218-1430	NEW-P	94-07-114	388-218-1930	NEW	94-10-065
388-217-3100	NEW	94-04-043	388-218-1430	NEW	94-10-065	388-218-1940	NEW-P	94-07-114
388-217-3150	NEW	94-04-043	388-218-1440	NEW-P	94-07-114	388-218-1940	NEW	94-10-065
388-217-3150	AMD-P	94-13-054	388-218-1440	NEW	94-10-065	388-219-0100	NEW-P	94-07-114
388-217-3150	AMD-E	94-13-055	388-218-1450	NEW-P	94-07-114	388-219-0100	NEW	94-10-065
388-217-3150	AMD	94-16-046	388-218-1450	NEW	94-10-065	388-219-0200	NEW-P	94-07-114
388-217-3200	NEW	94-04-043	388-218-1460	NEW-P	94-07-114	388-219-0200	NEW	94-10-065
388-217-3250	NEW	94-04-043	388-218-1460	NEW	94-10-065	388-219-1000	NEW-P	94-07-114
388-217-3300	NEW	94-04-043	388-218-1470	NEW-P	94-07-114	388-219-1000	NEW	94-10-065
388-217-3350	NEW	94-04-043	388-218-1470	NEW	94-10-065	388-219-1100	NEW-P	94-07-114
388-218-1010	NEW-P	94-07-114	388-218-1480	NEW-P	94-07-114	388-219-1100	NEW	94-10-065
388-218-1010	NEW	94-10-065	388-218-1480	NEW	94-10-065	388-219-1500	NEW-P	94-07-114

TABLE

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-219-1500	NEW	94-10-065	388-245-1150	NEW	94-10-065	388-250-1400	NEW-P	94-06-035
388-219-1600	NEW-P	94-07-114	388-245-1160	NEW-P	94-07-114	388-250-1400	NEW	94-09-001
388-219-1600	NEW	94-10-065	388-245-1160	NEW	94-10-065	388-250-1450	NEW-P	94-06-035
388-219-1700	NEW-P	94-07-114	388-245-1170	NEW-P	94-07-114	388-250-1450	NEW	94-09-001
388-219-1700	NEW	94-10-065	388-245-1170	NEW	94-10-065	388-250-1500	NEW-P	94-06-035
388-219-2000	NEW-P	94-07-114	388-245-1210	NEW-P	94-07-114	388-250-1500	NEW	94-09-001
388-219-2000	NEW	94-10-065	388-245-1210	NEW	94-10-065	388-250-1550	NEW-P	94-06-035
388-219-2000	AMD-P	94-10-086	388-245-1300	NEW-P	94-07-114	388-250-1550	NEW	94-09-001
388-219-2000	AMD	94-13-050	388-245-1300	NEW	94-10-065	388-250-1600	NEW-P	94-06-035
388-219-2500	NEW-P	94-07-114	388-245-1310	NEW-P	94-07-114	388-250-1600	NEW	94-09-001
388-219-2500	NEW	94-10-065	388-245-1310	NEW	94-10-065	388-250-1650	NEW-P	94-06-035
388-219-2600	NEW-P	94-07-114	388-245-1315	NEW-P	94-07-114	388-250-1650	NEW	94-09-001
388-219-2600	NEW	94-10-065	388-245-1315	NEW	94-10-065	388-250-1700	NEW-P	94-06-035
388-219-3000	NEW-P	94-07-114	388-245-1320	NEW-P	94-07-114	388-250-1700	NEW	94-09-001
388-219-3000	NEW	94-10-065	388-245-1320	NEW	94-10-065	388-250-1700	AMD-P	94-12-004
388-219-3500	NEW-P	94-07-114	388-245-1350	NEW-P	94-07-114	388-250-1700	AMD-E	94-14-004
388-219-3500	NEW	94-10-065	388-245-1350	NEW	94-10-065	388-250-1700	AMD	94-15-003
388-225-0010	NEW-P	94-03-051	388-245-1400	NEW-P	94-07-114	388-250-1750	NEW-P	94-06-035
388-225-0010	NEW	94-06-026	388-245-1400	NEW	94-10-065	388-250-1750	NEW	94-09-001
388-225-0020	NEW-P	94-03-051	388-245-1410	NEW-P	94-07-114	388-255-1020	NEW-P	94-06-035
388-225-0020	NEW	94-06-026	388-245-1410	NEW	94-10-065	388-255-1020	NEW	94-09-001
388-225-0050	NEW-P	94-03-051	388-245-1500	NEW-P	94-07-114	388-255-1050	NEW-P	94-06-035
388-225-0050	NEW	94-06-026	388-245-1500	NEW	94-10-065	388-255-1050	NEW	94-09-001
388-225-0060	NEW-P	94-03-051	388-245-1510	NEW-P	94-07-114	388-255-1100	NEW-P	94-06-035
388-225-0060	NEW	94-06-026	388-245-1510	NEW	94-10-065	388-255-1100	NEW	94-09-001
388-225-0070	NEW-P	94-03-051	388-245-1520	NEW-P	94-07-114	388-255-1150	NEW-P	94-06-035
388-225-0070	NEW	94-06-026	388-245-1520	NEW	94-10-065	388-255-1150	NEW	94-09-001
388-225-0080	NEW-P	94-03-051	388-245-1600	NEW-P	94-07-114	388-255-1200	NEW-P	94-06-035
388-225-0080	NEW	94-06-026	388-245-1600	NEW	94-10-065	388-255-1200	NEW	94-09-001
388-225-0090	NEW-P	94-03-051	388-245-1610	NEW-P	94-07-114	388-255-1250	NEW-P	94-06-035
388-225-0090	NEW	94-06-026	388-245-1610	NEW	94-10-065	388-255-1250	NEW	94-09-001
388-225-0100	NEW-P	94-03-051	388-245-1700	NEW-P	94-07-114	388-255-1300	NEW-P	94-06-035
388-225-0100	NEW	94-06-026	388-245-1700	NEW	94-10-065	388-255-1300	NEW	94-09-001
388-225-0120	NEW-P	94-03-051	388-245-1710	NEW-P	94-07-114	388-255-1350	NEW-P	94-06-035
388-225-0120	NEW	94-06-026	388-245-1710	NEW	94-10-065	388-255-1350	NEW	94-09-001
388-225-0150	NEW-P	94-03-051	388-245-1715	NEW-P	94-07-114	388-255-1400	NEW-P	94-06-035
388-225-0150	NEW	94-06-026	388-245-1715	NEW	94-10-065	388-255-1400	NEW	94-09-001
388-225-0160	NEW-P	94-03-051	388-245-1720	NEW-P	94-07-114	388-265	PREP	94-15-044
388-225-0160	NEW	94-06-026	388-245-1720	NEW	94-10-065	388-265-1010	NEW-P	94-07-114
388-225-0170	NEW-P	94-03-051	388-245-1730	NEW-P	94-07-114	388-265-1010	NEW	94-10-065
388-225-0170	NEW	94-06-026	388-245-1730	NEW	94-10-065	388-265-1050	NEW-P	94-07-114
388-225-0180	NEW-P	94-03-051	388-245-1740	NEW-P	94-07-114	388-265-1050	NEW	94-10-065
388-225-0180	NEW	94-06-026	388-245-1740	NEW	94-10-065	388-265-1100	NEW-P	94-07-114
388-225-0190	NEW-P	94-03-051	388-245-1740	NEW	94-10-065	388-265-1100	NEW	94-10-065
388-225-0190	NEW	94-06-026	388-245-2010	NEW-P	94-07-114	388-265-1110	NEW	94-10-065
388-225-0300	NEW-P	94-03-051	388-245-2010	NEW	94-10-065	388-265-1150	NEW-P	94-07-114
388-225-0300	NEW	94-06-026	388-245-2020	NEW-P	94-07-114	388-265-1150	NEW	94-10-065
388-230-0090	AMD-P	94-13-008	388-245-2020	NEW	94-10-065	388-265-1200	NEW-P	94-07-114
388-230-0090	AMD-E	94-13-009	388-245-2030	NEW-P	94-07-114	388-265-1200	NEW	94-10-065
388-230-0090	AMD	94-16-044	388-245-2030	NEW	94-10-065	388-265-1250	NEW-P	94-07-114
388-233-0060	AMD-P	94-13-008	388-245-2040	NEW-P	94-07-114	388-265-1250	NEW	94-10-065
