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filed not later than March 22, 1995

## 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 April 1995 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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# WASHINGTON STATE REGISTER

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

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

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

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

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

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

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

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

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

### 4. EFFECTIVE DATE OF RULES

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

### 5. EDITORIAL CORRECTIONS

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

**1994 - 1995**

**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

<u>Issue No.</u>	<u>Closing Dates<sup>1</sup></u>			<u>Distribution Date</u>	<u>First Agency Hearing Date<sup>3</sup></u>
	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
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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
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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.

## **REGULATORY FAIRNESS ACT**

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

### **Small Business Economic Impact Statements (SBEIS)**

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

### **Mitigation**

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

### **When is an SBEIS Required?**

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

### **When is an SBEIS Not Required?**

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

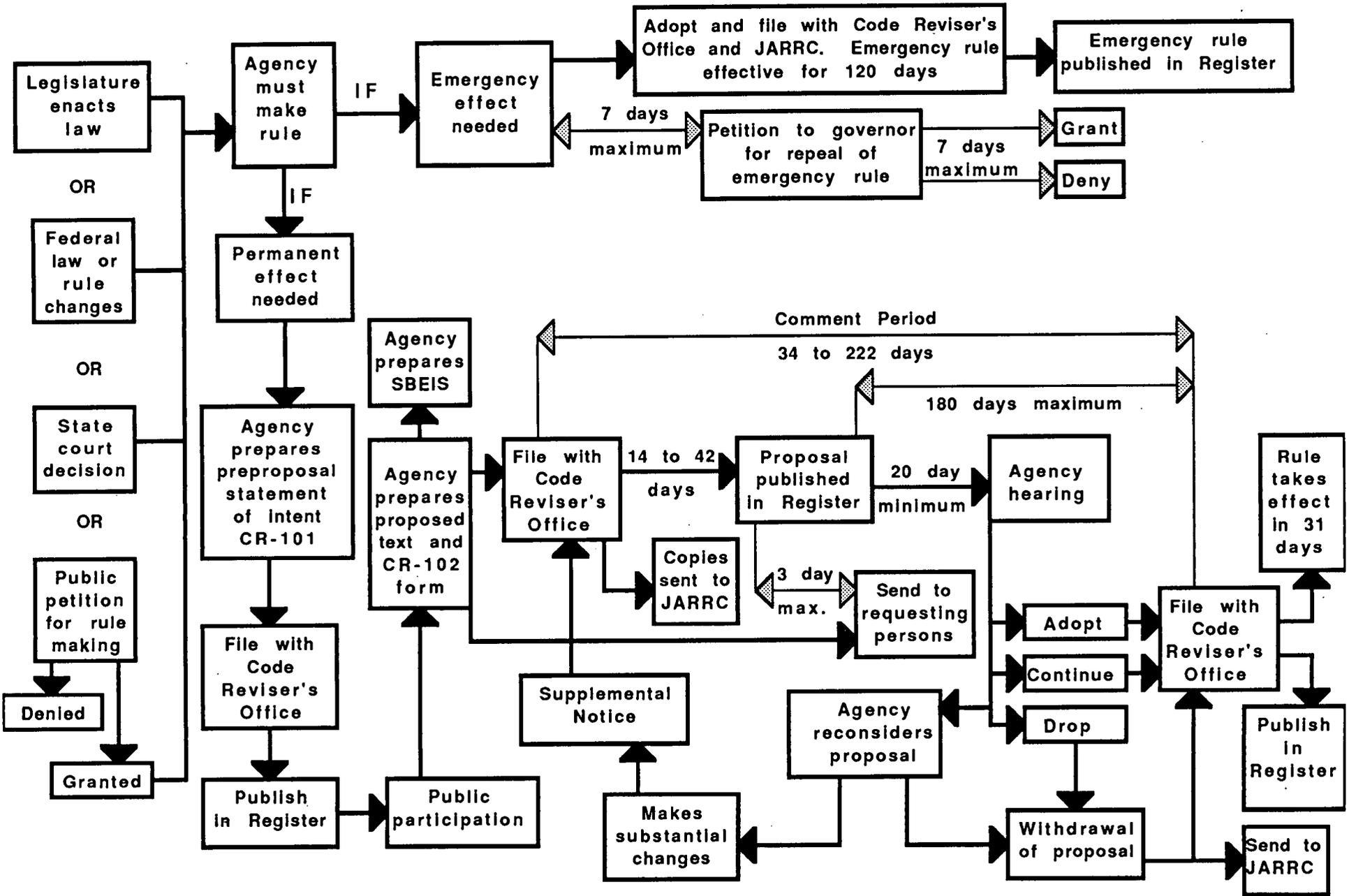
There is less than minor economic impact on business;

The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS



**WSR 95-07-005**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
 [Filed March 2, 1995, 2:10 p.m.]

**Subject of Possible Rule Making:** Treatment of employer-provided vehicles, vehicle allowances and nonmoney maintenance compensation for purposes of retirement allowance calculation under TRS and PERS.

**Specific Statutory Authority for New Rule:** RCW 41.50.050.

**Reasons Why the New Rule is Needed:** The current rules on the includability of these items in the retirement allowance calculation are confusing and in some cases contradictory. The new versions of the rules apply the same standards in the current rules but are clearer and easier to interpret and apply.

**Goals of New Rule:** To provide clarification and guidance to retirement system employers and members regarding the includability of employer-vehicles, vehicle allowances and nonmoney compensation in the retirement allowance calculation.

**Process for Developing New Rule:** Circulation of draft to retirement system administrators and staff for comment.

**How Interested Parties can Participate in Formulation of the New Rule:** Paul Neal, Rules Coordinator, Legal/Legislative Affairs, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380.

March 2, 1995  
 Paul Neal  
 Rules Coordinator

**WSR 95-07-006**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
 [Filed March 2, 1995, 2:11 p.m.]

**Subject of Possible Rule Making:** Rules implementing 1994 legislation regarding exemption from PERS membership for persons enrolled in state-approved apprentice programs; eligibility of retirees for fifteen days of extended service as substitute teachers; purchase of service credit under RCW 41.50.165(2).

**Specific Statutory Authority for New Rule:** RCW 41.50.050.

**Reasons Why the New Rule is Needed:** To implement 1994 legislation concerning the above matters now codified under RCW 41.40.023(18), 41.32.570(2), and 41.50.165(2)(b).

**Goals of New Rule:** To provide guidance and clarification to retirement system members and employers concerning: (1) The meaning of "local government" as used in RCW 41.40.023(18); (2) eligibility standards for retired teachers to work up to ninety days per school year as a substitute teacher on an on-call basis without a reduction in the retiree's monthly pension; and (3) requirements for the purchase of service credit under RCW 41.50.165(2).

**Process for Developing New Rule:** Circulation of draft to retirement system administrators, staff, employer and employee representative groups for comment.

**How Interested Parties can Participate in Formulation of the New Rule:** Paul Neal, Rules Coordinator, Legal/Legislative Affairs, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380.

March 2, 1995  
 Paul Neal  
 Rules Coordinator

**WSR 95-07-015**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed March 6, 1995, 1:58 p.m.]

**Subject of Possible Rule Making:** Amendments to chapter 16-158 WAC, Standards for the certification of processors of organic food.

**Specific Statutory Authority for New Rule:** RCW 15.86.060 and 15.86.070.

**Reasons Why the New Rule is Needed:** In 1990 congress passed the Organic Foods Production Act which specified standards for processed organic foods. The United States Department of Agriculture has further refined those standards over the last few years as it has worked towards implementation of the federal statute. In 1992 chapter 15.86 RCW was amended to include additional requirements regarding the labeling, recordkeeping and certification of processors of organic food. Chapter 16-158 WAC, Processed organic food, needs to be amended in light of both federal and state statutory changes.

**Goals of New Rule:** The goals of amending chapter 16-158 WAC are to update the processed organic food standards, clarify certification procedures, reduce fees, and coordinate the administration of processed organic food certification with other components of the organic food program.

**Process for Developing New Rule:** The department has worked with the Organic Advisory Board for approximately two years on the proposed changes.

**How Interested Parties can Participate in Formulation of the New Rule:** The department will individually mail to all certified organic processors and other interested parties the proposed language when the department files the CR-102. Anyone who would like input into the process contact Miles McEvoy at (206) 902-1885, FAX (206) 902-2087, or TTD 902-1996.

March 1, 1995  
 John Daly  
 Assistant Director

**WSR 95-07-016**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF AGRICULTURE**

[Filed March 6, 1995, 2:00 p.m.]

Subject of Possible Rule Making: Chapter 16-166 WAC, Standards and certification for vendors of organic food.

Specific Statutory Authority for New Rule: Chapter 15.86 RCW.

Reasons Why the New Rule is Needed: Relevant sections of rule are being incorporated into chapter 16-164 WAC, thus this chapter is no longer needed.

Goals of New Rule: Repeal the rule and thereby simplify the standards and certification procedures for handlers of organic food.

Process for Developing New Rule: The department has worked with the Organic Advisory Board for approximately two years on the proposed changes.

How Interested Parties can Participate in Formulation of the New Rule: The department will individually mail to all certified organic handlers (packers and vendors) and other interested parties the proposed language when the department files the CR-102. Anyone who would like input into the process contact Miles McEvoy at (206) 902-1885, FAX (206) 902-2087, or TTD 902-1996.

March 1, 1995  
John Daly  
Assistant Director

**WSR 95-07-017**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF AGRICULTURE**

[Filed March 6, 1995, 2:03 p.m.]

Subject of Possible Rule Making: Amendments to chapter 16-164 WAC, Standards for the certification of ((packers)) handlers of organic food.

Specific Statutory Authority for New Rule: RCW 15.86.060 and 15.86.070.

Reasons Why the New Rule is Needed: In 1990 congress passed the Organic Foods Production Act which specified standards for the handling of organic foods. The United States Department of Agriculture has further refined those standards over the last few years as it has worked towards implementation of the federal statute. As the organic food industry has grown and matured it has become evident that the current standards for handling organic food need to be modified to better serve the needs of the organic food industry and maintain the integrity of organic food products.

Goals of New Rule: The goals of amending chapter 16-164 WAC are to update the standards for the packing of organic foods, clarify recordkeeping requirements, and integrate chapter 16.166 WAC, Standards and certification of organic food vendors, into chapter 16-164 WAC.

Process for Developing New Rule: The department has worked with the Organic Advisory Board for approximately two years on the proposed changes.

How Interested Parties can Participate in Formulation of the New Rule: The department will individually mail to all

certified organic handlers (packers and vendors) and other interested parties the proposed language when the department files the CR-102. Anyone who would like input into the process contact Miles McEvoy at (206) 902-1885, FAX (206) 902-2087, or TTD 902-1996.

March 1, 1995  
John Daly  
Assistant Director

**WSR 95-07-019**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF ECOLOGY**

[Order 95-04—Filed March 6, 1995, 4:22 p.m.]

Subject of Possible Rule Making: WAC 173-19-360 San Juan County shoreline master program.

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

Reasons Why the New Rule is Needed: San Juan County has requested this rule to allow amendment to the San Juan County shoreline master program.

Goals of New Rule: To establish a new section addressing shoreline pedestrian beach access structures, and amending a section to define the criteria and performance standards for "exempt" beach access structures. As a result, beach access structures would no longer require a shoreline conditional use permit. Instead, exempt structures will need a shoreline exemption and all other beach access structures will require a shoreline substantial development permit.

Process for Developing New Rule: The proposed rule will go through interdepartmental review at the county level. A public hearing will be conducted by the San Juan County Planning Commission. An adoption hearing will be conducted by the San Juan County Board of Commissioners.

How Interested Parties can Participate in Formulation of the New Rule: A public hearing will be held in San Juan County by ecology. Notice of ecology's hearing will be published in the State Register. Contact Wayne Turnberg at (206) 649-7030, Washington Department of Ecology, 3190 160th Avenue Southeast, Bellevue, WA 98008-5452, to be placed on the mailing list.

March 6, 1995  
Linda Crerar  
Waster and Shorelands  
Assistant Director

**WSR 95-07-020**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF ECOLOGY**

[Order 95-06—Filed March 6, 1995, 4:23 p.m.]

Subject of Possible Rule Making: WAC 173-19-2515 City of Mercer Island shoreline master program.

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

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

Goals of New Rule: To reformat the shoreline master program; to increase variance stringency by rewording from "a reasonable" use to "any reasonable" use; and to prohibit covered moorage.

Process for Developing New Rule: The proposed rule will go through interdepartmental review at the city level. A public hearing will be conducted by the planning commission on March 1, 1995. An adoption hearing will be conducted by the Mercer Island City Council.

How Interested Parties can Participate in Formulation of the New Rule: The next public hearing will be held in Mercer Island by ecology. Notice of ecology's hearing will be published in the state register. Contact Wayne Turnberg at (206) 649-7030, Washington Department of Ecology, 3190 160th Avenue Southeast, Bellevue, WA 98008-5452, to be placed on the mailing list.

March 6, 1995

Linda Crerar  
Water and Shorelands  
Assistant Director

#### WSR 95-07-021

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF ECOLOGY

[Order 95-08—Filed March 6, 1995, 4:25 p.m.]

Subject of Possible Rule Making: WAC 173-19-2521 City of Seattle shoreline master program.

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

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

Goals of New Rule: To make the shoreline master program consistent with Seattle's recently approved comprehensive plan by reorganization and corrections.

Process for Developing New Rule: The proposed rule will go through interdepartmental review at the city level. A public hearing was held by the Seattle City Council on February 14, 1995.

How Interested Parties can Participate in Formulation of the New Rule: A public hearing will be held in Seattle by ecology. Notice of ecology's hearing will be published in the state register. Contact Wayne Turnberg at (206) 649-7030, Washington Department of Ecology, 3190 160th Avenue Southeast, Bellevue, WA 98008-5452, to be placed on the mailing list.

March 6, 1995

Linda Crerar  
Water and Shorelands  
Assistant Director

#### WSR 95-07-022

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF ECOLOGY

[Order 95-07—Filed March 6, 1995, 4:27 p.m.]

Subject of Possible Rule Making: WAC 173-19-2519 City of Redmond shoreline master program.

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

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

Goals of New Rule: To redesignate a shoreline environment from King County "rural" to Redmond "urban" for the Redmond town center site. The subject area was annexed to the city of Redmond on March 20, 1990. The Redmond shoreline master program is being revised to address this annexed area which is currently under a King County shoreline designation.

Process for Developing New Rule: The proposed rule will go through interdepartmental review at the city level and will be heard before a hearing examiner. An adoption hearing will be conducted by the Redmond City Council.

How Interested Parties can Participate in Formulation of the New Rule: The next public hearing will be held in Redmond by ecology. Notice of ecology's hearing will be published in the state register. Contact Wayne Turnberg at (206) 649-7030, Washington Department of Ecology, 3190 160th Avenue Southeast, Bellevue, WA 98008-5452, to be placed on the mailing list.

March 6, 1995

Linda Crerar  
Water and Shorelands  
Assistant Director

#### WSR 95-07-025

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed March 7, 1995, 2:14 p.m.]

Subject of Possible Rule Making: WAC 388-49-190 Household concept.

Specific Statutory Authority for New Rule: RCW 74.04.050 and 74.04.510.

Reasons Why the New Rule is Needed: Simplify household concept so that field staff will understand the concept quickly.

Goals of New Rule: Simplifies so field staff can make decisions quickly.

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 Wendy Forslin, Program Manager, Food Stamp Program Section, Division of Income Assistance, Mailstop 45400, phone (360) 438-8323 or SCAN 585-8323, FAX (360) 438-8258 or SCAN 585-8258.

March 7, 1995

Dewey Brock, Chief  
Office of Vendor Services

**WSR 95-07-053**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed March 9, 1995, 1:40 p.m.]

Subject of Possible Rule Making: WAC 388-49-500  
 Income deductions.

Specific Statutory Authority for New Rule: RCW  
 74.04.050, 7 CFR 275.9 (d)(6)(v).

Reasons Why the New Rule is Needed: 1. Establish  
 new limited utility allowance (LUA) granted by food and  
 consumer service waiver under 7 CFR 273.9 (d)(6)(v); and  
 2. implement new verification policy for shelter and utility.

Goals of New Rule: 1. Authorized new utility deduc-  
 tion of \$156 for clients who have no heating or cooling costs  
 and incur charges for a utility other than phone service; and  
 2. clients must verify shelter and utility costs at application,  
 recertifications, and when the household reports a change in  
 expenses.

Process for Developing New Rule: Internal (manage-  
 ment) and external (field staff) review process whereby draft  
 material is distributed for review and comment. All com-  
 ments 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 (360) 438-8324 or (SCAN 585),  
 FAX (360) 438-8258 or (SCAN 585).

March 9, 1995  
 Dewey Brock, Chief  
 Office of Vendor Services

**WSR 95-07-055**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF HEALTH**  
 [Filed March 9, 1995, 2:01 p.m.]

Subject of Possible Rule Making: Chapter 246-780  
 WAC, Farmer's market for WIC.

Specific Statutory Authority for New Rule: RCW  
 43.17.060, 43.21C.120, 43.70.120.

Reasons Why the New Rule is Needed: To implement  
 federal regulations governing the farmer's market nutrition  
 program. In addition, because the federal regulations subject  
 an entity to sanctions for noncompliance, state rules are  
 needed.

Goals of New Rule: To provide clarity to the federal  
 regulations to make compliance easier for participating  
 growers and farmer's markets.

Process for Developing New Rule: Soliciting input  
 through mass mailings from affected growers, farmer's  
 markets, their organized representatives, local agencies and  
 other interested parties. Inviting written and oral comments.

How Interested Parties can Participate in Formulation of  
 the New Rule: Contact Mari Scott, Public Health Nutrition  
 Services, P.O. Box 47886, Olympia, WA 98504-7886, phone  
 (360) 586-6737, FAX (360) 586-3890.

March 7, 1995  
 Bruce Miyahara  
 Secretary

**WSR 95-07-057**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF ECOLOGY**  
 [Order 93-26—Filed March 9, 1995, 3:59 p.m.]

Subject of Possible Rule Making: Chapter 173-221A  
 WAC, Wastewater discharge standards and effluent limita-  
 tions.

Specific Statutory Authority for New Rule: This rule-  
 making action is mandated by RCW 90.48.220. This law  
 directs ecology to adopt two related regulations for marine  
 finfish rearing facilities (net-pens). The first rule required by  
 the law directs ecology to adopt criteria for allowable  
 sediment impacts beneath marine net-pens. A statement of  
 intent was published on June 21, 1994, for this interrelated  
 rule making. This statement of intent covers the second of  
 the two required rule-making actions under RCW 90.48.220.  
 This rule will establish standards for waste discharges from  
 marine net-pens.

Reasons Why the New Rule is Needed: As noted  
 above, Washington state law mandates that ecology develop  
 and adopt the waste discharge rules for marine net-pens.

Goals of New Rule: The marine net-pen waste dis-  
 charge rule, in conjunction with the companion net-pen  
 sediment rule will provide regulatory certainty and a more  
 definitive basis for ecology to write waste discharge permits  
 for marine net-pen facilities.

Process for Developing New Rule: Consultative,  
 ecology has formed a workgroup to assist in the develop-  
 ment of this rule. This workgroup will meet several times  
 to develop the rule. The workgroup consists of representa-  
 tives of the net-pen industry (commercial and enhancement);  
 local, state, and federal agencies with net-pen permitting  
 authority; environmental groups; and tribal governments.  
 This workgroup has been active in the development of the  
 related net-pen sediment rule. As mandated by executive  
 order EO 93-06 (improving state regulator activities), an  
 interagency rule committee consisting of representatives from  
 local, state, and federal agencies with net-pen permitting  
 authority will be convened near the end of this rule develop-  
 ment process to review and comment on the draft rule. The  
 focus of this interagency rule committee will be to ensure  
 that the rule does not conflict with other local, state, and  
 federal laws. If possible, ecology will also attempt to have  
 a representative from the Canadian government take part in  
 this rule review process.

How Interested Parties can Participate in Formulation of  
 the New Rule: Other interested parties can participate in the  
 development of this rule by attending a public workshop  
 and/or by commenting on the proposed rule during the  
 formal public comment period. For more information on  
 how you can participate in the development of this rule and  
 to place your name on an interested party mailing list, please  
 contact: Bill Ward, Department of Ecology, Water Quality  
 and Financial Assistance Program, P.O. Box 47600, Olym-  
 pia, WA 98504-7600, phone (360) 407-6098, FAX (360)  
 407-6426. The rule development process information will be  
 conveyed through the net-pen advisory workgroup, the  
 interagency rule coordinating committee for this rule, and  
 through a public workshop. Public notification of intent to  
 develop the net-pen waste discharge rule will be by: (a)  
 Filing of notice of intent (CR-101), (b) paid newspaper  
 advertisements, (c) publication of news releases, focus

March 13, 1995  
Joe McGavick  
Chairman

sheets, and written outreach to potentially affected or interested parties, (d) direct mailings to associations representing the industries, (e) individual contact with potentially interested parties, and (f) advertised workshops/meetings to encourage participation.

March 7, 1995  
Linda G. Crerar  
Assistant Director

**WSR 95-07-063****PREPROPOSAL STATEMENT OF INTENT  
GAMBLING COMMISSION**

[Filed March 13, 1995, 2:30 p.m.]

Subject of Possible Rule Making: This rule allows tribal casinos a mechanism to increase wagering limits, wagering stations, and hours of operation through a Phase II investigative review and commission approval process.

Specific Statutory Authority for New Rule: RCW 9.46.360.

Goals of New Rule: To allow tribal casinos a mechanism to increase wagering limits, wagering stations and hours of operation.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Patricia Norman-Cole, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 364, FAX (360) 438-8652.

March 13, 1995  
Patricia Norman-Cole  
Rules Coordinator

**WSR 95-07-066****PREPROPOSAL STATEMENT OF INTENT  
LIQUOR CONTROL BOARD**

[Filed March 14, 1995, 8:03 a.m.]

Specific Statutory Authority for New Rule: RCW 66.08.030.

Reasons Why the New Rule is Needed: Current regulation requires that a domestic winery premises shall be constructed, kept and maintained in a clean and sanitary manner and in compliance with rules and regulations prescribed by the Department of Agriculture. The board believes this regulation in regulation form maintained by the board is not necessary and should be repealed since other regulations requiring compliance are in place under the Department of Agriculture.

Goals of New Rule: To reduce the board's regulations and eliminate duplication where it exists elsewhere in the WAC.

Process for Developing New Rule: Detailed discussions with industry as to whether or not there needs to be duplication of requirements within the Liquor Control Board and agriculture regulations.

How Interested Parties can Participate in Formulation of the New Rule: David Goyette, Assistant Director, Regulatory Services, Washington State Liquor Control Board, P.O. Box 43094, Olympia, WA 98504-3094.

**WSR 95-07-071  
PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed March 14, 1995, 3:19 p.m.]

Subject of Possible Rule Making: WAC 388-49-505 Utility allowances.

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

Reasons Why the New Rule is Needed: Establishes a \$156 limited utility allowance granted by a food and consumer service-approved waiver under 7 CFR 273.9 (d)(6)(vi).

Goals of New Rule: Authorizes a new utility deduction of \$156 for households who do not have a heating or cooling cost.

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, P.O. Box 45400, Olympia, WA 98504-5400, phone (360) 438-8324 or SCAN 585-8324, FAX (360) 438-8258 or SCAN 585-8258.

March 14, 1995  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 95-07-072****PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

(Public Assistance)

[Filed March 14, 1995, 3:20 p.m.]

Subject of Possible Rule Making: WAC 388-513-1330. Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: Delete a reference to garnished income to meet federal requirement.

Goals of New Rule: Amount of income garnished will no longer be considered exempt.

Process for Developing New Rule: The department will conduct an internal and external review and approval process. The department will consider all comments.

How Interested Parties can Participate in Formulation of the New Rule: Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

March 14, 1995  
Dewey Brock, Chief  
Office of Vendor Services

**WSR 95-07-073**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF HEALTH**

[Filed March 15, 1995, 9:02 a.m.]

**Subject of Possible Rule Making:** To raise or lower fees to reflect actual program costs for boarding homes; acute-care hospitals; private psychiatric and alcoholism hospitals; residential treatment facilities for psychiatrically impaired children and youth; adult residential rehabilitation centers and private adult treatment homes; alcoholism treatment facilities; home health, home care, and hospice agencies; facilities construction review; and state institutions. Includes chapters 246-314, 246-316, 246-318, 246-322, 246-323, 246-325, 246-326, 246-327, 246-331, 246-336, and 246-380 WAC.

**Specific Statutory Authority for New Rule:** RCW 43.70.250, 43.70.110, and 43.20B.020.

**Reasons Why the New Rule is Needed:** Fee increases are necessary to cover increased rent and utility costs, and in anticipation that the budget will increase for inflation next biennium. Fee decreases are necessary to bring fees in line with actual costs.

**Goals of New Rule:** To collect funds sufficient to cover program costs.

**Process for Developing New Rule:** Mailings and public meetings.

**How Interested Parties can Participate in Formulation of the New Rule:** Public meetings will be held in several locations throughout the state and persons may submit written recommendations and comments to Leslie Baldwin, Regulations Analyst, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 705-6788, FAX (360) 705-6654.

March 10, 1995  
Bruce Miyahara  
Secretary

**WSR 95-07-075**  
**PREPROPOSAL STATEMENT OF INTENT**  
**EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 15, 1995, 9:50 a.m.]

**Subject of Possible Rule Making:** Amends WAC 192-12-141 and 192-23-018 to allow claims for unemployment benefits to be filed by mail.

**Specific Statutory Authority for New Rule:** RCW 50.12.010 Commissioner's duties and powers, 50.12.040 Rules and regulations, 50.20.010 Benefit eligibility conditions, and 50.20.140 Filing applications and claims.

**Reasons Why the New Rule is Needed:** Regulations currently require applicants to report in person to apply for or reopen a claim for unemployment benefits. This, together with an increased claims load, program complexity, and decreasing federal resources, has led to long waits in some offices. Payments and eligibility determinations are delayed as staff are reassigned to help walk-in customers. Federal

quality performance and timeliness standards often go unmet. In person reporting costs applicants time, money, and energy which could be better used for quality job search. Exploring means of simplifying unemployment compensation policies and procedures is a recommendation of the UI legislative task force.

**Goals of New Rule:** In order to improve customer service, productivity, and the work environment, the department will explore the use of mail-in applications for unemployment benefits. An initial study of the mail-in process will be piloted in selected locations in King and Snohomish counties beginning in March 1995 for single employer large layoffs. A broader study will begin in Pierce County in May 1995 for general UI claimant applications. The goal is to eliminate long lines at the Job Service Centers, meet federal performance and timeliness standards, increase accuracy of processing claims without increasing staff resources, and more efficiently process single employer large layoffs.

**Process for Developing New Rule:** Pilot rule making; and use of focus groups.

**How Interested Parties can Participate in Formulation of the New Rule:** Interested parties can participate in a pilot rule study group(s), which will oversee pilot activities. The group(s) will meet periodically during the next fifteen months to monitor, evaluate, and make recommendations on the pilot rule. For general UI claims activity, contact Janet Smith, Project Manager, Tacoma Job Service Center, P.O. Box 1895, Tacoma, WA 98401, (360) 593-7306 or FAX (360) 593-7377. For single employer large layoffs, contact Rebecca Mulhollen, Puget Sound Regional Office, (206) 720-3398 or FAX (206) 720-3393. Written comments may be submitted to John Nemes, Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, or FAX (360) 438-3226.

Wendy Holden  
Deputy Commissioner

**WSR 95-07-076**  
**PREPROPOSAL STATEMENT OF INTENT**  
**HEALTH CARE AUTHORITY**

[Filed March 15, 1995, 10:30 a.m.]

**Subject of Possible Rule Making:** Establishes standards for community health clinics rules under the Health Care Authority; adds the migrant program to the standards, and modifies funding formulae.

**Specific Statutory Authority for New Rule:** RCW 43.70.040.

**Reasons Why the New Rule is Needed:** The legislature, in 1993, transferred the authority for the Community Health Clinics from the Department of Health to the Health Care Authority.

**Goals of New Rule:** Meet statutory requirements and modify the Department of Health standards for community clinics to apply for the Health Care Authority under the Health Care Authority rules.

**Process for Developing New Rule:** Public hearings and stakeholder meetings.

**How Interested Parties can Participate in Formulation of the New Rule:** Bob Blacksmith, P.O. Box 42710, Olympia,

WA 98504-2710, phone (360) 923-2755, FAX (360) 923-2607.

March 13, 1995  
Elin Meyer  
Rules Coordinator

**WSR 95-07-077**

**PREPROPOSAL STATEMENT OF INTENT  
OFFICE OF MINORITY AND  
WOMEN'S BUSINESS ENTERPRISES**

[Filed March 15, 1995, 2:02 p.m.]

Specific Statutory Authority for New Rule: RCW 39.19.030.

Reasons Why the New Rule is Needed: 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.

Goals of New Rule: To assure that certified businesses perform a commercially useful function on state contracts. To afford opportunities for certified businesses to expand into new functional areas. To ensure that the SIC code is used as a flag rather than the determinant factor when agencies review bids for responsiveness.

Process for Developing New Rule: Use the Office of Minority and Women's Business Enterprises newsletter to invite dialogue with state agencies and educational institutions, the certified business community and other interested parties before drafting and formal filing; and conduct meetings if required.

How Interested Parties can Participate in Formulation of the New Rule: Contact Juan Huey-Ray by phone, FAX, or writing by March 31, 1995, at the Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504-1160, phone (360) 586-1228, FAX (360) 586-7079.

March 14, 1995  
James A. Medina  
Director

**WSR 95-07-083**

**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF AGRICULTURE**

[Filed March 16, 1995, 11:45 a.m.]

Subject of Possible Rule Making: The Department of Agriculture is considering the adoption of a new rule that will ensure that prototype equipment intended for commercial use, has been processed through the national type evaluation program (NTEP).

Specific Statutory Authority for New Rule: RCW 19.94.190(2).

Reasons Why the New Rule is Needed: This rule will ensure that equipment in commercial use complies with the provisions of National Institute of Standards and Technology Handbook 44 which prescribes specifications, tolerances and other technical requirements for weighing and measuring

devices. Prototype devices that have been through the national type evaluation program provide assurance to users, manufacturers and regulatory personnel that the device type conforms to the requirements of Handbook 44.

Goals of New Rule: To implement a rule that will help keep Washington from becoming a state for the production and selling of devices that are deemed "not approvable" under Handbook 44 requirements.

Process for Developing New Rule: In March 1994, the department formed an NTEP advisory committee, provided them with draft language and requested comments on the proposal. Comments received were incorporated into a final draft document in April 1994. This final draft will be provided to the advisory committee and other interested parties for any further comment.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties desiring to participate in this process should contact the Washington State Department of Agriculture, Attention: Bob Arrington, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1857, to obtain a copy of the proposed rules. Written comments should be submitted to the Washington State Department of Agriculture by no later than 5:00 p.m., May 23, 1995.

March 16, 1995  
Julie C. Sandberg  
Assistant Director

**WSR 95-07-084**

**PREPROPOSAL STATEMENT OF INTENT  
DEPARTMENT OF AGRICULTURE**

[Filed March 16, 1995, 11:47 a.m.]

Subject of Possible Rule Making: Increasing metrology laboratory service fees.

Specific Statutory Authority for New Rule: RCW 19.94.216 and 19.94.325 and chapter 16-675 WAC.

Reasons Why the New Rule is Needed: Current calibration service fees provide insufficient revenues to support program operations.

Goals of New Rule: To establish increased fee levels in accordance with I-601 fiscal growth allowances. The proposed fees will provide increased revenues that will improve program cost/revenue ratio.

Process for Developing New Rule: The department will convene the weights and measures fee task force to solicit recommendations regarding the proposed increase in fees in accordance with RCW 19.94.175(2).

How Interested Parties can Participate in Formulation of the New Rule: Interested parties desiring to participate in this process and/or attend the fee task force meeting should contact the Washington State Department of Agriculture, Attention: Bob Arrington, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1857, for the date and time of the task force meeting and/or to obtain a copy of the proposed rules. Written comments should be submitted to the Washington State Department of Agriculture by no later than 5:00 p.m., May 23, 1995.

March 16, 1995  
Julie C. Sandberg  
Assistant Director

**WSR 95-07-086**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF HEALTH**  
 (Board of Pharmacy)  
 [Filed March 16, 1995, 2:30 p.m.]

Subject of Possible Rule Making: WAC 246-887-160.  
 Specific Statutory Authority for New Rule: RCW 18.64.005.

Reasons Why the New Rule is Needed: To add a recently approved anabolic steroid to the schedule III rule.

Goals of New Rule: To place dehydroepiandrosterone, an anabolic steroid, in schedule III.

Process for Developing New Rule: Federal Drug Administration.

How Interested Parties can Participate in Formulation of the New Rule: Written comments to Board of Pharmacy, Attn: Donald Williams, P.O. Box 47863, Olympia, WA 98504, (360) 753-6834, FAX (360) 586-4359, board meetings.

March 15, 1995  
 Donald H. Williams  
 Executive Director

**WSR 95-07-090**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 (Public Assistance)  
 [Filed March 17, 1995, 2:01 p.m.]

Subject of Possible Rule Making: WAC 388-505-0590 Income.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: Health Care Financing Administration now allows states an alternative methodology for the treatment of lump sum income for AFDC-related clients.

Goals of New Rule: Implement the alternative methodology which allows the department to consider a lump sum as income in the month received and as a resource thereafter. This is a positive client impact and easier for field staff to administer.

Process for Developing New Rule: The department will conduct an internal and external review and approval process. The department will consider all comments.

How Interested Parties can Participate in Formulation of the New Rule: Contact Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

March 17, 1995  
 Dewey Brock, Chief  
 Office of Vendor Services

**WSR 95-07-091**  
**PREPROPOSAL STATEMENT OF INTENT**  
**GAMBLING COMMISSION**  
 [Filed March 17, 1995, 3:33 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Companion rule to accompany the petition submitted by the taxing authorities, which provides for reimbursement of agency costs in pursuing license revocation for failure to pay gambling taxes.

Goals of New Rule: Provides the agency with the option for reimbursement of costs in pursuing license revocation for failure to pay gambling taxes.

How Interested Parties can Participate in Formulation of the New Rule: Patricia Norman-Cole, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 364, FAX (360) 438-8652.

March 17, 1995  
 Patricia Norman-Cole  
 Rules Coordinator

**WSR 95-07-092**  
**PREPROPOSAL STATEMENT OF INTENT**  
**GAMBLING COMMISSION**  
 [Filed March 17, 1995, 3:34 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Housekeeping change to correct typographical errors.

Goals of New Rule: Change typographical errors.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Patricia Norman-Cole, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 364, FAX (360) 438-8652.

March 17, 1995  
 Patricia Norman-Cole  
 Rules Coordinator

**WSR 95-07-101**  
**PREPROPOSAL STATEMENT OF INTENT**  
**UNIVERSITY OF WASHINGTON**  
 [Filed March 20, 1995, 10:30 a.m.]

Subject of Possible Rule Making: Chapter 478-168 WAC, Regulations for the University of Washington libraries.

Specific Statutory Authority for New Rule: RCW 28B.15.031, 28B.20.130.

Reasons Why the New Rule is Needed: The rules governing library policy need to be updated to reflect changes in practices and procedures, and to improve access to library materials.

Goals of New Rule: Increase access to library materials by motivating users to return material on time. Allow

flexibility in scheduling of library hours. Clarify and update existing WAC rules relating to the libraries.

Process for Developing New Rule: Agency study and meetings conducted with the faculty council on university libraries and the group on undergraduate library policy.

How Interested Parties can Participate in Formulation of the New Rule: Written comments may be directed to Rebecca Goodwin Deardorff, Administrative Procedures Officer, University of Washington, 4014 University Way N.E., Seattle, WA 98105, FAX (206) 543-0786.

March 17, 1995

Rebecca Goodwin Deardorff  
Administrative Procedures Officer

### WSR 95-07-113

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF RETIREMENT SYSTEMS

[Filed March 21, 1995, 8:38 a.m.]

Specific Statutory Authority for New Rule: RCW 41.50.030, 41.50.110 (3)(c).

Reasons Why the New Rule is Needed: To implement changes to administration of fee authorized by RCW 41.50.110(1) for untimely and inaccurate reporting.

Goals of New Rule: To provide affected employers with notification regarding changes to the current rule.

Process for Developing New Rule: Review of current administration with employers participating in the retirement system.

How Interested Parties can Participate in Formulation of the New Rule: Contact Paul Neal, P.O. Box 48380, Olympia, WA 98504-8380, phone (360) 586-3368, FAX (360) 753-3166.

March 15, 1995

Paul Neal  
Rules Coordinator

### WSR 95-07-121

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF AGRICULTURE

[Filed March 22, 1995, 8:32 a.m.]

Subject of Possible Rule Making: Rules relating to the application of restricted use herbicides in eastern Washington.

Specific Statutory Authority for New Rule: RCW 17.21.030, 15.58.040.

Reasons Why the New Rule is Needed: The agency has received a request to amend existing rules relating to evening cut-off times when applying phenoxy type herbicides. A proposal has been made to add additional herbicides which would be affected by the evening cut-off rule for applications. They are Sulfonylurea herbicides, desiccants and defoliants, phenoxy-type herbicides, Dicamba, Glyphosate and Bromoxynil. Applications of these herbicides would be prohibited three hours prior to sunset until one hour after sunrise the following morning during the period April 1 through October 31 of each year.

Goals of New Rule: To prevent the drift of herbicides onto nontargeted areas.

Process for Developing New Rule: To get comments from all parties and to establish a committee which will assist the agency in developing a proposal.

How Interested Parties can Participate in Formulation of the New Rule: Written comments, questions or requests for additional information should be addressed to Cliff Weed, Program Manager, Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42589, Olympia, WA 98504-2589, FAX (360) 902-2093, phone (360) 902-2040. Comments need to be submitted by April 28, 1995, 5:00 p.m.

March 22, 1995

William E. Brookreson  
Assistant Director

### WSR 95-07-127

#### PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF HEALTH

[Filed March 22, 1995, 8:51 a.m.]

Subject of Possible Rule Making: Human immunodeficiency virus (HIV) infection treatment.

Specific Statutory Authority for New Rule: RCW 43.70.40 [43.70.040], 43.70.120, 43.20A.550.

Reasons Why the New Rule is Needed: New rules are required to allow HIV/AIDS treatment programs to incorporate changes in health care coverage due to regulatory health insurance reforms.