388-233-0060	AMD-E	94-13-009	388-245-2040	NEW	94-10-065	388-265-1275	NEW-E	94-17-078
388-233-0060	AMD	94-16-044	388-245-2050	NEW-P	94-07-114	388-265-1275	NEW-P	94-17-078A
388-233-0070	AMD-P	94-13-008	388-245-2050	NEW	94-10-065	388-265-1300	NEW-P	94-07-114
388-233-0070	AMD-E	94-13-009	388-250-1010	NEW-P	94-06-035	388-265-1300	NEW	94-10-065
388-233-0070	AMD	94-16-044	388-250-1010	NEW	94-09-001	388-265-1350	NEW-P	94-07-114
388-235-0070	AMD-P	94-13-008	388-250-1050	NEW-P	94-06-035	388-265-1350	NEW	94-10-065
388-235-0070	AMD-E	94-13-009	388-250-1050	NEW	94-09-001	388-265-1400	NEW-P	94-07-114
388-235-0070	AMD	94-16-044	388-250-1100	NEW-P	94-06-035	388-265-1400	NEW	94-10-065
388-235-2000	AMD-P	94-13-008	388-250-1100	NEW	94-09-001	388-265-1450	NEW-P	94-07-114
388-235-2000	AMD-E	94-13-009	388-250-1150	NEW-P	94-06-035	388-265-1450	NEW	94-10-065
388-235-2000	AMD	94-16-044	388-250-1150	NEW	94-09-001	388-265-1500	NEW-P	94-07-114
388-235-3000	AMD-P	94-13-008	388-250-1200	NEW-P	94-06-035	388-265-1500	NEW	94-10-065
388-235-3000	AMD-E	94-13-009	388-250-1200	NEW	94-09-001	388-265-1550	NEW-P	94-07-114
388-235-3000	AMD	94-16-044	388-250-1250	NEW-P	94-06-035	388-265-1550	NEW	94-10-065
388-235-7300	AMD-P	94-11-024	388-250-1250	NEW	94-09-001	388-265-1600	NEW-P	94-07-114
388-235-7300	AMD	94-13-202	388-250-1250	PREP	94-16-073	388-265-1600	NEW	94-10-065
388-235-7400	NEW-P	94-11-024	388-250-1250	AMD-E	94-17-081	388-265-1650	NEW-P	94-07-114
388-235-7400	NEW	94-13-202	388-250-1250	AMD-P	94-17-082	388-265-1650	NEW	94-10-065
388-235-9000	PREP	94-16-025	388-250-1300	NEW-P	94-06-035	388-265-1700	NEW-P	94-07-114
388-245-1000	NEW-P	94-07-114	388-250-1300	NEW	94-09-001	388-265-1700	NEW	94-10-065
388-245-1000	NEW	94-10-065	388-250-1300	PREP	94-17-132	388-265-1750	NEW-P	94-07-114
388-245-1150	NEW-P	94-07-114	388-250-1350	NEW-P	94-06-035	388-265-1750	NEW	94-10-065
			388-250-1350	NEW	94-09-001	388-265-1800	NEW-P	94-07-114

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-265-1800	NEW	94-10-065	388-501-0190	NEW-P	94-07-114	388-506-0610	AMD-E	94-14-054
388-265-1850	NEW-P	94-07-114	388-501-0190	NEW	94-10-065	388-506-0610	AMD-P	94-14-057
388-265-1850	NEW	94-10-065	388-501-0195	NEW-P	94-07-114	388-506-0610	AMD	94-17-034
388-265-1900	NEW-P	94-07-114	388-502-0205	NEW-P	94-07-114	388-506-0620	NEW-P	94-07-114
388-265-1900	NEW	94-10-065	388-502-0205	NEW	94-10-065	388-506-0620	NEW	94-10-065
388-265-1950	NEW-P	94-07-114	388-502-0210	NEW-P	94-07-114	388-506-0630	NEW-P	94-07-114
388-265-1950	NEW	94-10-065	388-502-0210	NEW	94-10-065	388-506-0630	NEW	94-10-065
388-265-2000	NEW-P	94-07-114	388-502-0220	NEW-P	94-07-114	388-507-0710	NEW-P	94-07-114
388-265-2000	NEW	94-10-065	388-502-0220	NEW	94-10-065	388-507-0710	NEW	94-10-065
388-270-1005	NEW	94-05-045	388-502-0230	NEW-P	94-07-114	388-507-0720	NEW-P	94-07-114
388-270-1010	NEW	94-05-045	388-502-0230	NEW	94-10-065	388-507-0720	NEW	94-10-065
388-270-1025	NEW	94-05-045	388-502-0250	NEW-P	94-07-114	388-507-0730	NEW-P	94-07-114
388-270-1075	NEW	94-05-045	388-502-0250	NEW	94-10-065	388-507-0730	NEW	94-10-065
388-270-1100	NEW	94-05-045	388-503-0305	NEW-P	94-07-114	388-507-0740	NEW-P	94-07-114
388-270-1110	NEW	94-05-045	388-503-0305	NEW	94-10-065	388-507-0740	NEW	94-10-065
388-270-1125	NEW	94-05-045	388-503-0310	NEW-P	94-07-114	388-508-0805	NEW-P	94-07-114
388-270-1150	NEW	94-05-045	388-503-0310	NEW	94-10-065	388-508-0805	NEW	94-10-065
388-270-1200	NEW	94-05-045	388-503-0310	PREP	94-13-102	388-508-0810	NEW-P	94-07-114
388-270-1250	NEW	94-05-045	388-503-0310	AMD-E	94-14-053	388-508-0810	NEW	94-10-065
388-270-1300	NEW	94-05-045	388-503-0310	AMD-P	94-14-055	388-508-0820	NEW-P	94-07-114
388-270-1400	NEW	94-05-045	388-503-0310	AMD	94-17-036	388-508-0820	NEW	94-10-065
388-270-1500	NEW	94-05-045	388-503-0320	NEW-P	94-07-114	388-508-0830	NEW-P	94-07-114
388-270-1550	NEW	94-05-045	388-503-0320	NEW	94-10-065	388-508-0830	NEW	94-10-065
388-270-1600	NEW	94-05-045	388-503-0350	NEW-P	94-07-114	388-508-0835	NEW-P	94-07-114
388-275-0010	NEW	94-04-033	388-503-0350	NEW	94-10-065	388-508-0835	NEW	94-10-065
388-275-0020	NEW	94-04-033	388-503-0370	NEW-P	94-07-114	388-508-0840	NEW-P	94-07-114
388-275-0030	NEW	94-04-033	388-503-0370	NEW	94-10-065	388-508-0840	NEW	94-10-065
388-275-0040	NEW	94-04-033	388-504-0405	NEW-P	94-07-114	388-509-0905	NEW-P	94-07-114
388-275-0050	NEW	94-04-033	388-504-0405	NEW	94-10-065	388-509-0905	NEW	94-10-065
388-275-0060	NEW	94-04-033	388-504-0410	NEW-P	94-07-114	388-509-0910	NEW-P	94-07-114
388-275-0060	AMD-P	94-13-008	388-504-0410	NEW	94-10-065	388-509-0910	NEW	94-10-065
388-275-0060	AMD-E	94-13-009	388-504-0420	NEW-P	94-07-114	388-509-0910	PREP	94-13-102
388-275-0060	AMD	94-16-044	388-504-0420	NEW	94-10-065	388-509-0910	AMD-E	94-14-053
388-275-0070	NEW	94-04-033	388-504-0430	NEW-P	94-07-114	388-509-0910	AMD-P	94-14-055
388-275-0080	NEW	94-04-033	388-504-0430	NEW	94-10-065	388-509-0910	AMD	94-17-036
388-275-0090	NEW	94-04-033	388-504-0440	NEW-P	94-07-114	388-509-0920	NEW-P	94-07-114
388-320-115	AMD-P	94-13-025	388-504-0440	NEW	94-10-065	388-509-0920	NEW	94-10-065
388-320-115	AMD	94-16-047	388-504-0450	NEW-P	94-07-114	388-509-0920	PREP	94-13-102
388-320-130	AMD-P	94-13-025	388-504-0450	NEW	94-10-065	388-509-0920	AMD-E	94-14-053
388-320-130	AMD	94-16-047	388-504-0460	NEW-P	94-07-114	388-509-0920	AMD-P	94-14-055
388-320-135	AMD-P	94-13-025	388-504-0460	NEW	94-10-065	388-509-0920	AMD	94-17-036
388-320-135	AMD	94-16-047	388-504-0470	NEW-P	94-07-114	388-509-0940	NEW-P	94-07-114
388-320-220	AMD-P	94-13-025	388-504-0470	NEW	94-10-065	388-509-0940	NEW	94-10-065
388-320-220	AMD	94-16-047	388-504-0480	NEW-P	94-07-114	388-509-0960	NEW-P	94-07-114
388-320-240	AMD-P	94-13-025	388-504-0480	NEW	94-10-065	388-509-0960	NEW	94-10-065
388-320-240	AMD	94-16-047	388-504-0485	NEW-P	94-07-114	388-509-0960	PREP	94-13-102
388-500-0005	NEW-P	94-07-114	388-504-0485	NEW	94-10-065	388-509-0960	AMD-E	94-14-053
388-500-0005	NEW	94-10-065	388-505-0501	NEW-P	94-07-114	388-509-0960	AMD-P	94-14-055
388-500-0005	PREP	94-16-081	388-505-0501	NEW	94-10-065	388-509-0960	AMD	94-17-036
388-501-0105	NEW-P	94-07-114	388-505-0505	NEW-P	94-07-114	388-509-0970	NEW-P	94-07-114
388-501-0105	NEW	94-10-065	388-505-0505	NEW	94-10-065	388-509-0970	NEW	94-10-065
388-501-0110	NEW-P	94-07-114	388-505-0510	NEW-P	94-07-114	388-510-1020	NEW-P	94-07-114
388-501-0110	NEW	94-10-065	388-505-0510	NEW	94-10-065	388-510-1020	NEW	94-10-065
388-501-0125	NEW-P	94-07-114	388-505-0520	NEW-P	94-07-114	388-510-1030	NEW-P	94-07-114
388-501-0125	NEW	94-10-065	388-505-0520	NEW	94-10-065	388-510-1030	NEW	94-10-065
388-501-0130	NEW-P	94-07-114	388-505-0530	NEW-P	94-07-114	388-511-1105	NEW-P	94-07-114
388-501-0130	NEW	94-10-065	388-505-0530	NEW	94-10-065	388-511-1105	NEW	94-10-065
388-501-0135	NEW-P	94-07-114	388-505-0540	NEW-P	94-07-114	388-511-1110	NEW-P	94-07-114
388-501-0135	NEW	94-10-065	388-505-0540	NEW	94-10-065	388-511-1110	NEW	94-10-065
388-501-0140	NEW-P	94-07-114	388-505-0560	NEW-P	94-07-114	388-511-1115	NEW-P	94-07-114
388-501-0140	NEW	94-10-065	388-505-0560	NEW	94-10-065	388-511-1115	NEW	94-10-065
388-501-0150	NEW-P	94-07-114	388-505-0570	NEW-P	94-07-114	388-511-1130	NEW-P	94-07-114
388-501-0150	NEW	94-10-065	388-505-0570	NEW	94-10-065	388-511-1130	NEW	94-10-065
388-501-0160	NEW-P	94-07-114	388-505-0580	NEW-P	94-07-114	388-511-1140	NEW-P	94-07-114
388-501-0160	NEW	94-10-065	388-505-0580	NEW	94-10-065	388-511-1140	NEW	94-10-065
388-501-0165	NEW-P	94-07-114	388-505-0580	PREP	94-16-079	388-511-1150	NEW-P	94-07-114
388-501-0165	NEW	94-10-065	388-505-0590	NEW-P	94-07-114	388-511-1150	NEW	94-10-065
388-501-0170	NEW-P	94-07-114	388-505-0590	NEW	94-10-065	388-511-1160	NEW-P	94-07-114
388-501-0170	NEW	94-10-065	388-505-0595	NEW-P	94-07-114	388-511-1160	NEW	94-10-065
388-501-0175	NEW-P	94-07-114	388-505-0595	NEW	94-10-065	388-511-1170	NEW-P	94-07-114
388-501-0175	NEW	94-10-065	388-506-0610	NEW-P	94-07-114	388-511-1170	NEW	94-10-065
388-501-0180	NEW-P	94-07-114	388-506-0610	NEW	94-10-065	388-512-1210	NEW-P	94-07-114
388-501-0180	NEW	94-10-065	388-506-0610	PREP	94-13-103	388-512-1210	NEW	94-10-065

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-512-1215	NEW-P	94-07-114	388-517-1740	NEW-P	94-07-114	388-527-2720	NEW	94-10-065
388-512-1215	NEW	94-10-065	388-517-1740	NEW	94-10-065	388-528-2810	NEW-P	94-07-114
388-512-1220	NEW-P	94-07-114	388-517-1750	NEW-P	94-07-114	388-528-2810	NEW	94-10-065
388-512-1220	NEW	94-10-065	388-517-1750	NEW	94-10-065	388-529-2910	NEW-P	94-07-114
388-512-1225	NEW-P	94-07-114	388-517-1760	NEW-P	94-07-114	388-529-2910	NEW	94-10-065
388-512-1225	NEW	94-10-065	388-517-1760	NEW	94-10-065	388-529-2920	NEW-P	94-07-114
388-512-1225	PREP	94-16-080	388-518-1805	NEW-P	94-07-114	388-529-2920	NEW	94-10-065
388-512-1230	NEW-P	94-07-114	388-518-1805	NEW	94-10-065	388-529-2930	NEW-P	94-07-114
388-512-1230	NEW	94-10-065	388-518-1810	NEW-P	94-07-114	388-529-2930	NEW	94-10-065
388-512-1235	NEW-P	94-07-114	388-518-1810	NEW	94-10-065	388-529-2940	NEW-P	94-07-114
388-512-1235	NEW	94-10-065	388-518-1820	NEW-P	94-07-114	388-529-2940	NEW	94-10-065
388-512-1240	NEW-P	94-07-114	388-518-1820	NEW	94-10-065	388-529-2950	NEW-P	94-07-114
388-512-1240	NEW	94-10-065	388-518-1830	NEW-P	94-07-114	388-529-2950	NEW	94-10-065
388-512-1245	NEW-P	94-07-114	388-518-1830	NEW	94-10-065	388-529-2960	NEW-P	94-07-114
388-512-1245	NEW	94-10-065	388-518-1840	NEW-P	94-07-114	388-529-2960	NEW	94-10-065
388-512-1250	NEW-P	94-07-114	388-518-1840	NEW	94-10-065	388-538-110	AMD	94-04-038
388-512-1250	NEW	94-10-065	388-518-1850	NEW-P	94-07-114	390-05-235	AMD-P	94-07-088
388-512-1255	NEW-P	94-07-114	388-518-1850	NEW	94-10-065	390-05-235	AMD	94-11-018
388-512-1255	NEW	94-10-065	388-519-1905	NEW-P	94-07-114	390-12-010	AMD	94-05-010
388-512-1260	NEW-P	94-07-114	388-519-1905	NEW	94-10-065	390-14-040	AMD	94-05-010
388-512-1260	NEW	94-10-065	388-519-1910	NEW-P	94-07-114	390-16-011	AMD	94-05-011
388-512-1265	NEW-P	94-07-114	388-519-1910	NEW	94-10-065	390-16-012	AMD	94-05-011
388-512-1265	NEW	94-10-065	388-519-1930	NEW-P	94-07-114	390-16-031	AMD	94-05-011
388-512-1275	NEW-P	94-07-114	388-519-1930	NEW	94-10-065	390-16-032	AMD	94-05-011
388-512-1275	NEW	94-10-065	388-519-1950	NEW-P	94-07-114	390-16-033	AMD	94-05-011
388-512-1280	NEW-P	94-07-114	388-519-1950	NEW	94-10-065	390-16-041	AMD	94-05-011
388-512-1280	NEW	94-10-065	388-521-2105	NEW-P	94-07-114	390-16-050	AMD	94-05-011
388-513-1305	NEW-P	94-07-114	388-521-2105	NEW	94-10-065	390-16-071	NEW-E	94-07-001
388-513-1305	NEW	94-10-065	388-521-2110	NEW-P	94-07-114	390-16-071	NEW-P	94-07-035