Goals of New Rule: This amendment defines early HIV/AIDS intervention services, removes restrictive language on eligibility requirements for early intervention programs, and modifies the requirement for patient participation.

Process for Developing New Rule: Mailing to identified interested parties and at least one public hearing.

How Interested Parties can Participate in Formulation of the New Rule: The proposed new rule will be mailed to all identified interested parties for their written or verbal comment, which will be incorporated into the new rule. In addition, at least one public hearing will be held to solicit comments.

Anne Shields, Director, Office of Client Services and Early Intervention, P.O. Box 47841, Olympia, WA 98504-7841, phone (360) 586-5627, FAX (360) 586-5525.

March 21, 1995

Bruce Miyahara  
Secretary

### WSR 95-07-131

#### PREPROPOSAL STATEMENT OF INTENT HIGHER EDUCATION FACILITIES AUTHORITY

[Filed March 22, 1995, 9:50 a.m.]

Subject of Possible Rule Making: Amend chapter 253-16 WAC.

Specific Statutory Authority for New Rule: RCW 28B.07.040.

Reasons Why the New Rule is Needed: Eliminate redundancy; current procedures for public participation is unduly restrictive; and replace application criteria in the rule with an application form as outlined in the policy and procedure manual of the authority to more efficiently respond to changes in financial reporting requirements of colleges.

Goals of New Rule: To clarify administrative procedures, increase administrative efficiency and improve public accessibility to authority meetings.

Process for Developing New Rule: Authority meetings to be held April 20 and July 20, 1995. Distribution of contemplated amendments to the authority board members and member colleges with request for their comments.

How Interested Parties can Participate in Formulation of the New Rule: Higher Education Facilities Authority, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, Sally Sweet or Dinah Thoreson, phone (206) 464-7139.

March 21, 1995  
Mark McLaughlin  
Deputy Director  
for Kim Herman  
Executive Director

**WSR 95-07-138**  
**PREPROPOSAL STATEMENT OF INTENT**  
**PUBLIC DISCLOSURE COMMISSION**  
[Filed March 22, 1995, 11:08 a.m.]

**Independent Expenditures**

Specific Statutory Authority for New Rule: RCW 42.17.370(1).

Reasons Why the New Rule is Needed: On August 23, 1994, the Public Disclosure Commission adopted an emergency rule further defining and applying the term "independent expenditure," thereby clarifying under what circumstances an expenditure that supports or opposes a candidate for state or local office would be considered independent and not subject to any otherwise applicable contribution limit. That emergency rule, by design, expired at year's end. After examining any shortcomings or problems with the rule that was in place (WAC 390-16-313), the commission will consider adopting a permanent rule concerning independent expenditures.

Goals of New Rule: Limits on contributions to state office candidates as well as legislative caucus and political party committees are the foundation of the I-134 reforms approved by voters in 1992. In order to implement these limits in the most meaningful way possible, the commission must clarify and apply the statutory definition of independent expenditures such that candidates and other participants in the campaign process have a clear understanding of when an expenditure is truly independent and not subject to limit. It is necessary to balance every citizen's right to unimpeded free speech with the legal restriction on contributions to candidates, caucus committees and political party committees.

Process for Developing New Rule: The Public Disclosure Commission staff is holding an informal discussion session regarding this and other subjects on Wednesday,

April 12, 1995, from 10:00 a.m. to noon in the 2nd Floor Conference Room of the Evergreen Plaza Building, 711 Capitol Way, Olympia. The objective is to receive input on how well the 1994 independent expenditure emergency rule worked as well as recommendations for improving it. All interested persons are welcome and encouraged to attend. In addition, the commission will likely discuss independent expenditures at its meeting on April 25, 1995, with an anticipated public hearing and possible permanent adoption of a rule on June 27, 1995.

How Interested Parties can Participate in Formulation of the New Rule: Contact Public Disclosure Commission Assistant Director Vicki Rippie at (360) 586-4838 or P.O. Box 40908, Olympia, WA 98504-0908, FAX (360) 753-1112. Attend meetings and hearing referenced above. Written comments submitted on or before the formal public hearing (tentatively expected to occur on June 27) are also welcome.

**Definition of Contribution**

Specific Statutory Authority for New Rule: RCW 42.17.370(1) and 42.17.630 (5)(b).

Reasons Why the New Rule is Needed: Initiative 134 instituted limits on the amount contributors may give to candidates for state office as well as legislative caucus and political party committees. In order to implement these limits in a comprehensive manner, the Public Disclosure Commission is obligated to clarify in detail what types of expenditures constitute contributions and, conversely, those that qualify as independent expenditures and are not subject to limit. It is necessary for the commission to amend its current rule defining contribution. For the 1994 elections, the commission promulgated an emergency rule regarding this issue. That rule expired in December. After evaluating its effectiveness, the commission will consider permanent adoption of an amendment to WAC 390-05-210. In addition to distinguishing between independent expenditures and contributions, it is necessary for the commission to give guidance to candidates, caucus and party committees and other PACs concerning expenditures made to recruit potential candidates. Some typical recruiting expenses likely will not qualify as contributions to persons who subsequently become candidates; others may in fact assist a candidate in his or her election campaign and, therefore, are subject to limit. Differentiating between the two types of recruiting expenses is required if the contribution limits are to be adhered to as the voters intended when they approved Initiative 134.

Goals of New Rule: With as much specificity as possible, clearly distinguish between: (1) An independent expenditure and a contribution; and (2) a candidate recruiting expense that does not constitute a contribution to a person who later becomes a candidate, and one that does qualify as a contribution and is, therefore, subject to the contributor's limit.

Process for Developing New Rule: The Public Disclosure Commission staff is holding an informal discussion session regarding this and other subjects on Wednesday, April 12, 1995, from 10:00 a.m. to noon in the 2nd Floor Conference Room of the Evergreen Plaza Building, 711 Capitol Way, Olympia. The objective is to receive input on how well the 1994 emergency rule defining contribution

worked as well as recommendations for improving it, including ideas on how best to address recruiting expenses. All interested persons are welcome and encouraged to attend. In addition, the commission will likely discuss these topics at its meeting on April 25, 1995, with an anticipated public hearing and possible permanent adoption of an amended rule on June 27, 1995.

**How Interested Parties can Participate in Formulation of the New Rule:** Contact the Public Disclosure Commission Assistant Director Vicki Rippie at (360) 586-4838 or P.O. Box 40908, Olympia, WA 98504-0908, FAX (360) 753-1112. Attend meetings and hearing referenced above. Written comments submitted on or before the formal public hearing (tentatively expected to occur on June 27) are also welcome.

#### Political Advertising—Telephone and Electronic Ads

**Specific Statutory Authority for New Rule:** RCW 42.17.370(1).

**Reasons Why the New Rule is Needed:** By definition, "political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentation, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign. (Emphasis added) This definition plus the statutory requirement in RCW 42.17.510(2) requiring that "all political advertising undertaken as an independent expenditure" include detailed information about the sponsor of the advertising as specified by that subsection of law could be interpreted to mean that independent expenditure political advertising communicated via telephone or computer that supports or opposes a candidate or ballot proposition must carry the sponsor identification information specified in [RCW 42.17].510(2). The intent of any eventual proposed rule on this subject would not be to require such information on traditional polling that randomly selects its participants and makes no statements about or characterizations of a candidate or other person, including his or her experience, background or positions on issues, except that the candidate or other person may be identified by name, party affiliation and incumbency status. At this point, the Public Disclosure Commission staff is merely exploring the issue and requests public input on: (1) The Public Disclosure Commission's authority to interpret RCW 42.17.020(24) and [42.17].510(2) as requiring sponsor ID on independent expenditure political advertising in the form of telephone/electronic ads supporting or opposing a candidate or ballot measure; (2) what questions would need to be addressed by any proposed rule (e.g., what constitutes mass communication); and (3) what would be the anticipated public and political impact of such a rule (e.g., would such a rule discourage negative advertising or otherwise have a positive impact on the campaign process).

**Goals of New Rule:** (1) By interpreting the statute to apply the sponsor identification requirements to broad-based, organized independent expenditure telephone/computer network advertising campaigns, voters would have a mechanism for learning who is sponsoring such efforts; and (2) discouraging negative advertising in these types of electronic contacts with registered voters.

**Process for Developing New Rule:** The Public Disclosure Commission staff is holding an informal discussion session regarding this and other subjects on Wednesday, April 12, 1995, from 10:00 a.m. to noon in the 2nd Floor Conference Room of the Evergreen Plaza Building, 711 Capitol Way, Olympia, all interested persons are welcome and encouraged to attend. The commission may discuss sponsor identification of independent expenditure telephone/electronic advertising at its meeting on April 25, 1995. If the members decide to move forward with a formal rule, a public hearing and possible permanent adoption of such a rule could occur on either June 27 or July 25, 1995.

**How Interested Parties can Participate in Formulation of the New Rule:** Contact the Public Disclosure Commission Assistant Director Vicki Rippie at (360) 586-4838 or P.O. Box 40908, Olympia, WA 98504-0908, (FAX) (360) 753-1112. Attend meetings and hearing referenced above. Written comments submitted on or before the formal public hearing are also welcome.

March 20, 1995  
Melissa Warheit  
Executive Director

**WSR 95-07-139**  
**PREPROPOSAL STATEMENT OF INTENT**  
**DEPARTMENT OF REVENUE**

[Filed March 22, 1995, 11:36 a.m.]

**Subject of Possible Rule Making:** WAC 458-14-005 Definitions, 458-14-015 Jurisdiction of County Boards of Equalization, 458-14-056 Petitions—Time limits—Waiver of filing deadline for good cause, 458-14-066 Requests for valuation information—Duty to exchange information—Time limits, 458-14-116 Orders of the board—Notice of value adjustment—Effective date, 458-14-127 Reconvened boards—Authority, 458-14-146 Conflicts of interest, 458-14-160 Continuances—Ex parte contact, 458-14-170 Appeals to the state Board of Tax Appeals, and 458-14-171 Direct appeals to Board of Tax Appeals.

**Specific Statutory Authority for New Rule:** RCW 84.08.010, 84.08.070, and 84.48.200.

**Reasons Why the New Rule is Needed:** To comply with recently enacted legislation and to clarify certain issues in existing rules.

**Goals of New Rule:** To clarify procedures to be used in appeals to County Boards of Equalization and thus provide better comprehension of the appeal process for taxpayers, assessors, and members of the boards of equalization.

**Process for Developing New Rule:** Department of Revenue modified negotiated rule making.

**How Interested Parties can Participate in Formulation of the New Rule:** Written comments should be submitted by the public meeting date to ensure full consideration, but will be accepted until the date of adoption. Written comments on and/or requests for copies of the rule may be directed to James A. Winterstein, Counsel, Legislation and Policy, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-4283, FAX (360) 664-0693.

**Location and Date of Public Meeting:** Department of Revenue Information Systems Conference Room, Carpet

Exchange Building, 6300 Linderson Way, Tumwater, WA,  
on April 18, 1995, at 1:30 p.m.

Street parking only. Use south tower entrance and  
elevator to second floor information systems receptionist

Accommodations or assistance for persons with disabili-  
ties or to request a copy of the information in an alternate  
format contact: Gwendolyn Kopetzky by April 11, 1995,  
TTY 1-800-451-7985, or (360) 753-3217.

March 22, 1995  
Russell W. Brubaker  
Assistant Director

**WSR 95-07-013****PROPOSED RULES****DEPARTMENT OF HEALTH**

(Health Professions Quality Assurance Division)

[Filed March 6, 1995, 9:30 a.m.]

## Original Notice.

Title of Rule: New definitions section; revision of education section; and general housekeeping.

Purpose: To remove language in chapter 246-830 WAC referring to bodywork/somatic education and national educational institutes which exceeds the intent of the legislature and the authority granted by statute.

Statutory Authority for Adoption: RCW 18.108.085 [(1)](a).

Statute Being Implemented: WAC 246-830-230, 246-830-401, 246-830-410, 246-830-420, 246-830-430, 246-830-440, 246-830-450, 246-830-475, 246-830-610, and 246-830-990.

Summary: A new definitions section provided clarification of terms. The education section of the WAC will be brought into alignment with the statute. Housekeeping changes will change terminology no longer used.

Reasons Supporting Proposal: Suggestions from participants at preliminary public meetings have provided language for the new definitions. Removing disputed language will ensure the chapter is not misinterpreted.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janice K. Boden, 1300 Quince, Olympia, (206) 753-3199.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules to be adopted clarify rule language, remove sections expanded in 1992 referring to "bodywork/somatic education" and "national educational institutions," and change no longer used designations. The anticipated effect is that the rules will then reflect the intent of the RCW relating to the massage profession. The housecleaning sections will clarify and modernize old language and bring the rules current.

Proposal Changes the Following Existing Rules: Expands the definition section and incorporates all definitions into one clearly labeled section per standards set by the code reviser's office. Clarifies that notification can be sent to a candidate's address of record, by removing the word "residential" from the section. Removes language from the education section of the chapter that expanded the practice act. Changes the former designation for the division to the current designation. Changes one of the fee codes to a new designation, since the former designation section has been repealed and renamed.

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: Janice K. Boden, Department of Health, Massage Program, P.O. Box 47869, Olympia, WA 98504-7869, phone (206) 586-6351, or FAX (206) 586-7774 (Attention: Massage Program).

Hearing Location: Firgrove Business Park, Training Room First Floor, 2413 Pacific Avenue, Olympia, WA, on April 26, 1995, at 9 a.m.

Assistance for Persons with Disabilities: Contact 1-800-525-9127 by April 24, 1995, TDD (206) 664-0064.

Submit Written Comments to: Ann Foster, Rules Coordinator, P.O. Box 47890, Olympia, WA 98504-7890, by April 24, 1995.

Date of Intended Adoption: April 26, 1995.

March 3, 1995

Bruce Miyahara

Secretary

**MISCELLANEOUS****NEW SECTION**

**WAC 246-830-005 Definitions.** For the purpose of administering chapter 18.108 RCW, the following definitions shall apply:

(1) "Massage" as defined by RCW 18.108.010 includes but is not limited to the techniques of Swedish massage, bodywork, and somatic education.

(2) "Massage school" is an institution which has the sole purpose of offering training in massage therapy.

(3) "Massage program" is training in massage therapy offered by an academic institution which also offers training in other areas of study. A program is an established area of study offered on a continuing basis.

(4) "Apprenticeship program" is defined for the purposes of this chapter as training in massage administered by an apprenticeship trainer that satisfies the educational requirements for massage set forth in WAC 246-830-430, 246-830-440, and 246-830-450. This training shall be offered by an apprenticeship trainer to no more than three apprentices at one time and shall be completed within two years.

(5) "Apprenticeship trainer" is defined as a massage practitioner licensed in the state of Washington with not less than five current years of experience in full-time practice.

(6) "Apprentice" is defined as an individual enrolled in an apprenticeship program, and shall be held to the same standards as students in schools or programs.

(7) "Student" shall mean an individual currently enrolled in an approved school, program, or apprenticeship program, who is practicing massage solely for the purposes of education as is incidental to their current course work and who is not receiving compensation for said practice.

(8) "Direct supervision" shall mean a faculty member is on the premises, is quickly and easily available and the client has been examined by the faculty member at such time as acceptable massage practice requires.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-830-230 Frequency and location of examinations.** (1) The board will normally conduct examinations twice a year.

(2) Written examinations will be conducted prior to the practical examinations. Applicants will be required to pass the written examination and the practical examination.

(3) Written and practical examinations will be conducted at a location within the state as determined by the secretary.

(4) A notification will be sent to the (~~residential~~) address of record of each examination applicant at least fifteen days prior to each applicant's scheduled examination

dates. Such notification will contain appropriate instructions or information and will reflect the time, date and location at which the applicant is expected to appear for examination. Examination fees are nonrefundable. Should an applicant fail to appear for examination at the designated time and place, the applicant shall forfeit the examination fee unless he/she has notified the division of professional licensing of his/her inability to appear for the scheduled examination. Notification must reach the department of health at least five days before the designated time. With the required five days notice, a candidate may request to be rescheduled for examination any time within two years of the time he/she submitted his/her original application.

**AMENDATORY SECTION** (Amending Order 291B, filed 7/22/92, effective 8/22/92)

**WAC 246-830-401 Scope and purpose.** (1) The minimum educational requirements for licensure to practice massage therapy (~~(and/or bodywork/somatic education)~~) in Washington is successful completion of a course of study from a massage school, program, or (~~(national educational institution)~~) apprenticeship program approved by the board.

(2) The purpose of this chapter is to provide a set of standards and procedures by which massage schools, programs, or (~~(national educational institutions)~~) apprenticeship programs may obtain approval by the board in order that graduates of those schools, programs, or (~~(national educational institutions)~~) apprenticeship programs may be permitted to take examinations for licensure.

**AMENDATORY SECTION** (Amending Order 291B, filed 7/22/92, effective 8/22/92)

**WAC 246-830-420 Approval of school, program, or apprenticeship program.** The board may accept proof of a national professional association's approval of a school or program based on standards and requirements which are substantially equivalent to those identified in this chapter, in lieu of the requirements contained in this chapter. Approval in this manner may be requested on a form provided by the department. The board will consider for approval any school, program, or apprenticeship program which meets the requirements as outlined in this chapter.

(1) Approval of any other school or program may be requested on a form provided by the department.

(2) Application for approval of a school or program, shall be made by the authorized representative of the school or the administrator of the apprenticeship agreement.

(3) The authorized representative of the school or the administrator of the apprenticeship program may request approval of the school or program, as of the date of the application or retroactively to a specified date.

(4) The application for approval of a school, program, or (~~(national educational institution)~~) apprenticeship program shall include, but not be limited to, documentation required by the board pertaining to: Syllabus, qualifications of instructors, training locations, and facilities, outline of curriculum plan specifying all subjects and length in hours such subjects are taught, class objectives, and a sample copy of one of each of the following exams: Anatomy, physiology, and massage therapy (~~(or bodywork/somatic education)~~).

(5) Any school, (~~(national educational institution, or)~~) program, or apprenticeship program that is required to be licensed by private vocational education (see chapter 28C.10 RCW or Title 28B RCW), or any other statute, must complete these requirements before being considered by the board for approval.

(6) The board will evaluate the application and, if necessary, conduct a site inspection of the school, (~~(national educational institution, or)~~) program, or apprenticeship program, prior to granting approval by the board.

(7) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification to the application.

(8) In the event the department denies an application or grants conditional approval, the authorized representative of the applicant's school or program may request a review within thirty days of the board's adverse decision/action. Should a request for review of an adverse action be made after thirty days following the board's action, the contesting party may obtain review only by submitting a new application.

(9) The authorized representative of an approved school, (~~(national educational institution, or)~~) program or the administrator of an apprenticeship agreement shall notify the board of significant changes with respect to information provided on the application within sixty days.

(10) The board may inspect or review an approved school, (~~(national educational institution, or)~~) program, or apprenticeship program at reasonable intervals for compliance. Approval may be withdrawn if the board finds failure to comply with the requirements of law, administrative rules, or representations in the application.

(11) The authorized representative of a school, (~~(national educational institution, or)~~) program or administrator of an apprenticeship agreement must immediately correct the deficiencies which resulted in withdrawal of the board's approval.

**AMENDATORY SECTION** (Amending WSR 94-13-181, filed 6/21/94, effective 7/22/94)

**WAC 246-830-430 Training.** (1) A massage education program shall have a curriculum and system of training consistent with its particular area of practice. The training in massage therapy shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training in massage therapy. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of pathology including indications and contraindications to massage therapy and palpations.