388-513-1310	NEW-P	94-07-114	388-521-2110	NEW	94-10-065	390-16-071	NEW	94-11-016
388-513-1310	NEW	94-10-065	388-521-2120	NEW-P	94-07-114	390-16-207	AMD-P	94-07-035
388-513-1315	NEW-P	94-07-114	388-521-2120	NEW	94-10-065	390-16-207	AMD	94-11-016
388-513-1315	NEW	94-10-065	388-521-2130	NEW-P	94-07-114	390-16-238	NEW-P	94-05-097
388-513-1320	NEW-P	94-07-114	388-521-2130	NEW	94-10-065	390-16-238	NEW	94-07-141
388-513-1320	NEW	94-10-065	388-521-2140	NEW-P	94-07-114	390-16-245	NEW-P	94-05-097
388-513-1330	NEW-P	94-07-114	388-521-2140	NEW	94-10-065	390-16-245	NEW	94-07-141
388-513-1330	NEW	94-10-065	388-521-2150	NEW-P	94-07-114	390-16-245	NEW	94-07-141
388-513-1340	NEW-P	94-07-114	388-521-2150	NEW	94-10-065	390-16-300	AMD-P	94-05-097
388-513-1340	NEW	94-10-065	388-521-2155	NEW-P	94-07-114	390-16-308	AMD-P	94-07-035
388-513-1345	NEW-P	94-07-114	388-521-2155	NEW	94-10-065	390-16-308	AMD-P	94-07-088
388-513-1345	NEW	94-10-065	388-521-2160	NEW-P	94-07-114	390-16-308	AMD-W	94-07-089
388-513-1350	NEW-P	94-07-114	388-521-2160	NEW	94-10-065	390-16-308	AMD	94-11-016
388-513-1350	NEW	94-10-065	388-521-2170	NEW-P	94-07-114	390-16-309	NEW-E	94-07-001
388-513-1350	PREP	94-15-029	388-521-2170	NEW	94-10-065	390-16-309	NEW-P	94-07-035
388-513-1360	NEW-P	94-07-114	388-521-2170	NEW	94-10-065	390-16-309	NEW-W	94-08-080
388-513-1360	NEW	94-10-065	388-522-2205	NEW-P	94-07-114	390-16-309	NEW	94-11-016
388-513-1365	NEW-P	94-07-114	388-522-2205	NEW	94-10-065	390-16-310	AMD-P	94-07-035
388-513-1365	NEW	94-10-065	388-522-2210	NEW-P	94-07-114	390-16-310	AMD-P	94-07-088
388-513-1365	PREP	94-15-030	388-522-2210	NEW	94-10-065	390-16-310	AMD-W	94-07-089
388-513-1380	NEW-P	94-07-114	388-522-2230	NEW-P	94-07-114	390-16-310	AMD	94-11-016
388-513-1380	NEW	94-10-065	388-522-2230	NEW	94-10-065	390-16-311	NEW-P	94-07-142
388-513-1380	PREP	94-17-128	388-523-2305	NEW-P	94-07-114	390-16-311	NEW	94-11-017
388-513-1395	NEW-P	94-07-114	388-523-2305	NEW	94-10-065	390-16-315	AMD-P	94-05-097
388-513-1395	NEW	94-10-065	388-523-2320	NEW-P	94-07-114	390-16-324	NEW-P	94-03-087
388-513-1396	NEW-P	94-07-114	388-523-2320	NEW	94-10-065	390-16-324	NEW-W	94-04-121
388-513-1396	NEW	94-10-065	388-524-2405	NEW-P	94-07-114	390-17-071	NEW	94-05-010
388-515-1505	NEW-P	94-07-114	388-524-2405	NEW	94-10-065	390-17-300	AMD-P	94-03-087
388-515-1505	NEW	94-10-065	388-524-2420	NEW-P	94-07-114	390-17-300	AMD-W	94-04-121
388-515-1510	NEW-P	94-07-114	388-524-2420	NEW	94-10-065	390-17-300	AMD	94-07-141
388-515-1510	NEW	94-10-065	388-525-2505	NEW-P	94-07-114	390-17-315	AMD-P	94-03-087
388-515-1530	NEW-P	94-07-114	388-525-2505	NEW	94-10-065	390-17-315	AMD-W	94-04-121
388-515-1530	NEW	94-10-065	388-525-2520	NEW-P	94-07-114	390-17-315	AMD	94-07-141
388-517-1710	NEW-P	94-07-114	388-525-2520	NEW	94-10-065	390-17-320	NEW-P	94-07-035
388-517-1710	NEW	94-10-065	388-525-2570	NEW-P	94-07-114	390-17-320	NEW	94-11-016
388-517-1710	PREP	94-16-082	388-525-2570	NEW	94-10-065	390-17-405	NEW-P	94-07-142
388-517-1715	NEW-P	94-07-114	388-526-2610	NEW-P	94-07-114	390-17-405	NEW	94-11-017
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388-517-1715	PREP	94-16-082	388-527-2710	NEW-P	94-07-114	390-20-148	NEW	94-11-016
388-517-1720	NEW-P	94-07-114	388-527-2710	NEW	94-10-065	390-20-052	AMD-P	94-07-035
388-517-1720	NEW	94-10-065	388-527-2710	PREP	94-13-104	390-20-052	AMD	94-11-016
388-517-1730	NEW-P	94-07-114	388-527-2710	AMD-E	94-14-052	390-24-030	REP	94-05-010
388-517-1730	NEW	94-10-065	388-527-2710	AMD-P	94-14-056	390-24-031	REP	94-05-010
388-517-1730	PREP	94-16-082	388-527-2710	AMD	94-17-035	390-24-160	AMD	94-05-010
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392-121-187	NEW	94-17-096	392-140-510	NEW-P	94-04-122	392-157-045	NEW	94-04-097
392-122	PREP	94-17-117	392-140-510	NEW	94-12-002	392-157-050	NEW	94-04-097
392-127-700	REP	94-04-096	392-140-511	NEW-P	94-04-122	392-157-055	NEW	94-04-097
392-127-703	REP	94-04-096	392-140-511	NEW	94-12-002	392-157-060	NEW	94-04-097
392-127-705	REP	94-04-096	392-140-512	NEW-P	94-04-122	392-157-065	NEW	94-04-097
392-127-710	REP	94-04-096	392-140-512	NEW	94-12-002	392-157-070	NEW	94-04-097
392-127-715	REP	94-04-096	392-140-516	NEW-P	94-04-122	392-157-075	NEW	94-04-097
392-127-720	REP	94-04-096	392-140-516	NEW	94-12-002	392-157-080	NEW	94-04-097
392-127-725	REP	94-04-096	392-140-517	NEW-P	94-04-122	392-157-085	NEW	94-04-097
392-127-730	REP	94-04-096	392-140-517	NEW	94-12-002	392-157-090	NEW	94-04-097
392-127-735	REP	94-04-096	392-140-518	NEW-P	94-04-122	392-157-095	NEW	94-04-097
392-127-740	REP	94-04-096	392-140-518	NEW	94-12-002	392-157-100	NEW	94-04-097
392-127-745	REP	94-04-096	392-140-519	NEW-P	94-04-122	392-157-105	NEW	94-04-097
392-127-750	REP	94-04-096	392-140-519	NEW	94-12-002	392-157-110	NEW	94-04-097
392-127-755	REP	94-04-096	392-140-525	NEW-P	94-11-066	392-157-115	NEW	94-04-097
392-127-760	REP	94-04-096	392-140-525	NEW	94-14-050	392-157-120	NEW	94-04-097
392-127-765	REP	94-04-096	392-140-527	NEW-P	94-11-066	392-157-125	NEW	94-04-097
392-127-770	REP	94-04-096	392-140-527	NEW	94-14-050	392-157-130	NEW	94-04-097
392-127-775	REP	94-04-096	392-140-529	NEW-P	94-11-066	392-157-135	NEW	94-04-097
392-127-780	REP	94-04-096	392-140-529	NEW	94-14-050	392-157-140	NEW	94-04-097
392-127-785	REP	94-04-096	392-140-530	NEW-P	94-11-066	392-157-145	NEW	94-04-097