(c) Two hundred (~~(fifty)~~) sixty-five hours of theory and practice of massage (~~(therapy, at a minimum)~~) to include (~~(Swedish and deep tissue)~~) techniques, remedial (~~(gymnas-~~

PROPOSED

ties)) movements, body mechanics of the practitioner, and ((medical treatments)) the impact of techniques on pathologies. A maximum of fifty of these hours may include time spent in a student clinic. Hydrotherapy may also be included.

(d) ~~((Fifteen hours of hydrotherapy.~~

~~(e))~~ Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

(2) To receive credit in an apprenticeship program for previous education, this education must have been completed within the five-year period prior to enrollment in the apprenticeship program.

~~(3) ((The training in a national educational institution program shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training required of the national educational institution. These five hundred hours are not to be completed in less than six months and shall consist of the following:~~

~~(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.~~

~~(b) Fifty hours of pathology including indications and contraindications.~~

~~(c) Two hundred sixty five hours of theory and practice of bodywork/somatic education, a minimum to include analysis and evaluation of the physical and/or energetic structure, tissue handling techniques, body mechanics of the practitioner, and medical implications. A maximum of fifty of these hours may include time spent in a student clinic.~~

~~(d) Fifty five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.~~

~~(e) A bodywork/somatic education program shall have a curriculum and system of training consistent with its particular area of practice.)~~ Students attending schools and programs outside the state of Washington shall acquire a working knowledge of the laws of Washington state applying to massage therapy.

AMENDATORY SECTION (Amending Order 291B, filed 7/22/92, effective 8/22/92)

**WAC 246-830-440 Curriculum—Academic standards—Faculty—Student clinic.** (1) The curriculum of the school, ~~((national educational institution's))~~ program, or apprenticeship program shall be designed and presented to meet or exceed the requirement of five hundred hours.

(2) Academic standards. The school, ~~((national educational institution,))~~ program or apprenticeship trainer shall regularly evaluate the quality of its instruction and have a clearly defined set of standards of competence required of its students. Promotion to each successive phase of the program and graduation shall be dependent on mastery of the knowledge and skills presented in the program.

(3) Faculty. Apprenticeship trainers and faculty members shall be qualified by training and experience to give effective instruction in the subject(s) taught. The apprenticeship trainer and faculty should develop and evaluate the curriculum instructional methods and facilities; student discipline, welfare, and counseling; assist in the establishment of administrative and educational policies, and scholarly and professional growth. Schools, ~~((national educational institutions or))~~ programs, or apprenticeship programs shall not discriminate on the basis of sex, race, age, color, religion, physical handicap, or national or ethnic origin in the recruitment and hiring of faculty.

(4) Student clinic (optional program). The clinical facilities shall be adequate in size, number, and resources to provide for student practice of massage ~~((or bodywork/somatic education))~~ on the general public. There shall be properly equipped rooms for consultations, massage therapy or treatment, and equipment as required in the practice of massage ~~((or bodywork/somatic education)).~~ A faculty member who is a licensed massage practitioner and adequately experienced in massage therapy ~~((or an instructor who is certified by the national educational institution as an instructor of bodywork/somatic education))~~ must be present in the clinic at all times the clinic is open and in direct supervision of, and have final decision in, the massage therapy ~~((or bodywork/somatic treatment))~~ which is rendered to clients by students.

AMENDATORY SECTION (Amending Order 291B, filed 7/22/92, effective 8/22/92)

**WAC 246-830-450 Health, sanitation, and facility standards.** All programs ~~((will))~~ shall have adequate facilities and equipment available for students learning massage therapy ~~((or bodywork/somatic education)).~~ All facility equipment ~~((will))~~ shall be maintained in accordance with local rules and ordinances in addition to those imposed by chapter 246-830 WAC. Instructional and practice equipment shall be similar to that found in common occupational practice. An adequate reference library, appropriate to the subjects being taught, shall be available.

AMENDATORY SECTION (Amending WSR 94-13-181, filed 6/21/94, effective 7/22/94)

**WAC 246-830-475 Qualification of program for continuing education credit.** Completion of a formal program of learning which serves to enhance the professional knowledge and development of the licensee shall qualify as continuing education credit. For the purposes of this chapter, a formal program of learning shall be defined as any of the following:

- (1) Attendance at a local, state, national or international continuing education program having a featured speaker;
- (2) First aid, CPR or emergency related classes;
- (3) Viewing of educational video tapes not to exceed four credits;
- (4) Teaching a seminar for the first time, not to exceed eight hours;
- (5) Business and management courses not to exceed six hours;
- (6) Specialized training in an aspect of massage therapy provided by an individual who has expertise in that area, has

been licensed in this state for no less than three years, and who charges a fee;

(7) Courses from a state, county, or city school or program or approved massage school, program, (~~(national education institution,))~~ or apprenticeship trainer in massage therapy or related topics; or

(8) Training provided by a health care professional certified or licensed in their area of expertise.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-830-610 Definitions.** For the purposes of WAC 246-830-610 through 246-830-690, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

(1) "Department" means the department of health, whose address is:

Department of Health  
~~((Professional Licensing Services))~~  
Health Professions Quality Assurance Division  
 P.O. Box 1099  
 Olympia, Washington 98507-1099

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Massage practitioner" means an individual licensed under chapter 18.108 RCW.

(4) "Mentally or physically disabled massage practitioner" means a massage practitioner who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice massage therapy with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

(5) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(6) "Unprofessional conduct" means the conduct described in RCW 18.130.180.

**AMENDATORY SECTION** (Amending WSR 93-14-011, filed 6/24/93, effective 7/25/93)

**WAC 246-830-990. Massage fees.** The following fees shall be charged by the ~~((professional licensing services))~~ health professions quality assurance division of the department of health:

Title of Fee	Fee
Written examination and reexamination	\$ 65.00
Practical examination and reexamination	50.00
<del>((Reciprocity))</del> <u>Licensing without examination</u>	50.00
Initial license	55.00
Renewal	65.00
Late renewal penalty	50.00
Certification	15.00
Duplicate license	15.00

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-830-410 Definitions.

**WSR 95-07-024**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Filed March 7, 1995, 8:22 a.m.]

Supplemental Notice to WSR 95-05-024.

Title of Rule: Chapter 388-73 WAC, Child care agencies—Minimum licensing/certification requirements.

Purpose: Consolidates child day care center licensing in chapter 388-150 WAC, clarifies language, makes consistent with statute, deletes possible discriminatory language, and strengthens requirements for adoption agencies.

Statutory Authority for Adoption: Chapter 74.15 RCW.

Statute Being Implemented: Chapter 74.15 RCW.

Summary: Helps consolidate child day care licensing in another chapter, repeals requirements for mini-day care centers, and strengthens adoption agency requirements.

Reasons Supporting Proposal: Language regarding nontraditional foster homes may be discriminatory. Day care licensing requirements are now located in a different WAC chapter. Sections relating to crisis residential center staffing are redundant. Recent failures of adoption licensed agencies bespeak the need for more specific requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barry Fibel, Office of Child Care Policy, DCFS, 753-0204.

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. Standard Industrial Code 8322 includes forty- three types of social service agencies. The only changes in this chapter which are substantive are those which apply to adoption agencies; the others are housekeeping changes. There are approximately thirty-eight adoption agencies in the state. There are thousands of persons and agencies in this group, especially if aid to families with dependent children is counted. Either way, adoption agencies clearly represent less than 10% of the group.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on May 9, 1995, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by April 25, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by May 2, 1995.

Date of Intended Adoption: May 10, 1995.

March 7, 1995

Dewey Brock, Chief  
 Office of Vendor Services

PROPOSED

**AMENDATORY SECTION** (Amending Order 1431, filed 9/10/79)

**WAC 388-73-010 Authority.** The following rules are adopted (~~(pursuant to)~~) under chapter 74.15 RCW(~~(7)~~) and RCW 74.08.044 (~~(and chapter 155, Laws of 1979)~~). Unless otherwise provided, these rules shall apply to all categories of agencies.

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-012 Definitions.** (1) Terms defined under chapter 74.15 RCW shall have the same meanings when used in this chapter except as otherwise provided herein.

(2) "Capacity" means the maximum number of persons under care at a given moment in time.

(3) "Child," "youth," and "juvenile" means any (~~(individual)~~) person under the chronological age of eighteen years of age.

(4) "Developmentally disabled person" means (~~(an individual)~~) a person suffering from a mental and/or physical deficiency rendering the (~~(individual)~~) person incapable of assuming responsibilities expected of the socially adequate person, including self-direction, self-support, and social participation.

(5) "Full-time care provider" or "full-time care facility" means a foster family home for children or expectant mothers, group care facility, maternity home, crisis residential center, and juvenile detention facility.

(6) (~~"Home of community concern" means a non-traditional family home whose composition or culture is sufficiently diverse from the standards of the community at large so that a mishap or scrutiny of the license might raise concerns about the appropriateness of licensing and placement of children, and might subject the department to notoriety.~~

~~(7))~~ (7) "Infant" means a child under one year of age.

~~((8))~~ (7) "Premises" means the buildings wherein the facility is located and the adjoining grounds over which the operator of the facility has direct control.

~~((9))~~ (8) "School-age child" means a child five years of age through twelve years of age enrolled in a kindergarten or elementary school.

~~((10))~~ (9) "Secure detention facility" and "juvenile detention facility" means a facility, primarily for the care of juvenile offenders, operated so as to ensure all entrances and exits from the facility are locked, barred, or otherwise controlled so as to prevent escapes.

~~((11))~~ (10) "Semisecure facility" means any facility, including but not limited to crisis residential centers or specialized foster homes, operated in a manner to reasonably assure youth placed there will not run away(~~(-Provided, That such)~~). The semisecure facility shall not be a secure institution or facility as defined by the federal Juvenile Justice and Prevention Act of 1974 and regulations and clarifying instructions promulgated thereunder. A child shall not be locked in the facility or any part thereof, (~~(not be otherwise)~~) or controlled by the use of physical restraints except as provided (~~(in)~~) under WAC 388-73-048.

~~((12))~~ (11) "Severely and multiply-handicapped child" is a child diagnosed as primarily dependent for most activi-

ties of daily living, except for (~~(persons)~~) a person requiring the services of a skilled health care (~~(providers)~~) provider.

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-014 Persons and organizations subject to licensing.** Persons and organizations operating the following types of facilities are subject to licensing under chapter 74.15 RCW and RCW 74.08.044:

(1) (~~"Group care facility for children" means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis;~~

~~(2))~~ "Child-placing agency" means an agency placing children for temporary care, continued care, or for adoption;

(2) "Crisis residential center" means an agency operating under contract with the department to provide temporary, protective care to children in a semisecure residential facility as required under RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036. The department shall follow separate adopted requirements for the following subcategories of crisis residential centers:

(a) A regional crisis residential center is a structured group care facility whose primary and exclusive functions are those of a crisis residential center;

(b) A group care facility functioning partially or exclusively as a crisis residential center;

(c) A foster family home functioning either partially or exclusively as a crisis residential center and has been designated as a crisis residential center by the department.

(3) (~~"Maternity service" means an agency providing or arranging for care or services to expectant mothers regardless of age, before or during confinement, or providing care as needed to mothers and their infants after confinement. See WAC 388-73-702;~~

(4) "Day care facility" means an agency regularly providing care for children for periods of less than twenty-four hours. Separate requirements are adopted for the following subcategories of day care facilities:

(a) A "mini day care program" means a day care facility for the care of twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the children are placed; or

(b) A) "Day treatment program" means an agency providing care, supervision, and appropriate therapeutic and educational services during part of the twenty-four-hour day for a group of persons under eighteen years of age and the persons are unable to adjust to full-time regular or special school programs or full-time family living because of:

(i) Disruptive behavior;

(ii) Family stress;

(iii) Learning disabilities; or

(iv) Other serious emotional or social handicaps.

(4) A "facility for severely and multiply-handicapped children" means a group care facility providing residential care to a group of nonambulatory children whose severe, disabling, multiple physical, and/or mental handicaps will require intensive personal care, and may require skilled health care, physical therapy, or other forms of therapy;

(5) "Foster family home" means a person or persons regularly providing care on a twenty-four-hour basis to one or more, but not more than four, children, expectant mothers,

or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or developmentally disabled person is placed;

(6) "Group care facility for children" means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis;

(7) "Large foster family home" means a foster family home with at least two adult residents in the home providing care on a twenty-four-hour basis to five or six children or developmentally disabled persons;

~~((7) "Crisis residential center" means an agency operating under contract with the department to provide temporary, protective care to children in a semisecluded residential facility in the performance of duties specified and in the manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036. Separate requirements are adopted for the following subcategories of crisis residential centers:~~

~~(a) A regional crisis residential center is a structured group care facility whose primary and exclusive functions are those of a crisis residential center;~~

~~(b) A group care facility functioning partially or exclusively as a crisis residential center;~~

~~(c) A foster family home functioning either partially or exclusively as a crisis residential center and has been designated as a crisis residential center by the department.)~~

~~(8) ((A "facility for severely and multiply handicapped children" means a group care facility providing residential care to a group of nonambulatory children whose severe, disabling, multiple physical, and/or mental handicaps will require intensive personal care, and may require skilled health care, physical therapy, or other forms of therapy))~~

"Maternity service" means an agency providing or arranging for care or services to expectant mothers regardless of age, before or during confinement, or providing care as needed to mothers and mothers' infants after confinement as described under WAC 388-73-702.

AMENDATORY SECTION (Amending Order 3418, filed 7/9/92, effective 8/9/92)

**WAC 388-73-01950 Fire standards.** All group care facilities, ~~((mini day care centers))~~ day treatment programs, and maternity centers shall conform to the rules and regulations adopted by the Washington state fire marshal's office establishing minimum standards for the prevention of fire and for the protection of life and property against fire. ~~((The Washington state fire marshal's standards are found in chapter 212-55 WAC.))~~ The state fire marshal's requirements consist largely of the Uniform Building Code and Washington state amendments to the Uniform Building Code.

AMENDATORY SECTION (Amending Order 3352 [WSR 92-08-056], filed 3/26/92, effective 4/26/92)

**WAC 388-73-026 Licensing of employees.** (1) Staff of the department or a member of that person's household, and staff of a child-placing agency or a member of that household, are prohibited from obtaining a license or adoptive services under this chapter from their agency if such staff are involved directly or in an administrative or supervisory capacity in:

(a) The licensing or certification process;  
(b) The placement of persons in a licensed or certified facility; or

(c) Authorizing payment for such persons.

(2) These individuals may apply to another public or private agency office other than the one in which they are employed to provide foster or adoptive care.

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

AMENDATORY SECTION (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-036 Licensure—Denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant, licensee, and chief executive officer, if any, to operate the agency under ~~((the law))~~ chapter 74.15 RCW and this chapter. Such persons shall be considered separately and jointly as applicants or licensees and if any one be deemed disqualified by the department in accordance with chapter 74.15 RCW or this chapter, the department may deny, suspend, revoke, or not renew the license:

(a) The department shall disqualify any ~~((individual))~~ person engaging in illegal use of drugs or excessive use of alcohol;

(b) ~~((The department shall disqualify any individual who has been convicted of an offense listed in chapter 388-330 WAC;~~

~~(c) The department shall disqualify any individual convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, if:~~

~~(i) The conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation, or administration of an agency; and~~

~~(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.~~

~~(d) The department shall not grant a license to an applicant who, in this state or elsewhere:~~

~~(i) Has been denied a license to operate an agency for the care of children, expectant mothers, or developmentally disabled adults; or~~

~~(ii) Had a license to operate such an agency suspended or revoked.~~

~~(e) An applicant may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision in subdivision (1)(d) of this section and license the applicant.)~~ The department shall disqualify any person who has been convicted of a criminal offense, or who allows a person convicted of a criminal offense to provide care, as provided in chapter 388-330 WAC; and

(c) The department shall not grant a license to an applicant who in this state or elsewhere, has had denied, suspended, or revoked a license to care for children, expectant mothers, or developmentally disabled adults. The department may waive this provision and grant a license if the applicant demonstrates by clear, cogent, and convincing

evidence the ability to operate an agency in accordance with requirements of this chapter.

(2) The department may deny, suspend, revoke, or not renew ~~((a))~~ an agency license for failure to comply with the provisions of chapter 74.15 RCW, and rules contained in this chapter. The department shall deny, suspend, revoke, or not renew for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to a person under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing a person unqualified by training, experience, or temperament to care for or be in contact with the person under care.

(e) Misappropriation of the property of a person under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to agency operation ~~((of the agency))~~;

(g) Failure to provide adequate supervision to a person under care;

(h) Refusal to admit an authorized ~~((representatives)) representative~~ of the department, the state department of health, or state fire marshal to inspect the premises;

(i) Refusal to permit:

(i) An authorized ~~((representatives)) representative~~ of the department to have access to the records necessary for the operation of the agency; or ~~((to permit))~~

(ii) The department representatives to interview agency staff and clients~~((s))~~.

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on the application for employment or volunteer service; and

(k) Refusal or failure to supply necessary additional department-requested information.

(3) The department may deny, suspend, revoke, ~~((or))~~ not renew, or modify a license for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the agency is licensed; or

(b) Children of ages different from the ages for which the agency is licensed.

(4) The department's notice of a denial, revocation, suspension, or modification of a license is governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20A-205, this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

(5) The department may deny, suspend, revoke, or not renew a license when the agency fails to comply with the federal Indian Child Welfare Act, P.L. 95-608, chapters 13.04 and 13.34 RCW, WAC 388-73-044~~((s))~~ Special Requirements Regarding American Indians, or WAC 388-70-600 through 388-70-640~~((s))~~ relating to local Indian child welfare advisory committees.

AMENDATORY SECTION (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-054 Client records and information—**

**All agencies.** (1) Agencies shall maintain records and information concerning ~~((persons))~~ a person in care in such a manner as to preserve their confidentiality. For American Indian children, see WAC 388-73-044. A licensed facility shall maintain records giving the following information on each person under care ~~((shall be maintained))~~ at the licensed facility. The ~~((agency's))~~ agency shall ensure records ~~((shall))~~ contain, at a minimum, the following information:

(a) Identifying information, including:

(i) Name;

(ii) Birthdate;

(iii) For full-time care providers, dates of admission, absences, and discharge; and

(iv) For day ~~((care))~~ treatment providers, daily attendance.

(b) Identifies information for parents or other persons to be contacted in case of emergency:

(i) Names;

(ii) Addresses; and

(iii) Telephone numbers, if any (home and business).

(c)(i) Dates and kinds of illnesses and accidents;

(ii) Medication and treatments prescribed;

(iii) Time given and by whom;

(iv) Except for crisis residential centers and certified juvenile detention facilities, dates and types of immunization; and

(v) Other pertinent information relating to the person's health.

(d) Written parental consent ~~((or))~~ or court order~~((s))~~ for providing medical care and emergency surgery, except as such care is otherwise authorized by law;

(e) Names, addresses, and telephone numbers of persons authorized to take the person under care out of the facility;

(f) Authorization for acceptance of the person under care. Juvenile detention facilities and crisis residential centers shall record the time and date a placement is made,

the names of the person and organization making the placement, and the reasons for the placement;

(g) In addition, for day ~~((care))~~ treatment facilities, a completed application signed by the parent, guardian, ~~((or))~~ responsible relative, or responsible agency;

(h) For day ~~((care))~~ treatment facilities, a written consent signed by the parent or parents for all transportation provided by the caregiver, trips, and swimming if the child will be participating in these activities;

(i) A copy of the report sent to the department licenser of all accidents, injuries, and illnesses requiring inpatient hospitalization occurring to the child while the child is present at the facility; and

(j) Immunization records as per WAC 388-73-140 (4) and (5).