392-127-790	REP	94-04-096	392-140-530	NEW	94-14-050	392-157-150	NEW	94-04-097
392-127-795	REP	94-04-096	392-140-531	NEW-P	94-11-066	392-157-155	NEW	94-04-097
392-127-800	REP	94-04-096	392-140-531	NEW	94-14-050	392-157-160	NEW	94-04-097
392-127-805	REP	94-04-096	392-140-533	NEW-P	94-11-066	392-157-165	NEW	94-04-097
392-127-815	REP	94-04-096	392-140-533	NEW	94-14-050	392-157-170	NEW	94-04-097
392-127-820	REP	94-04-096	392-140-535	NEW-P	94-11-066	392-157-175	NEW	94-04-097
392-127-825	REP	94-04-096	392-140-535	NEW	94-14-050	392-157-180	NEW	94-04-097
392-127-830	REP	94-04-096	392-140-536	NEW-P	94-11-066	392-163-400	AMD-P	94-04-094
392-140-190	REP-P	94-11-066	392-140-536	NEW	94-14-050	392-163-400	AMD	94-07-103
392-140-190	REP	94-14-050	392-140-537	NEW-P	94-11-066	392-163-405	AMD-P	94-04-094
392-140-191	REP-P	94-11-066	392-140-537	NEW	94-14-050	392-163-405	AMD	94-07-103
392-140-191	REP	94-14-050	392-140-538	NEW-P	94-11-066	392-163-440	AMD-P	94-04-094
392-140-192	REP-P	94-11-066	392-140-538	NEW	94-14-050	392-163-440	AMD	94-07-103
392-140-192	REP	94-14-050	392-140-540	NEW-P	94-13-210	392-163-445	AMD-P	94-04-094
392-140-193	REP-P	94-11-066	392-140-540	NEW	94-17-131	392-163-445	AMD	94-07-103
392-140-193	REP	94-14-050	392-140-542	NEW-P	94-13-210	392-163-530	AMD-P	94-04-094
392-140-194	REP-P	94-11-066	392-140-542	NEW	94-17-131	392-163-530	AMD	94-07-103
392-140-194	REP	94-14-050	392-140-543	NEW-P	94-13-210	392-163-580	AMD-P	94-04-094
392-140-195	REP-P	94-11-066	392-140-543	NEW	94-17-131	392-163-580	AMD	94-07-103
392-140-195	REP	94-14-050	392-140-544	NEW-P	94-13-210	392-169-005	NEW	94-04-095
392-140-196	REP-P	94-11-066	392-140-544	NEW	94-17-131	392-169-010	NEW	94-04-095
392-140-196	REP	94-14-050	392-140-545	NEW-P	94-13-210	392-169-015	NEW	94-04-095
392-140-197	REP-P	94-11-066	392-140-545	NEW	94-17-131	392-169-020	NEW	94-04-095
392-140-197	REP	94-14-050	392-140-548	NEW-P	94-13-210	392-169-022	NEW	94-04-095
392-140-198	REP-P	94-11-066	392-140-548	NEW	94-17-131	392-169-023	NEW	94-04-095
392-140-198	REP	94-14-050	392-140-549	NEW-P	94-13-210	392-169-025	NEW	94-04-095
392-140-199	REP-P	94-11-066	392-140-549	NEW	94-17-131	392-169-030	NEW	94-04-095
392-140-199	REP	94-14-050	392-140-551	NEW-P	94-13-210	392-169-035	NEW	94-04-095
392-140-200	REP-P	94-11-066	392-140-551	NEW	94-17-131	392-169-040	NEW	94-04-095
392-140-200	REP	94-14-050	392-140-552	NEW-P	94-13-210	392-169-045	NEW	94-04-095
392-140-201	REP-P	94-11-066	392-140-552	NEW	94-17-131	392-169-050	NEW	94-04-095
392-140-201	REP	94-14-050	392-140-553	NEW-P	94-13-210	392-169-055	NEW	94-04-095
392-140-202	REP-P	94-11-066	392-140-553	NEW	94-17-131	392-169-057	NEW	94-04-095
392-140-202	REP	94-14-050	392-140-555	NEW-P	94-13-210	392-169-060	NEW	94-04-095
392-140-500	NEW-P	94-04-122	392-140-555	NEW	94-17-131	392-169-065	NEW	94-04-095
392-140-500	NEW	94-12-002	392-140-557	NEW-P	94-13-210	392-169-070	NEW	94-04-095
392-140-501	NEW-P	94-04-122	392-140-557	NEW	94-17-131	392-169-075	NEW	94-04-095
392-140-501	NEW	94-12-002	392-140-559	NEW-P	94-13-210	392-169-080	NEW	94-04-095
392-140-503	NEW-P	94-04-122	392-140-559	NEW	94-17-131	392-169-085	NEW	94-04-095
392-140-503	NEW	94-12-002	392-141	PREP	94-14-076	392-169-090	NEW	94-04-095
392-140-504	NEW-P	94-04-122	392-141-160	AMD-P	94-14-093	392-169-095	NEW	94-04-095
392-140-504	NEW	94-12-002	392-141-160	AMD	94-17-058	392-169-100	NEW	94-04-095
392-140-505	NEW-P	94-04-122	392-141-175	AMD-P	94-14-093	392-169-105	NEW	94-04-095
392-140-505	NEW	94-12-002	392-141-175	AMD	94-17-058	392-169-110	NEW	94-04-095
392-140-506	NEW-P	94-04-122	392-157-005	NEW	94-04-097	392-169-115	NEW	94-04-095
392-140-506	NEW	94-12-002	392-157-010	NEW	94-04-097	392-169-120	NEW	94-04-095
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392-196-015	REP	94-16-019	392-330-050	NEW-P	94-08-074	434-55-040	AMD-P	94-16-148
392-196-020	AMD-P	94-11-120	392-330-050	NEW	94-12-019	434-55-055	AMD-P	94-16-148
392-196-020	AMD	94-16-019	392-330-060	NEW-P	94-08-074	434-55-060	AMD-P	94-16-148
392-196-025	REP-P	94-11-120	392-330-060	NEW	94-12-019	434-55-065	AMD-P	94-16-148
392-196-025	REP	94-16-019	392-330-070	NEW-P	94-08-074	434-55-066	AMD-P	94-16-148
392-196-030	REP-P	94-11-120	392-330-070	NEW	94-12-019	434-55-070	NEW-P	94-16-148
392-196-030	REP	94-16-019	392-330-080	NEW-P	94-08-074	434-55-080	NEW-P	94-16-148
392-196-035	REP-P	94-11-120	392-330-080	NEW	94-12-019	434-60-210	NEW	94-07-018
392-196-035	REP	94-16-019	415-02-030	AMD-P	94-05-012	434-60-215	NEW	94-07-018
392-196-037	REP-P	94-11-120	415-02-030	AMD	94-09-039	434-60-220	NEW	94-07-018
392-196-037	REP	94-16-019	415-02-110	NEW-P	94-05-012	434-60-230	NEW	94-07-018
392-196-040	REP-P	94-11-120	415-02-110	NEW	94-09-039	434-60-240	NEW	94-07-018
392-196-040	REP	94-16-019	415-100-190	NEW-P	94-07-143	434-60-250	NEW	94-07-018
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392-196-045	REP	94-16-019	415-104-111	NEW-P	94-05-013	434-60-270	NEW	94-07-018
392-196-050	REP-P	94-11-120	415-104-111	NEW	94-09-040	434-60-280	NEW	94-07-018
392-196-050	REP	94-16-019	415-108-010	AMD-P	94-07-144	434-60-290	NEW	94-07-018
392-196-055	AMD-P	94-11-120	415-108-010	AMD	94-11-009	434-60-300	NEW	94-07-018
392-196-055	AMD	94-16-019	415-108-461	NEW-P	94-13-048	434-60-310	NEW	94-07-018