(2) The agency's records of severely and multiply handicapped children shall also contain:

(a) Information obtained upon admission including:

(i) Identifying and social data((?)); and

(ii) An inventory of personal belongings, medical history, and a report of a physical examination and diagnosis by a physician((?)).

(b) Information about the child's daily care including:

(i) All plans,

(ii) Treatments,

(iii) Medications,

(iv) Observations,

(v) Teaching,

(vi) Examinations,

(vii) Physicians' orders,

(viii) Allergic responses,

(ix) Consent authorizations,

(x) Releases,

(xi) Diagnostic reports, and

(xii) Revisions of assessments((?)).

(c) A summary upon discharge including:

(i) Diagnoses, treatments, and prognosis by the person responsible for the total plan of care((?));

(ii) Instructions given to the person providing continuing care((?)); and

(iii) A record of any referrals directed toward continuity of care((~~and~~)).

(d) Appropriate information if the child has died including:

(i) The time and date of death((?));

(ii) Apparent cause of death((?));

(iii) Appropriate notification of the physician and relevant others (including the coroner if necessary)((?)); and

(iv) The disposition of the body and personal effects.

AMENDATORY SECTION (Amending Order 2445, filed 12/2/86)

**WAC 388-73-074 Social service staff.** (1) See WAC 388-73-662 for staffing requirements for adoption agencies.

(2) Each child-placing agency, day treatment program, maternity service, and group care facility, except for juvenile detention facilities, shall provide or arrange for social services by persons at least one of whom has a master's degree in social work or closely allied field.

~~((2))~~ (3) Social service staff not having a master's degree in social work shall have a bachelor's degree in

social work or closely allied field and shall receive face-to-face supervision by a person having a master's degree in social work or closely allied field for a minimum of one hour for each twenty hours of paid employment.

~~((3))~~ (4) When social services are provided by an agency other than the licensee, there shall be a written agreement detailing the scope of service to be provided. Any such agreement must meet the requirements of this section.

~~((4))~~ (5) The following minimum ratios of full-time social service staff providing direct services to persons under care shall be provided:

Day treatment program . . . . .	1 to 15
Group care facilities . . . . .	1 to 25
Child-placing agency . . . . .	1 to 25
Maternity services . . . . .	1 to 25
Regional and other group care crisis residential centers . . . . .	1 to 5
<u>Foster homes or foster/adoptive homes . . . . .</u>	<u>1 to 50</u>
<u>Adoptive homes . . . . .</u>	<u>1 to 25</u>

AMENDATORY SECTION (Amending Order 2445, filed 12/2/86)

**WAC 388-73-076 Social study—Treatment plans.** Except for juvenile detention facilities and adoption agencies, the social service staff of each child-placing agency, day treatment program, maternity service, and group care facility shall:

(1) Develop or assemble from appropriate sources a written diagnostic social study on each child and expectant mother accepted for care. Except in the case of persons accepted for emergency care, the study shall serve as the basis of the person's admission to care. In such case, the study shall be completed within thirty days after admission if the person remains in care. The study shall contain in addition to the minimum information recorded as required by WAC 388-73-054 the following information:

(a) Child's school records, when possible. Where children attend school away from the facility, records mean grade placement, reports, and correspondence with schools. Where the facility has a school on the grounds, records shall mean transcripts and other records normally kept by a school((?));

(b) Copies of psychological or psychiatric evaluations, if any, of the child or expectant mother((?)); and

(c) A narrative description of the background of the child and ~~((his or her))~~ the child's family, the child's interrelationships and the problems and behaviors necessitating care away from own home, previous placement history, if any, and an evaluation as to need for the particular services and type of care the licensee will provide. For American Indian children, see WAC 388-73-044.

(2) Develop and implement a written treatment plan for each person accepted for care. Such plan shall outline the agency's treatment goals and methods of work with the ~~((individual))~~ person and ~~((his or her))~~ the person's family. The plan shall be updated at least quarterly to show progress toward achievement of goals and shall identify impediments to the return of the child to his or her own home, the home of relatives, or placement for adoption and steps taken or to be taken to overcome those impediments. ~~((No))~~ A person

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shall not be admitted to ~~((not))~~ or retained in an agency's program where the person cannot be served effectively by the program or where the person can be served more appropriately by another available program.

(3) Whenever the treatment plan indicates the child may return to ~~((his or her))~~ the child's own home, the agency shall provide or arrange for services to child's parents. Where geographical or other conditions prevent the licensee from working directly with child's parents or another agency is already providing appropriate services, the licensee shall enter into an agreement with the agency for joint planning and exchange of reports toward the end of reuniting the family, or shall make arrangements with another appropriate agency toward that end.

(4) Whenever the treatment plan indicates the child will not be able to return to ~~((his or her))~~ the child's own home, the agency shall move expeditiously to develop a plan for permanence for the child. The permanent placement for the child shall be made in a family able to meet the child's physical, emotional, and cultural needs.

(5) Agency records shall include a running account of the treatment received by the child and others involved in the treatment plan including but not limited to group treatment, individual counseling, etc., whether delivered by the agency or a contracted source. The file shall be updated no less frequently than once per thirty days.

**AMENDATORY SECTION** (Amending Order 3418, filed 7/9/92, effective 8/9/92)

**WAC 388-73-118 Toilets, handwashing sinks, and bathing facilities.** Licensees shall provide sanitary facilities and equipment according to the following configuration:

(1) There shall be at least one indoor flush-type toilet and one nearby handwashing sink with hot and cold or tempered running water. The following ratios of persons normally on the premises to facilities shall apply:

	Toilets	Handwashing Sinks	Bathing Facilities
Day Treatment Programs	*2 minimum and 1:15 or major fraction	2 minimum and 1:15 or major fraction	None Required
<del>((Mini Day Care Programs))</del>	<del>1 minimum</del>	<del>1 minimum</del>	<del>None Required</del>
Group Care Facilities; Maternity Homes	2 minimum and 1:8 or major fraction	2 minimum and 1:8 or major fraction	1 minimum and 1:8 or major fraction
Foster Family Home	1 minimum	1 minimum	1 minimum

\* A minimum of one is acceptable provided ~~((no more than))~~ fifteen or fewer persons capable of using a flush-type toilet are on the premises.

(2) The licensee shall ~~((assure))~~ ensure that toilet facilities comply with the following standards:

(a) Toilet and bathing facilities shall provide for privacy for persons of the opposite sex six years of age or older;

(b) Toilet, urinals, and handwashing sinks shall be of appropriate height for the children served or be provided with a safe and easily cleanable platform impervious to moisture;

(c) Except in foster family homes, handwashing and bathing facilities shall be provided with hot and cold or tempered running water not exceeding one hundred twenty degrees Fahrenheit or warm running water in the range of eighty-five to one hundred twenty degrees Fahrenheit maximum;

(d) All bathing facilities shall have a conveniently located grab bar unless other safety measures, such as nonskid pads, are approved by the department as described under ~~((subdivision))~~ subsection (2)(g) of this ~~((subsection))~~ section. Preschool children and severely and multiply-handicapped children shall not be left unattended in a bathtub or shower;

(e) Equipment for toileting and toilet training of toddlers shall be provided, maintained in a sanitary condition, and located on a moisture impervious surface at all times. Children less than eighteen months of age and/or children using toilet training equipment need not be included when determining the number of flush-type toilets required;

(f) Whenever urinals are provided, the number of urinals shall not replace more than one-third of the total required toilets;

(g) ~~((In))~~ Maternity homes~~((;))~~ shall ensure:

(i) Bathing facilities ~~((shall))~~ have adequate grab bars in convenient places.

(ii) All sleeping areas ~~((shall))~~ have at least one toilet and handwashing sink on the same floor~~((;))~~.

(h) The licensee shall provide soap and individual towels or disposable towels or other approved hand drying devices ~~((shall be provided)).~~

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-144 Nutrition.** The licensee shall provide food, according to the following requirements, to children in care:

(1) Food served shall be planned to meet the needs of the persons under care, taking into consideration the persons' ages, developmental levels, individual metabolic differences, cultural backgrounds, any handicapping conditions, and hours of care in the facility. To promote an educational and socializing environment during mealtimes, staff shall sit with the persons and eat the same foods;

(2) The licensee shall not serve or provide raw milk to children in care. Skim milk and reconstituted nonfat dry milk and one and two percent butterfat milks shall not be used for drinking purposes by any child less than eighteen months of age, except with the written permission of a physician~~((; except further, that for mini day care centers, such reduced fat milk may be given to the child twenty three months of age or younger with written permission of the child's parent)).~~

(3) The licensee may reconstitute dry milk and milk products ~~((may be reconstituted))~~ in the facility for drinking purposes for children over eighteen months of age, provided the preparation, service, and storage of said milk is in accordance with ~~((the requirements of))~~ chapter 246-215 WAC, Food Service, relating to potentially hazardous foods;

~~((3))~~ (4) Except for foster homes and child placing agencies, the licensee shall record all food served.

(a) The licensee shall:

(i) Prepare daily menus, including all snacks required to be served, at least one week in advance and ~~((dated-))~~ date the menus; and

(ii) Establish and post a schedule of mealtimes ~~((shall be established and posted))~~. The licensee shall post menus where parents can view the menus.

(b) A menu shall specify a variety of foods to enable a person to consume adequate nutrients. Cycle menus, including snacks, shall provide at least two weeks of variety before repeating. Any substitutions shall be of comparable nutrient value and recorded.

(c) The licensee shall keep the menus on file for a minimum of six months for department review ~~((by the department))~~.

(d) For facilities caring for severely and multiply-handicapped children, the licensee shall post a general meal pattern including types of food and kinds of meal service. A system for recording food and fluid intake of each child shall be approved by a physician and a dietitian ~~((see))~~ as described under subsection ((8)) (10) of this section((7)). The licensee shall keep records of food and fluid intake of each child in the child's file for at least one month and in the facility for at least six months.

~~((4))~~ (5) The licensee shall not serve nutrient concentrates, supplements, and modified diets (therapeutic and allergy diets) except with the written instructions of a physician.

(a) The licensee shall obtain from the parent, responsible guardian, responsible relative, or physician a written diet listing foods the person cannot have. The licensee shall post dietary restrictions with persons' names for staff to follow.

(b) For facilities caring for severely and multiply-handicapped children, all modified diets shall be planned, reviewed, and approved by a dietitian ~~((see))~~ as described under subsection ((8)) (10) of this section((7)).

~~((5) Mini-day care and)~~ (6) Day treatment. The licensee shall serve food to children in care for five to ten hours providing at least one-third of the 1989 recommended dietary allowances set by the national research council. Children in care for more than ten hours, except children in evening care, shall be offered an additional snack. Children bringing sack meals from home shall be provided additional foods to meet the requirements. ~~((Licensees))~~ The licensee shall consult with parents as to what additional foods should be provided to the child. ~~((Menus shall be posted where parents can view them-))~~

(a) The licensee shall offer all children arriving before 7:00 a.m. not having received breakfast a breakfast providing at least one-fourth of the recommended dietary allowances.

(b) The licensee shall offer all children present mid-morning and midafternoon snacks. If breakfast was served to all children, then a midmorning snack is not required. The licensee shall offer children arriving after school ~~((shall be offered))~~ a snack.

(c) The licensee shall provide all children between-meal snacks contributing toward the daily food needs. The licensee shall ensure snacks ~~((shall))~~ consist of two or more of the following items, served in age-appropriate serving sizes:

- (i) Milk or milk products;
- (ii) Fruit and/or vegetables;

(iii) Fruit and/or vegetable juices that are at least fifty percent real juice;

(iv) Whole grain or enriched breads and/or cereal products;

(v) Protein foods (animal or vegetable).

(d) The department shall not prohibit the licensee from occasionally serving party foods not meeting ~~((the))~~ these requirements.

~~((6))~~ (7) Full-time care providers. The agency shall serve all children food in accordance with the 1989 recommended dietary allowances of the food and nutrition board, national research council, adjusted for age, sex, physical abilities, and activity of each person.

(8) The licensee shall provide all children a minimum of three meals in each twenty-four-hour period. ~~((Deviation may be made))~~ The licensee may deviate from this minimum when a written request has been made to and approved in writing by the department. The licensee shall ensure the time interval between the evening meal and breakfast ~~((shall be))~~ is not more than fourteen hours. For facilities caring for severely multiply-handicapped children, if a child is incapable of consuming foods in the amounts and variety required to meet the recommended dietary allowances, the licensee shall provide nutritional supplements ordered by a physician ~~((must be provided))~~ to meet the 1989 recommended dietary allowances adjusted for a child's age, weight, and height unless medically contraindicated.

~~((7))~~ (9) The licensee shall provide all children a minimum of one serving of vitamin C fruit, vegetable, or juice daily, and servings of food high in vitamin A three or more times per week.

~~((8))~~ (10) In facilities caring for severely and multiply-handicapped children, the agency shall weigh each child ~~((shall be weighed))~~ at least monthly and ~~((measured in))~~ shall measure the child's length at least quarterly. The licensee shall maintain records of these measurements ~~((shall be maintained))~~ in the child's record.

~~((9))~~ (11) Facilities caring for severely and multiply-handicapped children shall use the services of a dietitian meeting the 1980 registration requirements of the American dietetic association to comply with WAC 388-73-077, 388-73-144 (3) and (4), and 388-73-146(6).

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-146 Care of younger or severely and multiply-handicapped children.** This section is only applicable ~~((only))~~ to ~~((mini-day-care programs,))~~ group care facilities, foster homes, day treatment programs, maternity homes, and facilities for severely and multiply-handicapped children.

~~((1))~~ A licensee shall not accept a child under one month of age for day care.

~~((2))~~ (1) Facilities licensed to care for thirteen or more children shall provide separate, safe play areas for children under one year of age or children not walking. The licensee shall care for children under one year of age ~~((shall be cared for))~~ in rooms or areas separate from older children, as approved by the department with:

(a) Not more than eight such children to a room or area; and ~~((with))~~

(b) Handwashing facilities in ~~((each such))~~ the room or area or convenient thereto.

~~((3))~~ (2) Diaper changing. The provider shall ensure:

(a) Diaper-changing areas ~~((shall be))~~ are sanitized between use for different children or protected by a moisture impervious (or not absorbent) disposable covering discarded after each use;

(b) Disposable towels or clean reusable towels having been laundered between children ~~((shall be))~~ are used for cleaning children;

(c) Personnel ~~((shall))~~ wash hands before and after diapering each child;

(d) Diaper-changing areas ~~((shall be))~~ are separate from food preparation areas and shall be adjacent to a hand-washing sink; and

(e) The designated changing area ~~((shall be))~~ is impervious to moisture and washable.

~~((4))~~ (3) Except for foster family homes, the provider ~~((shall use))~~ uses disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family. The provider shall place soiled diapers ~~((shall be placed))~~ without rinsing into separate, cleanable, covered containers provided with waterproof liners ~~((prior to))~~ before transport to laundry, parent, or acceptable disposal. The agency shall:

(a) Remove soiled diapers ~~((shall be removed))~~ from the facility at least daily~~((-))~~; and

(b) Post diaper-changing procedures ~~((shall be posted))~~ at the changing areas.

~~((5))~~ (4) The agency shall:

(a) Initiate the child's toilet training when readiness is indicated by the child and in consultation with the child's parents or placement agency~~((-))~~; and

(b) Place potty chairs, when in use, ~~((shall be located))~~ on washable, impervious surfaces.

~~((6))~~ (5) When the agency formula feeds infants under one year of age, the infants shall be on a formula feeding schedule agreed upon by the child's parent or parents, guardian, the placement agency, and the licensee. When the agency formula feeds severely and multiply-handicapped children, the children shall be on a schedule agreed upon by the children's physician and the facility's dietitian (see WAC 388-73-144(8)).

(a) Feedings prepared on the premises of the facility.

(i) Any child's formula provided by the parent or parents, guardian, placement agency, or licensee shall be in a ready-to-feed strength or require no preparation other than dilution with water at the ~~((day-care))~~ facility.

(ii) If the container in which the feeding was purchased does not include a sanitized bottle and nipple, the agency shall transfer ready-to-feed formula from the bulk container to the bottle and nipple feeding unit in a sanitary manner in an area separate from diapering areas.

(iii) The agency shall refrigerate filled bottles if bottles are not used immediately and shall discard the contents ~~((shall be discarded))~~ if bottles are not used within twelve hours.

(iv) If bottles and nipples are re-used by the facility, the agency shall sanitize the bottles and nipples.

(v) When more than one bottle-fed child is in care, the ~~((agency))~~ licensee shall label the bottles with the child's name and date prepared. The agency shall pour milk for children requiring bottles but no longer on formula from the

original container into sanitized, labeled bottles. The ~~((agency))~~ licensee shall only use sanitized nipples ~~((only))~~ on the bottles.

(b) Feedings brought to the child care facility.

(i) When the parent brings bottles into the facility, the parent shall ensure the bottles ~~((shall))~~ have a label showing the child's name.

(ii) The agency shall refrigerate bottles immediately upon their arrival at the facility and the agency shall discard the bottle contents if not used within twelve hours.

(c) Bottles shall not be propped. The agency shall provide semisolid foods for infants at between four and five months of age, upon consultation with the parent or placement agency, and/or with a physician when indicated. Infants too young or unable to sit in high chairs shall be held by the care giver in a semisitting position for all feedings unless medically contraindicated. Infants six months of age or over showing a preference for holding their own bottles may do so provided an adult remains in the room and within observation range. The agency shall take ~~((bottles))~~ a bottle from ~~((the))~~ a child when the child finishes feeding or when the bottle is empty. See also WAC 388-73-144.

~~((7))~~ (6) Cribs. This subsection applies to all agencies caring for infants.

(a)(i) ~~((Providers))~~ The licensee shall furnish single level infant cribs made of wood, metal, or approved plastic with secure latching devices. The licensee shall ensure such infant cribs ~~((shall also))~~ have ~~((no))~~ not more than two and three-eighths inches space between vertical slats when used for infants under six months of age.

(ii) For infants, providers may use cribs not meeting the spacing requirement provided crib bumpers or other effective methods are used to prevent the infant's body from slipping between the slats.

(b) The licensee shall ensure infants' crib mattresses ~~((shall be))~~ are:

(i) Snug fitting to prevent the infant or severely and multiply-handicapped child from being caught between the mattress and crib side rails; and

(ii) Waterproof and easily sanitized.

~~((8))~~ (7) Children's activities.

(a) The ~~((facility))~~ agency shall provide infants and severely and multiply-handicapped children opportunities for:

(i) Exercise;

(ii) Large and small muscle development;

(iii) Crawling and exploring;

(iv) Sensory stimulation;

(v) Social interaction; and

(vi) Development of communication and self-help skills.

(b) The facility shall provide safe and suitable toys and equipment for the care of infants and severely and multiply-handicapped children.

~~((9))~~ (8) Nursing consultation.

(a) Except for facilities caring for severely and multiply-handicapped children requiring a registered nurse on staff or under contract, facilities licensed for the care of four or more infants shall arrange for regular consultation to include at least one monthly on-site visit by a registered nurse trained or experienced in the care of young children.

(b) In collaboration with the agency's administrative staff, the nurse shall advise the agency on the:

(i) Operation of the infant care program; and

PROPOSED

(ii) Implementation of the child health program.

(c) The agency's written agreement with the registered nurse shall be available in the facility.

(d) The agency shall document the nurse's on-site visits.

(e) The agency shall post and make available in the facility the nurse's name and telephone number ((shall be posted or otherwise available in the agency)).

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

**WAC 388-73-200 Child-placing agency.** The rules in WAC 388-73-200 through ~~((388-73-250))~~ 388-73-249 apply exclusively to licensing of a child-placing agency.

AMENDATORY SECTION (Amending Order 3418, filed 7/9/92, effective 8/9/92)

**WAC 388-73-212 Foster care placements.** (1) The agency shall, in planning for children, give due consideration to the best interest of the child, including but not limited to the following:

(a) A child's basic right to ~~((his or her))~~ the child's own home and family;

(b) The importance of skillful professional service to parents to help ~~((them))~~ the parents meet the child's needs in ~~((his or her))~~ the child's own home ~~((whenever))~~ when possible;

(c) The child's individual needs, ethnic background, religious background, family situation, and the wishes and participation of the child's parent; and

(d) The selection of a foster home that will provide for maximum development of the child's capacities and meet the child's individual needs. See WAC 388-73-044 for recruitment involving placement of American Indian children. ~~((The agency shall notify the DCFS licensor before placement of a child into a nontraditional home which may be of community concern.))~~

(2) The agency shall use a written intake study for each child and expectant mother as the basis for acceptance for foster care and related services.

(3) Every acceptance for care by an agency shall be based on ~~((well-planned.))~~ individual preparation of the child and the child's family and the expectant mother other than in emergent situations.

(4) Except in an emergency, a child shall be placed in foster care only with the written consent of the child's parents or under order of a court of competent jurisdiction. Such consent or order shall include authorization for medical care or emergency surgery.

(5) All foster homes and group care facilities used by child-placing agencies shall be licensed ~~((prior to))~~ before placing any children therein.

(6) ~~((An agency will))~~ The agency shall:

(a) Give sufficient information about ((the)) a child (especially behavioral and emotional problems) and the child's family to foster parents to enable ((them)) the foster parents to make an informed decision regarding whether or not to accept ((a)) the child in their home((~~—The agency shall~~)).

(b) Inform the foster parents that this information is confidential and may not be shared(~~—The agency shall~~); and

(c) Document the provision of this information in the child's file at the time of placement.

(7) The frequency of the caseworker's contacts with a foster child, the foster child's foster family, or with an expectant mother shall:

(a) Be determined by a casework plan reflecting their needs((~~τ~~)); but ((shall))

(b) Not be less frequent than one in-home visit every ninety days. Each foster child and one or both foster parents shall be seen at each visit.

(8) The agency in preparing a child for discharge from placement shall follow the same basic steps as preparation for placement, but a child shall only be released ~~((only))~~ to:

(a) Parents, adoptive parents, guardians or other persons or agencies holding legal custody((~~τ~~)); or ((~~τ~~))

(b) A court of competent jurisdiction.

#### NEW SECTION

**WAC 388-73-250 Child placing agency or individual—Adoption services.** (1) WAC 388-73-250 through 388-73-278 apply to agencies seeking a license to perform adoption services as defined under WAC 388-73-012 and this chapter. The rules apply to agencies which are required to be licensed as defined in chapter 74.15 RCW. The agencies shall comply with chapters 26.33, 26.34, 49.60, 74.13, and 74.15 RCW regardless of whether the agencies receive state or federal funds.

(2) A child-placing agency providing adoption services shall meet the requirements of this section. The agency's demonstrated ability to comply with WAC 388-73-250 through 388-73-278 shall be prerequisites for certification to provide adoption services.

#### NEW SECTION

**WAC 388-73-252 Definition.** An agency which includes any individual, firm, partnership, association, corporation, or facility in Washington state that performs any of the following shall be licensed pursuant to the requirements of chapter 388-73 WAC:

(1) Assisting prospective adoptive parents, foreign or domestic, in the placement of a child for adoption;

(2) Providing names of children, foreign or domestic, for possible adoption;

(3) Making, arranging, or assisting in arrangements for adoption, foreign or domestic;

(4) Accepting applications for adoption from prospective adoptive parents, foreign or domestic;

(5) Conducting home studies for prospective adoptions, foreign or domestic, with the exception of qualified salaried court employees, or a person or agency as defined in RCW 26.33.020 (7) or (12), submitting preplacement or postplacement reports as defined under RCW 26.33.190 and 26.33.200;

(6) Accepting children, foreign or domestic, for placement; or

(7) Publishing, or causing to be published, for circulation or broadcast an advertisement of a child or children, foreign or domestic, offered or wanted for adoption or holding himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child for adoption as required under RCW 26.33.400(2).

NEW SECTION

**WAC 388-73-254 Licensure.** (1) To qualify for a license an agency or person must have staff or provide for all of the staff functions listed in WAC 388-73-262 on either an employee or contractual basis, to include the functions of a director, supervisor, and caseworker.

(2) The functions of the director and supervisor may be combined in one position.

(3) The functions of supervisor and caseworker must be separated unless there is a second line review of home study reports.

(4) An agency providing specialized adoption services, such as intercountry adoption, interstate adoption, and special needs adoptions, shall have supervisory staff having specialized training in the particular area and a written in-service training program to train service staff in these specialized adoption services.

(5) An agency accepting for adoptive placement (with the exception of international adoptive placements) children having a special need (racial minority, developmental disability, emotional disability, etc.) shall:

(a) Have a plan for active recruitment of families of the same race or ethnic category as the children; or

(b) Be able to meet the children's other special needs.

NEW SECTION

**WAC 388-73-256 Office space.** Licensed persons and child placing agencies shall maintain a physical location and sufficient staff to allow for the provision of adoption and/or adoption related services to parents and children as defined under chapters 26.33 and 74.15 RCW, and chapter 388-73 WAC.

(1) The agency shall be housed in offices adequately equipped to carry out its program and which provide privacy for interviews with parents and children.

(2) The agency shall ensure that the office is identifiable to the public and includes a phone and mailing address.

(3) The agency shall staff the office according to WAC 388-73-262 and 388-73-264.

(4) The agency office shall maintain regular office hours.

NEW SECTION

**WAC 388-73-258 Administration.** (1) The agency shall have a board of directors who are unrelated to each other or to staff. The board shall:

(a) Oversee the affairs of the agency and establish policy;

(b) Ensure the continuous employment of a qualified executive director and delegate responsibility to that person for the administration and operation of the child placing agency; and

(c) Ensure the board and staff members shall not seek special service or exemptions from their own agency for themselves, family or preferential treatment for anyone.

(2) Executive director qualifications. The agency shall employ a director who must:

(a) Be at least twenty-five years of age and who is a mature person especially equipped by training, experience, and personal qualities to ensure an effective program,

efficient administration, quality staff, and provide for staff development;

(b) Possess a thorough understanding of the program to be administered;

(c) Have demonstrated such leadership and supervisory ability as will ensure harmonious relationships and effective performance of agency personnel;

(d) Be a graduate of an accredited four-year college or university, with a degree in the field of social work, psychology, public administration, human services, or related field;

(e) Have four or more years experience working full time in adoption placement as defined under WAC 388-73-252 and three years full-time experience in supervision and/or administration in a child placing agency as defined under WAC 388-73-014.

(3) The agency shall document the director's education and experience.

(4) If the director is also responsible for or performs the functions of a casework supervisor, the director shall meet casework supervisor qualifications as defined under WAC 388-73-262.

NEW SECTION

**WAC 388-73-260 Financial operation.** (1) An agency seeking an initial license shall:

(a) Submit an annual budget reflecting anticipated income by source and expenses by purpose, plus an accompanying balance sheet;

(b) Demonstrate that the agency has assured resources to carry out its defined purpose through its first year of operation, including possible contingencies such as placement disruptions.

(2) Each licensed adoption agency shall have its accounts analyzed annually by an independent certified public accountant who shall submit a report containing an opinion about the viability of the agency/the agency's ability to meet its obligations.

NEW SECTION

**WAC 388-73-262 Adoption agency social service staff.** (1) Casework supervisor qualifications.

(a) The agency shall employ casework/placement supervisor who has experience and demonstrated skills in each service area where supervision is provided and ability to teach and transmit knowledge which will ensure staff development and efficient administration of the casework program.

(b) The supervisor shall have a master's degree from an accredited college or university in social work, behavioral sciences, or closely related field. The supervisor must have two years full time or equivalent of postgraduate experience, under a supervisor in a licensed child placing agency.

(c) The agency shall ensure that the casework supervisor's undergraduate and graduate education are documented with copies of degrees or certified copies of transcripts and that the supervisor's experience is verified.

(2) Casework staff qualifications.

(a) Casework staff shall have a bachelor's degree in social work/social sciences, human services, counseling, or related field including field practicum in a social services settings.

The staff person performing home studies with pre-adoptive families shall have or receive training and experience which qualifies the person to discuss relevant adoption issues during the course of the home study.

(b) The agency shall ensure that a copy of the degree and resume of the staff persons qualifications is in the employee's personnel file.

#### NEW SECTION

**WAC 388-73-264 Supervisory and staffing standards.** (1) The supervisor shall:

(a) Guide, direct and evaluate casework staff.

(b) Provide supervision consisting of reading and discussion of cases, including the worker's case performance.

(i) For new employees, supervision must be face-to-face for an average of one or more hours per week for each twenty hours of employment or service;

(ii) For competent, experienced employees, supervision may be either face-to-face or electronic via computer and telephone combination.

(2) The agency shall maintain the following staffing standards:

(a) Supervisory staff shall be responsible for supervising not more than six full-time or ten part-time casework staff; and

(b) Casework staff shall be responsible for not more than:

(i) Twenty-five children. Each child, birth through seventeen years of age, counts as one case and includes parents, grandparents, siblings, and collateral persons such as counselors, or probation officers, etc. If sibling is already receiving services, such as placement services, that sibling will continue to count as a separate case; or

(ii) Twenty-five service cases. Each pregnant mother, any age, counts as one case and includes her parents, grandparents, aunts, uncles, siblings and the baby's father and the father's family. If sibling is already receiving services, such as placement services, that sibling will continue to count as a separate case; or

(iii) Fifty foster homes. Each applicant, reapplicant or each licensed home without a child counts as one-half of a case;

(iv) Thirty adoptive homes. Each applicant, reapplicant or home with a child(ren) counts as one case each approved home without a child counts as a one-fourth of one case; or

(v) A proportionate combination of items (i), (ii), (iii), or (iv) of this subsection.

#### NEW SECTION

**WAC 388-73-266 Standards for adoptive homes.** (1) In the process of assessment, preparation and selection of adoptive parents, the agency shall be concerned primarily with evaluation by the adoptive applicants and the agency of the adoptive applicants' potential for parenting the child available for adoption.

(2) An agency providing adoption services shall, as a minimum, provide to adoptive applicants the following services:

(a) Information about the adoption process, agency policy and practices, legal procedures, types of children

available, implications for parenting different types of children, and the availability of subsidy;

(b) Accompanying the application and prior to signing a contract for services, the agency shall provide the applicants with a written statement explaining the services to be performed by the agency related to the child placement or adoption for which the fees are assessed;

(c) An adoptive home study in which agency staff and applicants collaboratively assess the applicants' appropriateness to be adoptive parents, and the type of child or children for which the applicants are best suited;

(d) Preparation for placement of a specific child, with preparation including review of all available social, medical, and psychological records of the child and birth family, and a discussion of the likely implications of the child's background for the child's adjustment in the adoptive family;

(e) Re-evaluation of the applicants' appropriateness for adoption on each request for an additional adoptive placement; and

(f) Document the provision of these services in the adoptive home's file.

#### NEW SECTION

**WAC 388-73-268 Interstate compact on the placement of children (ICPC) (see chapter 388-71 WAC).** (1) The agency shall ensure that all interstate placements of children shall be in accordance with the interstate compact on children (chapter 26.34 RCW). For a child in the care of a crisis residential center and who has legal residence outside the state of Washington and who refuses to return home, provisions of the interstate compact on juveniles as described under chapter 13.24 RCW shall apply.

(2) When an in-state or out-of-state agency plans to send a child out of or into Washington, the agency must first comply with the requirements of the Washington state ICPC before the child crosses state lines.

(3) Before initiating placement plans with an out-of-state agency the Washington agency shall verify that the out-of-state agency is currently licensed in its home state. The Washington agency must have on file the following:

(a) Copy of a written agreement for services to be provided by the Washington and out-of-state agency and agreements for the responsibility of financial, medical, transportation, and social services should the placement disrupt prior to finalization;

(b) Name, address, and phone number of the out-of-state agency;

(c) The home study of the home where the child is to be placed; and

(d) Legal documents showing authority to place the child.

#### NEW SECTION

**WAC 388-73-270 International placement of children.** (1) An agency shall ensure that all international placement of children shall be in accordance with the interstate compact on children (chapter 26.34 RCW), except for children whose adoptions are finalized in the children's country of origin. When an in-state or out-of-state agency plans to send a child out of or bring a child into Washington, the agency must first comply with the requirements of the

Washington state ICPC before the child crosses state or international lines, unless the adoption is finalized in the country of origin. (See chapter 13.14 and 26.34 RCW and chapter 388-71 WAC.)

(2) An agency shall ensure that an international placement of a child complies with requirements of the U.S. Immigration and Naturalization Service and the U.S. State Department.

(3) An agency or person working internationally shall abide by the laws and/or regulations of the child's country of origin. All adoptive applicants must meet the laws and/or requirements of the child's country of origin relating to adoption.

(4) Washington agencies shall document that foreign agencies, persons, or orphanages are licensed or legally authorized by their country to perform adoption services. This documentation must follow WAC 388-73-270 (1) through (3) and (6) if applicable. Each Washington agency shall have an English-language translation of such documents/statutes must be on file at the agency.

(5) An agency shall maintain an English-language translation of any written agreements entered into with foreign governments on file at the placement agency. Such agreements shall conform to the legal requirements of the foreign nation involved, as well as with the laws and regulations of the United States and state of Washington.

(6) If a Washington agency is working in conjunction with another U.S. child placing agency which provides international placements, the Washington agency shall have a copy of the other agency's license on file.

(7) An agency performing international adoption shall:

- (a) Abide by all federal and state laws and immigration regulations; and
- (b) Have on file written documentation that:
  - (i) All available information on the child has been provided to the adoptive parent; and
  - (ii) Expectations for post-placement reports, as required by the country of origin, if any, are met.

#### NEW SECTION

**WAC 388-73-272 Child's medical information.** (1) Every agency securing a home for, or otherwise caring for a minor child for the purpose of adoption shall transmit to the prospective adoption parent before placement a complete medical report containing all available information concerning the mental, physical, and sensory handicaps of the child. The agency shall ensure the report:

- (a) Does not reveal the identity of the birth parent of the child, but
- (b) Includes any available mental or physical health history of the birth parent to:
  - (i) Facilitate proper health care for the child; or
  - (ii) Assist the adoptive parent in maximizing the developmental potential of the child.

(2) Where available, the information provided shall include a review of the birth family's and the child's previous medical history, including the child's X-rays, examinations, hospitalizations, and immunizations.

(3) The agency shall give all medical histories on a child's medical and family background form (DSHS 13-

041(X)) as developed by the department and required by RCW 26.33.350.

#### NEW SECTION

**WAC 388-73-274 Adoptive home recruitment and applications.** (1) On receipt of an adoption application, the child placing agency shall provide an applicant with a written statement which explains in specific detail:

- (a) A description of the services to be performed by the agency related to the placement or the adoption of the child;
- (b) The amount of any fees, charges, and expenses of any kind to be paid to the agency;
- (c) A listing of additional expenses that the applicants may be assessed; and
- (d) The justification of such additional expenses.

(2) An agency's fees are not refundable unless stated in a written contract with the agency.

#### NEW SECTION

**WAC 388-73-276 Adoptive home studies.** (1) In approving an adoptive home, an agency shall ensure that:

- (a) The preplacement report includes the concerns, issues and requirements specified in RCW 26.33.190, Preplacement report; and
- (b) The homestudy process includes at least one home visit.

(2) Agencies shall inform an applicant in writing as to the acceptance or denial of the applicant's application. This notice shall be sent in a timely manner.

#### NEW SECTION

**WAC 388-73-278 Adoptive home placement services.**

(1) The agency shall:

(a) Protect the child from unnecessary separation from the child's natural parents when the natural parents are capable of successfully fulfilling their parental role or can be helped to do so;

(b) Only make an adoptive placement when the child is freed for adoption by action of a court of competent jurisdiction giving the agency authority to place such child for adoption and to consent to the child's adoption as provided by chapter 26.33 RCW.

(2) The agency shall evaluate potential adoptive parents for a child in relation to the adoptive parents':

- (a) Capacity and readiness for parenting; and
- (b) Emotional and physical health and ability to meet the physical, social, emotional, educational, and cultural needs of the child.

(3) An agency, placing a child for whom the agency feels that continued contact with the child's birth family is in the child's best interest, shall evaluate the adoptive family's willingness to have the child maintain contact with members of his or her birth family.

(4) An agency shall file preplacement reports with the court as required by RCW 26.33.180 through 26.33.230.

(5) Agencies shall ensure that the child's best interests are met by requiring that a number of factors are taken into consideration when making adoptive placement decisions:

(a) When making a child adoptive placement decision, the agency shall emphasize the best interests of the child,

taking into account the particular child, parents and circumstances. The agency shall take into consideration the following factors:

- (i) Relationship of family to child;
- (ii) Sibling placement status;
- (iii) Physical and emotional needs of child;
- (iv) Age;
- (v) Sex;
- (vi) Race;
- (vii) Ethnic and cultural identity;
- (viii) Placement background;
- (ix) Availability of placement resources for timely placement; and
- (x) Continuity and stability of child's foster care placement (if any) and child's psychological attachment to foster family.

(b) The agency shall make all child adoptive placement decisions on a case-by-case basis to take into account the particular child, adoptive parents, and circumstances.

(6) The adoptive parent or parents shall sign one copy of the child's medical and social background history report, signifying receipt of the information. The agency shall retain this signed copy in the child's permanent record.

(7) Except for inter-country adoptions, the agency shall place a minority race children whose case plan is adoption into a family of the same racial background as the child except:

(a) That if both the agency's own recruitment effort and registration with the Washington adoption resource exchange fail to identify a suitable family within ninety days, the agency must consider placing a child with a family of a different racial background; or

(b) Where a child was placed into a foster family of a different racial background before adoption was considered for the child, adoption by the foster family must be considered if a strong attachment has developed between the foster parents and the child and the family can describe specific actions it will take to ensure the child's racial identification is maintained and enhanced; or

(c) Where the child's birth parent or parents make a specific written request that the child be placed in a family of a racial background different from that of the child, the agency shall consider this request. See WAC 388-73-044 for placement involving an American Indian child.

(8) Before finalization of the adoption the agency shall visit the adoptive home of all adoptive placements at least once in the first thirty days and an additional face-to-face visit each sixty days thereafter until the adoption is finalized. Upon filing of the petition for adoption, the agency shall make recommendation to the court on the advisability of finalizing the adoption.

(9) The agency shall be available for information and referral services to the adoptive family after finalization of the adoption.