392-196-060	AMD-P	94-11-120	415-108-461	NEW-S	94-13-197	434-60-320	NEW	94-07-018
392-196-060	AMD	94-16-019	415-108-461	NEW	94-16-086	434-60-330	NEW	94-07-018
392-196-066	REP-P	94-11-120	415-108-462	NEW-P	94-13-048	434-60-340	NEW	94-07-018
392-196-066	REP	94-16-019	415-108-462	NEW-S	94-13-197	434-60-350	NEW	94-07-018
392-196-077	NEW-P	94-11-120	415-108-462	NEW	94-16-086	434-110-010	AMD-P	94-16-149
392-196-077	NEW	94-16-019	415-108-510	AMD-P	94-07-144	434-110-060	AMD-P	94-16-149
392-196-080	REP-P	94-11-120	415-108-510	AMD	94-11-009	434-110-070	AMD-E	94-12-086
392-196-080	REP	94-16-019	415-108-530	NEW-P	94-07-144	434-110-070	AMD-P	94-16-149
392-196-085	REP-P	94-11-120	415-108-530	NEW	94-11-009	434-110-075	AMD-E	94-12-086
392-196-085	REP	94-16-019	415-108-540	NEW-P	94-07-144	434-110-075	AMD-P	94-16-149
392-196-086	NEW-P	94-11-120	415-108-540	NEW	94-11-009	434-110-120	AMD-P	94-16-149
392-196-086	NEW	94-16-019	415-108-550	NEW-P	94-08-087	434-120-120	NEW-W	94-10-054
392-196-089	NEW-P	94-11-120	415-108-550	NEW	94-12-014	434-130-010	NEW-P	94-16-147
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392-196-095	REP-P	94-11-120	415-108-570	NEW-P	94-08-087	434-130-040	NEW-P	94-16-147
392-196-095	REP	94-16-019	415-108-570	NEW	94-12-014	434-130-050	NEW-P	94-16-147
392-196-100	AMD-P	94-11-120	415-108-580	NEW-P	94-05-013	434-130-060	NEW-P	94-16-147
392-196-100	AMD	94-16-019	415-108-580	NEW	94-09-040	434-130-070	NEW-P	94-16-147
392-196-105	REP-P	94-11-120	415-108-580	NEW	94-07-144	434-130-080	NEW-P	94-16-147
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392-320-010	NEW-P	94-04-025	415-112-415	PREP	94-16-018	434-663-005	NEW-W	94-03-081
392-320-010	NEW	94-07-102	415-112-840	NEW-P	94-05-013	434-663-020	NEW-W	94-03-081
392-320-015	NEW-P	94-04-025	415-112-840	NEW-P	94-07-144	434-663-030	NEW-W	94-03-081
392-320-015	NEW	94-07-102	415-112-840	NEW	94-09-040	434-663-050	NEW-W	94-03-081
392-320-020	NEW-P	94-04-025	415-112-850	NEW	94-11-009	434-663-060	NEW-W	94-03-081
392-320-020	NEW	94-07-102	419-70-010	AMD-P	94-13-043	434-663-070	NEW-W	94-03-081
392-320-025	NEW-P	94-04-025	419-70-020	AMD-P	94-13-043	434-663-100	NEW	94-04-102
392-320-025	NEW	94-07-102	419-70-040	AMD-P	94-13-043	434-663-200	NEW	94-04-102
392-320-030	NEW-P	94-04-025	419-72-010	AMD-P	94-13-044	434-663-210	NEW	94-04-102
392-320-030	NEW	94-07-102	419-72-015	AMD-P	94-13-044	434-663-220	NEW	94-04-102
392-320-035	NEW-P	94-04-025	419-72-020	AMD-P	94-13-044	434-663-230	NEW	94-04-102
392-320-035	NEW	94-07-102	419-72-025	AMD-P	94-13-044	434-663-240	NEW	94-04-102
392-320-040	NEW-P	94-04-025	419-72-030	AMD-P	94-13-044	434-663-250	NEW	94-04-102
392-320-040	NEW	94-07-102	419-72-035	AMD-P	94-13-044	434-663-260	NEW	94-04-102
392-320-045	NEW-P	94-04-025	419-72-040	AMD-P	94-13-044	434-663-300	NEW	94-04-102
392-320-045	NEW	94-07-102	419-72-045	AMD-P	94-13-044	434-663-310	NEW	94-04-102
392-320-050	NEW-P	94-04-025	419-72-050	AMD-P	94-13-044	434-663-320	NEW	94-04-102
392-320-050	NEW	94-07-102	419-72-055	AMD-P	94-13-044	434-663-400	NEW	94-04-102
392-320-055	NEW-P	94-04-025	419-72-060	AMD-P	94-13-044	434-663-410	NEW	94-04-102
392-320-055	NEW	94-07-102	419-72-065	AMD-P	94-13-044	434-663-420	NEW	94-04-102
392-320-060	NEW-P	94-04-025	419-72-068	NEW-P	94-13-044	434-663-430	NEW	94-04-102
392-320-060	NEW	94-07-102	419-72-070	AMD-P	94-13-044	434-663-440	NEW	94-04-102
392-330-010	NEW-P	94-08-074	419-72-075	AMD-P	94-13-044	434-663-450	NEW	94-04-102
392-330-010	NEW	94-12-019	419-72-080	AMD-P	94-13-044	434-663-460	NEW	94-04-102
392-330-020	NEW-P	94-08-074	419-72-090	REP-P	94-13-044	434-663-470	NEW	94-04-102
392-330-020	NEW	94-12-019	419-72-095	REP-P	94-13-044	434-663-480	NEW	94-04-102
392-330-030	NEW-P	94-08-074	434-55	PREP	94-12-085	434-663-490	NEW	94-04-102
392-330-030	NEW	94-12-019	434-55-015	AMD-P	94-16-148	434-663-500	NEW	94-04-102

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434-663-520	NEW	94-04-102	458-20-102	AMD-P	94-06-004	458-30-540	PREP	94-13-096
434-663-530	NEW	94-04-102	458-20-102	AMD-E	94-13-030	458-30-550	PREP	94-13-096
434-663-600	NEW	94-04-102	458-20-102	AMD	94-13-031	458-30-560	PREP	94-13-096
434-663-610	NEW	94-04-102	458-20-121	AMD	94-13-033	458-30-570	PREP	94-13-096
434-663-620	NEW	94-04-102	458-20-122	AMD-P	94-03-035	458-30-580	PREP	94-13-096
434-663-630	NEW	94-04-102	458-20-122	AMD	94-07-049	458-30-590	AMD-P	94-08-082
440-22-205	NEW-W	94-07-072	458-20-125	REP-P	94-03-037	458-30-590	AMD	94-11-098
446-65	AMD-P	94-05-023	458-20-125	REP	94-07-051	458-40-650	AMD-P	94-10-063
446-65	AMD	94-08-004	458-20-165	AMD	94-09-016	458-40-650	AMD	94-14-048
446-65-005	AMD-P	94-05-023	458-20-166	AMD	94-05-001	458-40-660	AMD-P	94-10-063
446-65-005	AMD	94-08-004	458-20-167	AMD-P	94-03-047	458-40-660	AMD	94-14-048
448-13-080	AMD-W	94-07-073	458-20-167	AMD	94-07-047	458-40-670	AMD-P	94-10-063
448-13-210	AMD-W	94-07-073	458-20-168	AMD-E	94-05-084	458-40-670	AMD	94-14-048
456-09-010	AMD-P	94-03-056	458-20-168	AMD	94-11-097	458-53-160	AMD	94-05-064
456-09-010	AMD	94-07-044	458-20-174	AMD-P	94-07-023	458-61-010	REP	94-04-088
456-09-325	AMD-P	94-03-056	458-20-17401	NEW-P	94-07-024	458-61-015	NEW	94-04-088
456-09-325	AMD	94-07-044	458-20-179	AMD	94-13-034	458-61-020	REP	94-04-088
456-09-365	AMD-P	94-03-056	458-20-185	AMD-P	94-07-025	458-61-025	NEW	94-04-088