(10) Upon finalization of the adoption, the agency shall ensure that all adoption records shall be confidential and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, or except by using the procedure described in RCW 26.33.343.

(11) In the event the agency closes, the agency shall make arrangements for the permanent retention of the child's adoption records.

(12) The agency shall maintain a permanent confidential record of each person for whom it has accepted permanent custody. This record shall contain all available identifying legal, medical, and social information. Access to the identifying information shall not be given without a court order if the person has been adopted. In the event the agency closes, the agency shall make arrangements for the permanent retention of these records and will inform the division of children and family services adoption program manager.

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-304 Capacity.** (1) A family home for developmentally disabled persons shall not be licensed for more than four persons.

(2) A foster family home for children shall not be licensed for more than four foster children, nor more than a total of six children to include the foster parents' own or adopted minor children residing in the home(~~(-except that)~~). A foster family home may be a one-parent home.

(3) "A large foster home" ((where there are at least two adults providing care)) may be licensed for ((five or)) as many as six foster children, such number to be reduced by the number of the foster parents' own or adopted children residing in the home((-a)). A large foster home must have two adult caretakers residing at the foster home.

(4) No home designated by the department as a "receiving home" shall be licensed for more than six foster children. Such number shall be reduced by the number of the foster parents' own or adopted minor children residing in the home((-b)).

(5) A home otherwise meeting the standards but having sufficient children of their own and/or adopted children to meet or exceed the capacity limit may be licensed for the care of at least one child or single family of children.

((3)) (6) A foster family home for expectant mothers shall not be licensed for more than three expectant mothers.

((4)) (7) A foster family home for children shall not be licensed for more than two children under two years of age, such number to be reduced by the number of licensee's own children of such age.

((5)) (8) A family home shall not be licensed for the care of more than three persons suffering mental or physical handicaps of such severity as to require nursing care, and then licensed only if the:

(a) Licensee is qualified by training and/or experience to provide proper care; and

(b) Person's treatment is under the supervision of a physician.

((6)) (9) A foster family shall not be licensed for the care of more than two nonambulatory persons whether that condition is due to age or physical or mental impairment.

((7)) (10) A foster family home functioning as a crisis residential center or specialized receiving home shall not be licensed for the care of more than four children in placement. There shall not be more than six children residing on the premises, including the foster parents' own minor children. There shall not be more than two children requiring crisis residential care in foster family care at the same

time. All such homes shall be two-foster-parent homes and one of the foster parents shall not be employed outside the home.

~~((8))~~ (11) A foster family home may, for purposes of respite care, exceed the foster family home licensed capacity by receiving additional foster children.

(a) This section does not authorize care in excess of subsection ~~((4))~~ (7) or ~~((6))~~ (9) of this section relating to the care of infants or nonambulatory children.

(b) Exceeding capacity under authority of this section will only be possible ~~((so))~~ as long as ~~((the requirements of))~~ WAC 388-73-310 (Fire safety), 388-73-108 (Bedrooms), and 388-73-054 (Client records and information—All agencies) are complied with for the larger number of children in care.

(c) The licensee shall neither permit such an excess in child care ~~((shall be permitted not))~~;

(i) More than three times in any calendar year ~~((and))~~;

nor ~~((not))~~ more than two weeks at a time.

(d) A foster home providing such care ~~((pursuant to this))~~ under subsection (11) of this section shall not exceed its licensing capacity by more than twice the number of persons for which the foster family has been licensed.

(e) Prior approval shall be obtained from:

(i) The placing agency, if any ~~((and if not))~~; or

(ii) The person's or persons' parents or guardian or responsible relative.

#### NEW SECTION

**WAC 388-73-511 Ill children in day treatment programs.** (1) The facility shall observe each child for signs of illness each day.

(2) The facility shall give an ill, a tired, or an upset child a chance to rest in a quiet area under frequent observation.

(3) An ill child need not be discharged home as a routine basis, and the facility may care for the ill child during a minor illness at the joint discretion of the parent and licensee.

(4) In the case of more severe illness, the facility shall separate the child from the other children and properly attend the child until an arrangement is made for the child's return home.

#### NEW SECTION

**WAC 388-73-513 Play areas in day treatment programs.** (1) The day treatment facility shall have an appropriately equipped, safe outdoor play area directly adjoining the indoor facilities or which can be reached by a safe route and method approved by the department. The playground shall contain a minimum of seventy-five square feet per child. If programming is such that only a portion of the group uses the playground at one time, the size may be reduced correspondingly. The outdoor play area shall be fenced. The fence shall be at least four feet in height.

(2) The day treatment facility shall provide adequate indoor play space. Play, dining, and napping may be carried on in the same room (exclusive of bathrooms, kitchens, hallways, and closets), provided the room is of sufficient size, and programming is such that usage of the room for one purpose does not interfere with the usage for the room's

other purposes. If cots and mats are removed when not in use, a minimum of thirty-five square feet per child is required. For children requiring cribs, the area used for play and napping shall contain a minimum of fifty square feet per child.

#### NEW SECTION

**WAC 388-73-516 Operating hours—Staff on premises.** (1) The day treatment facility shall specify operating hours of the program on the application for licensing and shall post program hours in a prominent place at the facility.

(2) The facility shall post a listing of staff and volunteers on duty at a prominent place within the facility. During the operating hours set forth in the application, a person shall not have unmonitored access to the children placed within the care of the agency who is not a director, employee, or volunteer, other than a parent or custodian of a child under care (who may have unmonitored access to the parent's or custodian's own child or children), an employee of the department, or a law enforcement person.

#### NEW SECTION

**WAC 388-73-522 Off-grounds trips.** Except in the event of a medical emergency, the licensee or an employee or volunteer of the agency shall not remove a child from the premises of a day treatment program without the express written consent of the child's parent or custodian.

#### NEW SECTION

**WAC 388-73-524 Information to parents—Day treatment facilities.** (1) The facility shall provide the parent with the following information in written form:

- (a) A typical daily schedule of activities;
- (b) Admission requirements and enrollment procedures;
- (c) Hours of operation;
- (d) Meals and snacks served;
- (e) Fees and payment plan;
- (f) Regulations concerning sick children;
- (g) Transportation arrangements and arrangements for trips, disciplinary policies, religious activities (if any), and action taken in the event of a medical emergency;
- (h) Policies regarding the administration of medication;
- (i) Schools served and transportation available to the schools;
- (j) Nondiscrimination; and
- (k) If licensed for young children, policy on diapers and the labeling of foods.

(2) The child's parent shall have free access to all areas of day treatment facilities used by the parent's child.

AMENDATORY SECTION (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-606 Required positions.** ~~((An agency))~~ A licensee shall provide staff in accordance with the following requirements:

(1) A director responsible for the general management and administration of the agency's program. This person shall:

- (a) Be twenty-one years of age or older;

(b) Possess ability to understand the role of the agency in meeting the needs of children;

(c) Work with representatives of appropriate agencies;

(d) Have a bachelor's degree in a social science or closely allied field; or

(e) Have had a minimum of two years' experience:

(i) Working in a group care facility; or

(ii) As a foster parent with a letter of recommendation from the licensing agency and/or supervising agency.

(2) Child care staff whose primary duties are the care, supervision, and guidance of children. Such staff shall be at least eighteen years of age. Staff under twenty-one years of age shall be under the immediate supervision of staff at least twenty-one years of age.

~~((In addition, in crisis residential centers, no less than fifty percent of the child care staff shall have completed at least two years of college and one year of working with children in a group setting. Experience may be substituted for education on a year for year basis. A bachelor of arts degree in behavioral or social science may be substituted for experience. The remaining child care staff shall have at least a high school diploma (or equivalent) and one year of successful experience as a foster family parent for three or more children or working with children in a group setting. Two years of college may be substituted for the required experience.))~~

(a) Except for crisis residential centers, facilities for severely and multiply-handicapped children, and juvenile detention facilities~~((?))~~ during the waking hours of the children, the licensee shall ensure there ~~((shall be))~~ is at least one child care staff member on duty for every eight children or major fraction (five or more) of such number of children on the premises.

(i) For juvenile detention facilities, the licensee shall ensure there ~~((shall be))~~ is a minimum of one child care staff on duty for every ten children in care during the waking hours of the children.

(ii) The director and support and maintenance staff may temporarily serve as child care staff when not involved in other duties if appropriately trained and involved in ongoing training, provided the required number of child care staff is maintained.

(b) Except for crisis residential centers~~((, whenever))~~ when more than eight children are on the premises, at least two adults (including at least one child care staff) shall be on duty.

(i) During nighttime hours, "on duty" staff may include staff sleeping in the group care facility and available to the children.

(ii) During sleeping hours, there shall be at least one adult in proximity to the children.

(c) When only one child care staff is on duty, ~~((there shall be))~~ the licensee shall ensure a second person is on call.

(3) The ~~((agency))~~ licensee shall have relief staff to enable all staff to have the equivalent of two days off in one week.

**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 sections of the Washington Administrative Code are repealed:

WAC 388-73-213	Certification to provide adoption services.
WAC 388-73-214	Adoption procedures.
WAC 388-73-216	Adoption placements.
WAC 388-73-400	Day care providers.
WAC 388-73-402	Maximum hours—Rest periods.
WAC 388-73-403	Operating hours—Staff on premises.
WAC 388-73-404	Ill children.
WAC 388-73-406	Nap and sleep equipment.
WAC 388-73-408	Evening and nighttime care.
WAC 388-73-409	Off-grounds trips.
WAC 388-73-410	Information to parents—Day care facilities.
WAC 388-73-412	Toddlers and preschool children.
WAC 388-73-414	Attendance—Mini-day care centers.
WAC 388-73-430	Capacity—Limitations on ages and numbers—Mini-day care centers.
WAC 388-73-432	Staffing—Mini-day care program.
WAC 388-73-434	Qualifications of licensee—Mini-day care.
WAC 388-73-436	Qualifications of child care staff—Mini-day care.
WAC 388-73-438	Program and equipment—Mini-day care.
WAC 388-73-440	Play areas—Mini-day care.
WAC 388-73-510	Ill children.
WAC 388-73-512	Play areas.

## WSR 95-07-029

### WITHDRAWAL OF PROPOSED RULES BOARD OF BOILER RULES

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:00 a.m.]

WAC 296-104-411, proposed by the Board of Boiler Rules in WSR 94-17-170, appearing in issue 94-17 of the State Register, which was distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

## WSR 95-07-030

### WITHDRAWAL OF PROPOSED RULES HEALTH SERVICES COMMISSION

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:01 a.m.]

WAC 245-08-010, 245-08-020, 245-08-030, 245-08-040 and 245-08-050, proposed by the Health Services Commission in WSR 94-17-183, appearing in issue 94-17 of the State

Register, which was distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-031**  
**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH SERVICES COMMISSION**

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:02 a.m.]

WAC 245-04-300, 245-04-310, 245-04-320, 245-04-330, 245-04-340 and 245-04-350, proposed by the Health Services Commission in WSR 94-17-184, appearing in issue 94-17 of the State Register, which was distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-032**  
**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH SERVICES COMMISSION**

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:03 a.m.]

WAC 245-04-200, 245-04-210, 245-04-220, 245-04-230 and 245-04-240, proposed by the Health Services Commission in WSR 94-17-185, appearing in issue 94-17 of the State Register, which was distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-033**  
**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH SERVICES COMMISSION**

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:04 a.m.]

WAC 245-04-010, 245-04-020, 245-04-025, 245-04-030, 245-04-040, 245-04-050, 245-04-060, 245-04-070 and 245-04-080, proposed by the Health Services Commission in WSR 94-17-186, appearing in issue 94-17 of the State Register, which was distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-034**  
**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH SERVICES COMMISSION**

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:05 a.m.]

WAC 245-03-810, 245-03-820, 245-03-830, 245-03-840, 245-03-860 and 245-03-880, proposed by the Health Services Commission in WSR 94-17-187, appearing in issue 94-17 of the State Register, which was distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-035**  
**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH SERVICES COMMISSION**

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:06 a.m.]

WAC 245-03-520, 245-03-540, 245-03-560 and 245-03-580, proposed by the Health Services Commission in WSR 94-17-188, appearing in issue 94-17 of the State Register, which was distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-036**  
**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH SERVICES COMMISSION**

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:07 a.m.]

WAC 245-03-620, 245-03-640, 245-03-650, 245-03-660 and 245-03-680, proposed by the Health Services Commission in WSR 94-17-189, appearing in issue 94-17 of the State Register, which was distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-037**  
**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH SERVICES COMMISSION**

(By the Code Reviser's Office)

[Filed March 8, 1995, 8:08 a.m.]

WAC 245-03-010, 245-03-020, 245-03-040, 245-03-050, 245-03-080, 245-03-120, 245-03-140, 245-03-160, 245-03-180, 245-03-200, 245-03-220, 245-03-240, 245-03-260, 245-03-280, 245-03-300, 245-03-320 and 245-03-390, proposed by the Health Services Commission in WSR 94-17-190, appearing in issue 94-17 of the State Register, which was

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distributed on September 7, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-041**  
**PROPOSED RULES**  
**SPOKANE COUNTY AIR**  
**POLLUTION CONTROL AUTHORITY**  
[Filed March 8, 1995, 10:35 a.m.]

Original Notice.

Title of Rule: SCAPCA Regulation I, Article VI: Section 6.10, Grass Field Burning - Additional Requirements and Section 6.11, Agricultural Burning.

Purpose: To define requirements, conditions, and prohibitions relative to grass field burning, specifically, and agricultural burning, in general.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: The regulation identifies grass field burning as a subset of agricultural burning. It defines the season and conditions for grass field burning. It also establishes burn permit fees.

Reasons Supporting Proposal: There is a need for amendments to make language more consistent with state regulations. There is also a need for more flexibility in establishing burn days for grass field burning.

Name of Agency Personnel Responsible for Drafting: Eric Skelton, Spokane, Washington, (509) 456-4727 ext. 121; Implementation and Enforcement: Mabel Caine, Spokane, Washington, (509) 456-4727 ext. 120.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The regulation establishes the requirements for general agricultural burning and grass field burning. It also establishes fees for both types of burning, within the guidelines of state regulations. It also incorporates changes in burning programs as established by new state regulations. The primary purpose is to regulate burning in a manner which protects ambient air quality. The anticipated effect is a well regulated burn program which recognizes the needs of the agricultural community and the general public.

Proposal Changes the Following Existing Rules: The primary change is to alter the method in which burn days are determined for grass field burning. It also eliminates the base acreage program and the existing cap on acres to be burned per year. It also changes the fee schedule for burn permits.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Spokane County Air Pollution Control Authority is not required under chapter 19.85 RCW to file small business economic impact statements.

Hearing Location: Spokane County Public Works Building, 1026 West Broadway, Hearing Room, Spokane, WA, on May 4, 1995, at 9:00 a.m.

Submit Written Comments to: Eric Skelton, Spokane County Air Pollution Control Authority, 1101 West College, Suite 403, Spokane, WA 99201, FAX (509) 459-6828, by May 1, 1995.

Date of Intended Adoption: May 4, 1995.

March 7, 1995  
Eric Skelton  
Director

PROPOSED: 3/6/95

ARTICLE VI

EMISSIONS PROHIBITED

ADOPTED: **June 9, 1969**

REVISED: **November 3, 1994**

EFFECTIVE: **December 9, 1994**

AMENDATORY SECTION  
**SECTION 6.10 GRASS FIELD BURNING - ADDITIONAL REQUIREMENTS**

A. Purpose and Authority. This section is enacted pursuant to authority granted by RCW 70.94.141 to establish controls and conditions for issuance of permits for burning of turf grass fields and field and forage grass fields, grown for commercial production of grass seed. These requirements are in addition to and to implement restrictions upon grass field burning consistent with the provisions of WAC Chapter 173-430-030 WAC and the provisions of SCAPCA Regulation I, Article VI, Section 6.11.

B. Applicability. This Section applies to grass field burning in all areas of Spokane County unless specifically exempted.

C B. Definitions. The definitions of terms contained in Chapter 173-430 WAC are incorporated into this Section by reference. Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning:

~~As used in this section, words and terms shall have the meanings herein stated:~~

~~(1) Turf grasses: All blue grasses, fescues, bentgrass, and perennial ryegrass, planted to produce seed.~~

~~(2) Open burning: The combustion of materials in the open or in a container, with no provision for the control of the combustion or control over the combustion products.~~

~~(3) Emissions: A release of air contaminants into the outdoor atmosphere.~~

~~(4) Field and forage grasses: canary grass, brome grass, oat grass, timothy, wheat grass, and orchard grass, planted to produce seed.~~

~~(5) Straw: All material, other than seed, removed by swathing, combining, or cutting.~~

~~(6) Director: The Director of Spokane County Air Control Pollution Authority.~~

~~(7) Authority: The Spokane County Air Pollution Control Authority.~~

~~(8) Board or Board of Directors: The Board of Directors of Spokane County Air Pollution Control Authority.~~

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1. Field and forage grass means canary grass, brome grass, oat grass, timothy, wheat grass, and orchard grass, planted to produce seed.

2. Grass field means a parcel of land, intended for agricultural use, where turf grasses or field and forage grasses are grown for commercial production of grass seed.

3. Turf grass means all blue grass, fescue, bentgrass, and perennial ryegrass, planted to produce seed.

C. Permit Required:

~~No person shall open burn any grass field in Spokane County without first obtaining a permit therefore and paying such fee as is hereinafter provided. The Director shall issue permits to all persons entitled thereto upon payment of the fee, all as hereinafter provided.~~

D. Field and Forage Grass Burning Prohibited—Exceptions:

~~Open burning of field and forage grasses is hereby prohibited, EXCEPT a permit may be issued to burn field and forage grasses for disease, pest or weed control if there is a need to burn such grasses with such need certified by a county agent or other agricultural authority; or if such grasses were planted as part of a soil erosion control plan approved by a conservation district. Any permit issued pursuant to the exception herein stated may be subject to any and all conditions and restriction of other permits herein provided.~~

E. Permits to Burn Grass Fields—Applications:

~~Before the Director shall issue a permit to burn a grass field the applicant shall apply therefore as follows:~~

D. General Conditions In addition to the general conditions required in Section 6.11.E. of this Regulation, and to any specific permit conditions imposed, any person who practices or permits the practice of commercial grass field burning shall comply with all of the following conditions:

1. Permission, pursuant to procedures established by the permitting authority, shall be obtained from the permitting authority on the desired burn day, prior to burning the specific grass field or fields.

2. Pertinent meteorological data, as determined by the permitting authority, shall be provided to the permitting authority on the day of the burn, in sufficient detail to enable the permitting authority to determine whether or not such burning is likely to create a nuisance. As an alternative to providing field specific weather data, permit holders may collaborate in a joint effort to provide meteorological data by operating regional meteorological stations.

3. A copy of the permit shall be readily available at the site of the burn and for the duration of the burn, to be displayed upon request to a representative of the permitting authority.

4. No ignition of previously unignited grass fields shall begin after permission to burn is withdrawn by the permitting authority, pursuant to Section 6.10.F.3.

5. An approved means of receiving radio or telephone communications from the permitting authority shall be used by a responsible person at the site of the burn and for the duration of the burn.

6. The permitting authority shall be contacted within 24 hours of completion of burning of each grass field (exclusive of Saturdays, Sundays, or legal holidays) to report each field and acreage burned. The same report shall be made in writing to the permitting authority in a form acceptable to

the permitting authority within 30 days of completion of the grass field burning season.