456-09-365	AMD	94-07-044	458-20-185	AMD	94-10-061	458-61-030	AMD	94-04-088
456-10-010	AMD-P	94-03-057	458-20-186	AMD-P	94-07-026	458-61-040	REP	94-04-088
456-10-010	AMD	94-07-043	458-20-186	AMD	94-10-062	458-61-050	AMD	94-04-088
456-10-325	AMD-P	94-03-057	458-20-209	AMD-P	94-03-036	458-61-060	AMD	94-04-088
456-10-325	AMD	94-07-043	458-20-209	AMD	94-07-050	458-61-070	AMD	94-04-088
456-10-360	AMD-P	94-03-057	458-20-210	AMD-P	94-03-034	458-61-080	AMD	94-04-088
456-10-360	AMD	94-07-043	458-20-210	AMD	94-07-048	458-61-090	AMD	94-04-088
458-16-100	AMD	94-07-008	458-20-226	AMD-P	94-10-013	458-61-100	AMD	94-04-088
458-16-110	AMD	94-07-008	458-20-238	PREP	94-03-046	458-61-110	REP	94-04-088
458-16-111	AMD	94-07-008	458-20-258	AMD-E	94-05-086	458-61-120	AMD	94-04-088
458-16-130	AMD	94-07-008	458-20-258	AMD-E	94-13-029	458-61-130	AMD	94-04-088
458-16-150	AMD	94-07-008	458-20-261	NEW-P	94-07-027	458-61-140	REP	94-04-088
458-16-165	NEW	94-07-008	458-20-901	NEW-E	94-05-085	458-61-150	AMD	94-04-088
458-16-180	AMD	94-07-008	458-20-901	NEW-E	94-13-032	458-61-200	AMD	94-04-088
458-16-190	AMD	94-07-008	458-30-200	PREP	94-13-096	458-61-210	AMD	94-04-088
458-16-200	AMD	94-07-008	458-30-205	PREP	94-13-096	458-61-220	AMD	94-04-088
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458-16-215	NEW-P	94-11-099	458-30-220	PREP	94-13-096	458-61-235	NEW	94-04-088
458-16-215	NEW	94-15-041	458-30-225	PREP	94-13-096	458-61-240	REP	94-04-088
458-16-220	AMD	94-07-008	458-30-230	PREP	94-13-096	458-61-250	AMD	94-04-088
458-16-230	AMD	94-07-008	458-30-232	PREP	94-13-096	458-61-255	NEW	94-04-088
458-16-240	AMD	94-07-008	458-30-235	PREP	94-13-096	458-61-270	REP	94-04-088
458-16-245	NEW	94-07-008	458-30-240	PREP	94-13-096	458-61-280	REP	94-04-088
458-16-260	AMD	94-07-008	458-30-242	PREP	94-13-096	458-61-290	AMD	94-04-088
458-16-270	AMD	94-07-008	458-30-245	PREP	94-13-096	458-61-300	AMD	94-04-088
458-16-280	AMD	94-07-008	458-30-250	PREP	94-13-096	458-61-310	REP	94-04-088
458-16-282	AMD	94-07-008	458-30-255	PREP	94-13-096	458-61-320	REP	94-04-088
458-16-284	NEW	94-07-008	458-30-260	PREP	94-13-096	458-61-330	AMD	94-04-088
458-16-286	NEW	94-07-008	458-30-262	AMD	94-05-062	458-61-335	AMD	94-04-088
458-16-290	AMD	94-07-008	458-30-265	PREP	94-13-096	458-61-340	AMD	94-04-088
458-16-300	AMD	94-07-008	458-30-267	PREP	94-13-096	458-61-360	REP	94-04-088
458-16-310	AMD	94-07-008	458-30-270	PREP	94-13-096	458-61-370	AMD	94-04-088
458-16-320	NEW	94-07-008	458-30-275	PREP	94-13-096	458-61-374	NEW	94-04-088
458-16-330	NEW	94-07-008	458-30-280	PREP	94-13-096	458-61-375	NEW	94-04-088
458-16A-010	PREP	94-10-060	458-30-285	PREP	94-13-096	458-61-376	NEW	94-04-088
458-16A-020	PREP	94-10-060	458-30-290	PREP	94-13-096	458-61-380	REP	94-04-088
458-18-220	AMD	94-05-063	458-30-295	PREP	94-13-096	458-61-390	REP	94-04-088
458-19-005	NEW	94-07-066	458-30-300	PREP	94-13-096	458-61-400	AMD	94-04-088
458-19-010	NEW	94-07-066	458-30-305	PREP	94-13-096	458-61-410	AMD	94-04-088
458-19-015	NEW	94-07-066	458-30-310	PREP	94-13-096	458-61-411	NEW	94-04-088
458-19-020	NEW	94-07-066	458-30-315	PREP	94-13-096	458-61-412	NEW	94-04-088
458-19-025	NEW	94-07-066	458-30-317	PREP	94-13-096	458-61-420	AMD	94-04-088
458-19-030	NEW	94-07-066	458-30-320	PREP	94-13-096	458-61-425	AMD	94-04-088
458-19-035	NEW	94-07-066	458-30-325	PREP	94-13-096	458-61-430	AMD	94-04-088
458-19-040	NEW	94-07-066	458-30-330	PREP	94-13-096	458-61-440	REP	94-04-088
458-19-045	NEW	94-07-066	458-30-335	PREP	94-13-096	458-61-450	REP-W	94-13-089
458-19-050	NEW	94-07-066	458-30-340	PREP	94-13-096	458-61-460	REP	94-04-088
458-19-055	NEW	94-07-066	458-30-345	PREP	94-13-096	458-61-470	AMD	94-04-088
458-19-060	NEW	94-07-066	458-30-350	PREP	94-13-096	458-61-480	AMD	94-04-088
458-19-065	NEW	94-07-066	458-30-355	PREP	94-13-096	458-61-490	REP	94-04-088
458-19-070	NEW	94-07-066	458-30-500	PREP	94-13-096	458-61-500	REP	94-04-088
458-19-075	NEW	94-07-066	458-30-510	PREP	94-13-096	458-61-510	AMD	94-04-088
458-19-080	NEW	94-07-066	458-30-520	PREP	94-13-096	458-61-520	AMD	94-04-088

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458-61-540	AMD	94-04-088	468-10-030	REP-P	94-12-070	468-10-440	NEW	94-14-101
458-61-545	AMD	94-04-088	468-10-030	REP	94-14-101	468-10-450	NEW-P	94-12-070
458-61-548	NEW-W	94-13-089	468-10-040	REP-P	94-12-070	468-10-450	NEW	94-14-101
458-61-550	AMD	94-04-088	468-10-040	REP	94-14-101	468-10-460	NEW-P	94-12-070
458-61-553	NEW	94-04-088	468-10-050	REP-P	94-12-070	468-10-460	NEW	94-14-101
458-61-555	AMD	94-04-088	468-10-050	REP	94-14-101	468-10-470	NEW-P	94-12-070
458-61-560	REP	94-04-088	468-10-060	REP-P	94-12-070	468-10-470	NEW	94-14-101
458-61-570	REP	94-04-088	468-10-060	REP	94-14-101	468-10-480	NEW-P	94-12-070
458-61-590	AMD	94-04-088	468-10-070	REP-P	94-12-070	468-10-480	NEW	94-14-101
458-61-600	AMD	94-04-088	468-10-070	REP	94-14-101	468-10-490	NEW-P	94-12-070
458-61-610	AMD	94-04-088	468-10-080	REP-P	94-12-070	468-10-490	NEW	94-14-101
458-61-620	REP	94-04-088	468-10-080	REP	94-14-101	468-10-500	NEW-P	94-12-070
458-61-630	REP	94-04-088	468-10-090	REP-P	94-12-070	468-10-500	NEW	94-14-101
458-61-640	AMD	94-04-088	468-10-090	REP	94-14-101	468-10-510	NEW-P	94-12-070
458-61-650	AMD	94-04-088	468-10-100	REP-P	94-12-070	468-10-510	NEW	94-14-101
458-61-660	AMD	94-04-088	468-10-100	REP	94-14-101	468-10-520	NEW-P	94-12-070
458-61-670	AMD	94-04-088	468-10-110	REP-P	94-12-070	468-10-520	NEW	94-14-101
458-61-680	REP	94-04-088	468-10-110	REP	94-14-101	468-10-530	NEW-P	94-12-070
458-61-690	REP	94-04-088	468-10-120	REP-P	94-12-070	468-10-530	NEW	94-14-101
460-44A-500	AMD	94-03-061	468-10-120	REP	94-14-101	468-16-090	AMD	94-05-004
460-44A-501	AMD	94-03-061	468-10-130	REP-P	94-12-070	468-16-110	AMD	94-05-004
460-44A-502	AMD	94-03-061	468-10-130	REP	94-14-101	468-16-120	AMD	94-05-004
460-44A-504	AMD	94-03-061	468-10-140	REP-P	94-12-070	468-16-130	AMD	94-05-004
460-44A-505	AMD	94-03-061	468-10-140	REP	94-14-101	468-16-150	AMD	94-05-004
460-44A-506	AMD	94-03-061	468-10-150	REP-P	94-12-070	468-16-160	AMD	94-05-004
461-08-001	NEW-E	94-07-060	468-10-150	REP	94-14-101	468-16-180	AMD	94-05-004
461-08-001	NEW-P	94-07-095	468-10-160	REP-P	94-12-070	468-16-210	AMD	94-05-004
461-08-001	NEW	94-12-028	468-10-160	REP	94-14-101	468-38-020	AMD-P	94-03-042
461-08-047	NEW-E	94-07-060	468-10-170	REP-P	94-12-070	468-38-020	AMD	94-07-054
461-08-047	NEW-P	94-07-095	468-10-170	REP	94-14-101	468-38-030	AMD-P	94-03-042
461-08-047	NEW	94-12-028	468-10-180	REP-P	94-12-070	468-38-030	AMD	94-07-054
461-08-144	NEW-E	94-07-060	468-10-180	REP	94-14-101	468-38-075	AMD-E	94-02-064
461-08-144	NEW-P	94-07-095	468-10-190	REP-P	94-12-070	468-38-075	AMD-P	94-03-043
461-08-144	NEW	94-12-028	468-10-190	REP	94-14-101	468-38-075	AMD	94-07-055
461-08-156	NEW-E	94-07-060	468-10-200	REP-P	94-12-070	468-48-010	NEW-P	94-08-054
461-08-156	NEW-P	94-07-095	468-10-200	REP	94-14-101	468-48-010	NEW	94-14-065
461-08-156	NEW	94-12-028	468-10-210	REP-P	94-12-070	468-48-020	NEW-P	94-08-054
461-08-160	AMD-E	94-07-060	468-10-210	REP	94-14-101	468-48-020	NEW	94-14-065
461-08-160	AMD-P	94-07-095	468-10-220	REP-P	94-12-070	468-66-010	AMD-P	94-09-031
461-08-160	AMD	94-12-028	468-10-220	REP	94-14-101	468-66-010	AMD	94-12-049
461-08-165	REP-E	94-07-060	468-10-230	REP-P	94-12-070	468-66-050	AMD-P	94-09-031
461-08-165	REP-P	94-07-095	468-10-230	REP	94-14-101	468-66-050	AMD	94-12-049
461-08-165	REP	94-12-028	468-10-232	REP-P	94-12-070	468-66-055	NEW-P	94-09-031
461-08-167	NEW-E	94-07-060	468-10-232	REP	94-14-101	468-66-055	NEW	94-12-049
461-08-167	NEW-P	94-07-095	468-10-234	REP-P	94-12-070	468-66-060	AMD-P	94-09-031
461-08-167	NEW	94-12-028	468-10-234	REP	94-14-101	468-66-060	AMD	94-12-049
461-08-237	NEW-E	94-07-060	468-10-240	REP-P	94-12-070	468-66-080	AMD-P	94-09-031
461-08-237	NEW-P	94-07-095	468-10-240	REP	94-14-101	468-66-080	AMD	94-12-049
461-08-237	NEW	94-12-028	468-10-250	REP-P	94-12-070	468-66-130	AMD-P	94-09-031
463-39-005	AMD-P	94-12-036	468-10-250	REP	94-14-101	468-66-130	AMD	94-12-049
463-39-005	AMD	94-16-031	468-10-260	REP-P	94-12-070	468-66-175	REP-P	94-09-031
463-39-070	NEW-P	94-12-036	468-10-260	REP	94-14-101	468-66-175	REP	94-12-049
463-39-070	NEW	94-16-031	468-10-270	REP-P	94-12-070	468-100-010	AMD-P	94-12-071
463-39-090	NEW-P	94-12-036	468-10-270	REP	94-14-101	468-100-010	AMD	94-14-102
463-39-090	NEW	94-16-031	468-10-280	REP-P	94-12-070	468-300-010	AMD-P	94-04-077
463-39-115	AMD-P	94-12-036	468-10-280	REP	94-14-101	468-300-010	AMD	94-07-104
463-39-115	AMD	94-16-031	468-10-290	REP-P	94-12-070	468-300-010	AMD-P	94-14-026
463-39-230	NEW-P	94-12-036	468-10-290	REP	94-14-101	468-300-020	AMD-P	94-04-077
463-39-230	NEW	94-16-031	468-10-300	REP-P	94-12-070	468-300-020	AMD	94-07-104
463-54-020	AMD-P	94-12-036	468-10-300	REP	94-14-101	468-300-020	AMD-P	94-14-026
463-54-020	AMD	94-16-031	468-10-310	REP-P	94-12-070	468-300-040	AMD-P	94-04-077
463-54-040	AMD-P	94-12-036	468-10-310	REP	94-14-101	468-300-040	AMD	94-07-104
463-54-040	AMD	94-16-031	468-10-320	REP-P	94-12-070	468-300-040	AMD-P	94-14-026
463-54-050	AMD-P	94-12-036	468-10-320	REP	94-14-101	479-01	PREP	94-17-022
463-54-050	AMD	94-16-031	468-10-400	NEW-P	94-12-070	479-02	PREP	94-17-023
463-54-060	AMD-P	94-12-036	468-10-400	NEW	94-14-101	479-12	PREP	94-17-024
463-54-060	AMD	94-16-031	468-10-410	NEW-P	94-12-070	479-13	PREP	94-17-025
463-54-070	AMD-P	94-12-036	468-10-410	NEW	94-14-101	479-16	PREP	94-17-026
463-54-070	AMD	94-16-031	468-10-420	NEW-P	94-12-070	479-20	PREP	94-17-027
468-10-010	REP-P	94-12-070	468-10-420	NEW	94-14-101	479-24	PREP	94-17-028
468-10-010	REP	94-14-101	468-10-430	NEW-P	94-12-070	479-112	PREP	94-17-029
468-10-020	REP-P	94-12-070	468-10-430	NEW	94-14-101	479-113	PREP	94-17-030

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479-310	PREP	94-17-031	480-62-090	AMD	94-11-003	484-20-062	NEW-P	94-09-043
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	PERM	94-15-049		Annual goals for participation	PROP	94-01-127
<u>Instant game number 130 - Moolah Moolah</u>					PERM	94-03-068
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<u>Instant game number 132 - Treasure Chest</u>				violations and penalties	PROP	94-08-107
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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 September 1994 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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*Chairman, Statute Law Committee*

**Dennis W. Cooper**  
*Code Reviser*

**Gary Reid**  
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**Kerry S. Radcliff**  
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*Subscription Clerk*