E. Administrative Requirements

1. All persons desiring to burn grass field(s) shall apply to the permitting authority for a permit therefore prior to June 15 of the year in which he or she desires to burn. Applications received after June 15 may not be processed for that year's burning season.

2. The application shall be made in writing to the permitting authority upon a form to be provided by the Director permitting authority and shall be submitted to the Director or such person as the Director may designate.

3. The permit application shall contain the following information: required in Chapter 173-430-040 WAC and all other information required by the permitting authority.

a. The name, address, telephone number, social security account number or federal employer identification number of the applicant. If the applicant is not an individual, the application shall state whether the applicant is a corporation, partnership, or other entity, and shall specify the relationship between the applicant and the person acting on behalf of the applicant, i.e. owner, manager, partner, etc.;

b. A description of the field(s) to be burned so as to enable the Director to locate the field for inspection and verification of other information. As a minimum the description shall include the county tax parcel number, the name of any roads bordering the property, any identifying landmarks on or near the property, and a narrative description of the most available access to the property;

c. The number of acres encompassed in each separate field;

d. The type of grass grown and to be burned;

e. Whether for each of the five preceding years, the field was burned and if so, by whom, if known;

f. The name and relationship to the applicant of the person who will initiate the burn and who will be responsible for control of the burn to insure only permitted area is burned and other permit conditions are met.

~~(4) The Director may require such other information to insure identity of the applicants and property and to compile information to aid in future development of policy to prevent air pollution.~~

4. 5 The Director permitting authority shall not issue a permit unless the application shall be is submitted as herein provided, and the Director shall revoke any permit issued if upon investigation it shall appear that any information provided in the application is substantially untrue.

5. The permitting authority shall mail the approved permits to the respective applicant(s) by no later than August 1.

F. Base Acreage Determination:

1. Base acreage establishes permit history and is defined as the greatest number of acres that a person or entity has burned, under permit issued by the Authority, in any single year from 1985 to 1989 inclusive, except that if more than one applicant has received a permit in the same period to burn the same field(s), then only the last person or entity to burn the field(s) may use the field(s) in determining the base acreage total.

2. Each applicant shall identify with specificity the year and number of acres burned, including the location, where upon the Director shall cause a record to be made of the

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determination for each applicant, and the Director shall mail notice to each applicant of the base acreage determination for that applicant. No person or entity, possessing base acreage, may apply for or be granted a permit to burn grass field(s) unless the grass field(s) are under the applicant's direct control, either by ownership or lease.

3. No person or entity may apply for or be granted a permit to burn grass field(s) unless the person or entity establishes base acreage which equals or exceeds the number of acres specified in the application. After November 6, 1993, no person or entity may possess base acreage unless the person or entity has a valid conservation plan which has been approved by the Spokane County Conservation District or the Soil Conservation Service of the United States Department of Agriculture. Such plan shall specify present or future intent to maintain perennial grasses in rotation as part of a conservation system. All persons or entities possessing base acreage on May 6, 1993, and intending to retain base acreage, shall submit to the Authority evidence of approval of such plan no later than November 6, 1993. All base acreage for which such evidence of a valid conservation plan has not been established by November 6, 1993, shall be transferred to the Base Acreage Account of the Authority. Within 90 days of amendment of a conservation plan, the affected person or entity shall submit evidence of such amended plan to the Authority.

4. Any person or entity alleging permit history pursuant to Chapter 173-430 WAC, and aggrieved by the determination of the Director may give notice thereof in writing, stating all reason(s) for being aggrieved. Upon receipt of written notice, the Director shall determine if the base acreage entitlement shall be modified and give notice of the determination. If still aggrieved, then the person or entity may request a hearing before the Board of Directors of the Authority, and upon hearing the Board of Directors shall determine if the base acreage entitlement shall be modified. Such request for hearing by an aggrieved person or entity, in order to be considered, must be received by the Authority within 30 days of the Director's determination. The decision of the Board of Directors shall be final, except for any further appeal as may be allowed by law to the Pollution Control Hearings Board or the courts.

5. Any hearing, as may be provided for herein, may be conducted by a hearings official appointed by the Board of Directors. If the Board of Directors chooses to appoint a hearings official to conduct the hearing, the decision of such hearings official shall be the final decision of the Board of Directors.

6. Permits when properly applied for may issue for 100% of an applicant's entitlement reflected in the base acreage determination, unless prorata reductions are imposed, as provided in Section 6.10.I. In the event that prorata reductions are imposed, the base acreage in the Base Acreage Account of the Authority shall be reduced at the same time by the same percentage.

7. If upon any determination of a person's or entity's base acreage, it shall appear that the person or entity is entitled to count acreage formerly included in another applicant's base acreage, then the Director shall reduce the prior applicant's base acreage determination, credit the new person or entity accordingly, and give notice thereof to both parties. Appeal may be had from any such determination to

the Board of Directors of the Authority as provided in Section 6.10.F.(4).

8. Base acreage shall apply to a person or entity and not to specific parcels of land. Base acreage is transferable at the option of the person or entity, at the time an equivalent number of acres of land is transferred, by sale, lease, expiration of lease, or inheritance, to a spouse, son, daughter, or other successor to the land, or by operation of law, and becomes the possession of the successor to the land, except as provided in Section 6.10.F.(9). The person or entity possessing base acreage may retain all or part of base acreage upon transfer of land or loss of interest in the land, provided the retained base acreage does not exceed the total area of land, intended for agricultural use, which remains under control of the person or entity, either by ownership or lease, and provided the lease or sublease does not constitute a temporary transfer agreement as described in Section 6.10.F.(9). Any person or entity with base acreage exceeding the total area of land, intended for agricultural use, remaining under their control as a result of such land transfer or loss of interest in the land may petition the Director for retention of excess base acreage for up to 24 months from the date of transfer or loss of interest in the land. Such petition shall be made in writing within 90 days of land transfer or loss of interest in the land. The Director shall grant the retention of excess base acreage if the person or entity demonstrates to the satisfaction of the Director that every reasonable effort is being made to secure additional acreage of land for intended agricultural use which equals or exceeds the base acreage excess and which complies with Section 6.10F.(3). The Director may grant an extension of time for up to 24 additional months, if the person or entity demonstrates to the satisfaction of the Director that specific parcels of land will be secured by a specified date and the requirements of Section 6.10F.(3) will be met. Otherwise, any excess base acreage resulting from such land transfer or loss of interest in the land, is transferred to the Base Acreage Account of the Authority. Nothing in Section 6.10.F.(8) shall be construed as limiting the rights of aggrieved persons or entities to appeal, pursuant to the provisions of Section 6.10.F.(4).

9. Any person or entity, possessing base acreage and having title to or leasehold interest in equivalent acreage of land, may enter into an agreement with a lessee or sublessee of the land to temporarily transfer base acreage for the term of the lease or sublease, provided the person or entity possessing the base acreage notifies the Authority in writing within 90 days of the transfer. At a minimum, notification shall include the effective date of the lease or sublease, the expiration date of the lease or sublease, the number of acres of land transferred or leased and the number of base acres transferred. Upon expiration of the lease or sublease, the base acreage shall revert to the person or entity who transferred the base acreage.

10. Except as provided in Section 6.10.F.(9), any person or entity, possessing base acreage, may voluntarily relinquish all or a portion of said base acreage to the Base Acreage Account of the Authority. No person or entity, possessing base acreage, may transfer base acreage directly to another person or entity, except as provided in Sections 6.10.F.(8)&(9).

11. Any person or entity intending to engage in the business of growing turf grass or field and forage grass for seed may apply to the Authority for base acreage from the Base Acreage Account. The Director may require proof of ownership or lease, proof of intent to own or lease equivalent acres of agricultural lands, and/or proof of compliance with Section 6.10.F.(3) before an application is approved.

12. Any person or entity which transfers base acreage to the Base Acreage Account of the Authority shall specify to the Authority a minimum bid price per acre to be paid as compensation by a person or entity which purchases base acreage. The transferring person or entity shall place the specified minimum bid price inside a sealed envelope, with the name of the person or entity and the amount of base acreage specified on the outside of the envelope, and deliver it to the Authority. The envelope shall be clearly marked on the outside with the word, "transferred". Base acreage shall be disbursed from the Account, in order of priority, beginning with the lowest and proceeding to the highest specified minimum bid price per acre (as specified by the seller), except that any base acreage with a specified minimum bid price exceeding the highest bid, shall not be disbursed from the account. In the case of a required transfer of base acreage to the Base Acreage Account, if the person or entity fails to specify a minimum bid price per acre, the Authority shall establish the bid price as the average of all the specified minimum bid prices of base acreage in the Base Acreage Account for which there are apparent successful matches between seller and bidder at the time the bids are opened. In the case of two or more specified minimum bid prices being the same, the base acreage shall be disbursed from the account on the basis of equal percentage from each affected transferring person or entity. Transfer of base acreage to the Base Acreage Account constitutes consent to sell the base acreage in total or in increments as determined by the successful bids.

13. Base acreage shall be disbursed from the Base Acreage Account to persons or entities, as described in Section 6.10.F.(11), by a sealed, competitive bid process. The bidder shall place the actual bid price inside a sealed envelope, with the name of the bidder, and the number of base acres desired on the outside of the envelope, and deliver it to the Authority. The envelope shall be clearly marked on the outside with the word, "bid". The bidder shall also specify on the outside of the envelope the minimum number of base acres the bidder will commit to purchase in the event that the full base acreage request cannot be met. If the number of base acres available to the bidder is less than the bidder's minimum commitment to purchase, then the bid shall be deemed unsuccessful. Base acreage shall be awarded, in order of priority, beginning with the highest bidder and proceeding to the lowest bidder. In the case of two or more bid prices being the same, the base acreage shall be awarded on the basis of equal percentage of request to each bidder. The successful bidder shall pay to the transferring person or entity, the minimum bid price per acre, specified by the transferring person or entity, plus one-half of the difference between the specified minimum bid price and the actual bid price, for each acre purchased. Payment shall be made within 5 days of bid opening by delivery by the successful bidder to the Authority of a cashier check, certified check, or money order in the amount

of the purchase price and payable to the transferring persons or entities. Within 5 days of receipt of all such payments for the completed competitive bid process, the Director shall transmit the payments directly to the transferring persons or entities.

14. The person or entity awarded base acreage from the Base Acreage Account shall, in addition, pay one dollar (\$1) per base acre disbursed, to the Authority. The Director shall transmit the one dollar (\$) per acre fee to the Grass Seed Burning Research Account in the General Fund of the State of Washington. For every base acre disbursed from the Base Acreage Account, the person or entity shall be credited by the Authority with 0.9 base acres, after showing proof of payment. Any base acreage remaining in the Base Acreage Account for six (6) years or more shall no longer be eligible for disbursement.

15. Disbursement of base acreage by sealed, competitive bid shall occur twice each year, between April 1, and April 15, and between October 1, and October 15, on dates established by the Director, provided there is base acreage in the Account. In addition, a special one time disbursement of base acreage shall occur within 30 days of the effective date of the amendments to Section 6.10.F., provided there is base acreage in the Account. On each specified date, the Director or his designated representative shall open all envelopes of the sellers and bidders and match the transferred base acreage with the bids as described in Sections 6.10.F.(12)&(13). Any person or entity which specified a minimum bid price per acre, as provided in Section 6.10.F.(12), may modify the specified minimum by presenting the Director with a substitute sealed envelope. Such substitution must be received by the Authority no later than 5 days prior to the established dates of bid opening. All transferring persons or entities which participate in the competitive bid process and fail to sell all or part of their base acreage shall submit a new sealed envelope, as described in Section 6.10.F.(12), no later than 5 days prior to the next established date of bid opening. No base acreage which has been transferred to the Base Acreage Account may be removed, retrieved, or disbursed from the Account except as provided in Sections 6.10.F.(13)&(15).

16. If the entity is a corporation or partnership, upon dissolution, liquidation, consolidation, or reorganization, the base acreage shall be divided equally among the shareholders, partners, or tenants in proportion to their ownership. Any use of a business entity, such as a partnership, corporation or otherwise, for the purpose of avoiding the restrictions, conditions, or limitations on the transfer of base acreage as required by Section 6.10.F. shall constitute a violation of this regulation and have no force or effect.

17. No person or entity may retain, receive, or transfer base acreage through willful misrepresentation or failure to fully disclose all relevant facts. If it is determined that a person or entity has retained, received, or transferred base acreage through such misrepresentation or failure of disclosure, in addition to being subject to the penalties provided in Article II of Regulation I, such retention, receipt, or transfer shall be rendered null and void.

18. Section 6.10.F. does not create nor is it intended to create any vested or compensable right in any base acreage by an owner, lessor, lessee, purchaser, permit holder, applicant, or other person.

G F. Burning season, burn days, and control regions.

1. The permitting authority shall annually establish a burn season which begins on August 15, and ends on September 30, of the same year.

2. The permitting authority shall establish control regions with definitive boundaries for the purpose of making daily burn/no burn decisions over the course of the burn season. In establishing control regions, the permitting authority shall take into account such factors as topography, precipitation, prevailing wind direction, distance and direction from population centers, other crops potentially impacted by grass field burning, timing of grass seed harvest, and any other factors deemed appropriate by the permitting authority. Control region boundaries may be established in consultation with the permit applicants or with a group of applicants deemed by the permitting authority to adequately represent the interests of all applicants, or with other individuals or groups deemed by the permitting authority to have a valid interest or expertise relative to grass field burning.

3. The permitting authority shall establish 16 specific burn days during the burn season, to the extent allowed by favorable meteorological conditions. Burning shall be prohibited and previous permission to burn shall be withdrawn for any control region, or if necessary, for all of Spokane County, on any potential or declared burn day whenever the permitting authority determines that existing or forecasted meteorological conditions are likely to impede the dispersion of smoke or to direct smoke from the site of the burn toward roads, homes, population centers, or other public areas. On a case-by-case basis, the permitting authority may identify individual grass fields within a control region where unique geographical and/or meteorological conditions necessitate granting of permission to burn on days when burning is otherwise prohibited within the control region.

4. Burning is prohibited on Fridays, Saturdays, Sundays, and holidays. None of these days shall be counted as a specific burn day pursuant to Section 6.10.F.3.

~~A burning season shall be set by the Director each year. The Director shall consider relevant information submitted prior to making the determination of the burning period, and he shall set the period so as to best satisfy existing agricultural practices. The burning season shall be for a period of 16 consecutive days, exclusive of Fridays, Saturdays, Sundays and holidays, and shall not be extended once it has started. Any permit holder that does not complete all permitted burning during the burning season shall not burn at any later date that year.~~

H. Permit conditions — Generally:

(1) ~~Permits to burn grass fields shall be issued by the Director conditionally, and as hereinafter provided shall allow burning of grass fields only as provided in the permit. The effective period of a permit shall coincide with the burning season for the year in which it is issued.~~

(2) ~~Permits to burn grass fields shall only allow burning during the burning season established by the Director.~~

(3) ~~Permits to burn grass fields shall only be effective for specified hours, as determined by the Director on each day burning is allowed.~~

(4) ~~Permits to burn shall be subject to the granting of daily authority to initiate a field burn by the Director. Each~~

~~permit holder shall, prior to initiating any burn, contact the Director or his or her representative and only upon being given permission to initiate a burn shall a field be burned, and only that specific field for which permission is given.~~

(5) ~~The Director shall withhold permission to initiate a burn unless:~~

a. ~~Existing and forecast winds are such as to direct smoke from the site of the burn away from the City of Spokane, the City of Coeur d'Alene, the Spokane Valley, and other densely populated areas.~~

b. ~~Wind speed is expected to be less than 20 miles per hour at ground level.~~

e. ~~Air pollutants from all other sources are not excessive, including air pollutants from other grass burns.~~

d. ~~All air contaminants from every preceding days' burn shall be substantially dispersed.~~

e. ~~The Director as a condition of allowing burning may require pertinent weather data be submitted by permit holders. All data provided by the applicants shall be telemetered into the Spokane County Air Pollution Control Authority office in Spokane, Washington.~~

(6) ~~All permit holders shall have available at the site of any burn a person in charge of the burn who shall have in his or her possession the permit, or copy thereof, and upon request shall display the permit to the Director or his or her representative.~~

(7) ~~If permission to burn on a specific day is given, the Director, or his representative, may revoke that permission if any weather condition appears that was not forecast when permission was given such that permission would not have been given. If permission is withdrawn, any in-progress burn(s) may be allowed to burn out, but no other burning shall be initiated. Each permit holder shall provide a telephone number where the Director shall give notice of revocation of permission to burn. Each permit holder is responsible to cease all burning once the Director calls the telephone number given.~~

(8) ~~Without regard to wind or weather, no permit to burn shall be valid unless permission to burn is given on the day of the burn.~~

(9) ~~Within 24 hours of each grass field burning, Saturday, Sunday and legal holidays excluded, the permit holder shall report by telephone to the Director or his or her representative what field(s) was burned and the total area burned. Following each burning season each permit holder shall report in writing to the Director the total acres burned and the day(s) the burning was done.~~

(10) ~~Open burning of all grasses schedule for tear out shall be prohibited, unless a permit specifically allows such burning.~~

(11) ~~The open burning of certain fields may be denied based upon health impacts to residents in nearby residential areas and businesses.~~

I. Annual Prorata Reduction in Acreage Burned.

(1) ~~The Director shall issue permits to burn grass for the year 1990 for only the total number of acres equal to the total base acreage determined for all permit applicants.~~

(2) ~~Until approved alternatives become available, the Board may limit the number of acres, on a pro-rata basis, among those affected for which permits to burn will be issued in order to control emissions from this source. Subject to its review, the Board deems it advisable to limit~~

~~the total number of acres of grass fields burned each year in Spokane County to no more than 35,000 acres. This number can be changed only by vote of the Board following a public hearing.~~

~~(3) The Director or staff shall inspect grass fields within Spokane County to verify only permitted acres are burned.~~

~~(4) Any applicant shall be entitled to burn additional acres provided a method is used which substantially reduces air pollution. The additional acres allowed shall be proportional to the pollution reduction. The applicant shall be responsible for proving the pollution reduction from the proposed method.~~

#### J G. Research and Reporting Consultation with Intermountain Grass Growers Association.

The Authority recognizes the unique expertise of and services provided by the Intermountain Grass Growers Association (IGGA), relative to commercial production of grass seed. Because IGGA is a valuable resource for residue management techniques, pest and disease control methods, smoke dispersion parameters, communication with individual grass seed growers, and funding for research into alternatives to burning, it is in the interests of the Authority to regularly consult with IGGA on matters pertaining to grass field burning. Therefore, it is the intent of the Authority to continue to consult with IGGA on future policy for regulation of grass field burning, the status of ongoing research into burning practices and alternatives, and any other matters deemed by the Authority to pertain to the common interests of air quality and grass seed production.

~~The Director shall meet yearly with the Intermountain Grass Grower's Association and the State of Washington, Department of Ecology to develop future policy for regulation of grass field burning consistent with accepted agricultural practices and air pollution reduction. The Director shall request annually that a report be submitted by the Intermountain Grass Grower's Association as to the status of all ongoing research and development of alternate technologies to field burning. The Director shall report to the Board of Directors at least annually as to the status of research and development of alternate technologies, and as to the results of the prior years burning.~~

#### H K. Other applicable laws and regulations.

~~Nothing contained in this Section 6.10 shall be deemed to require issuance of any permit or to otherwise allow burning of grass fields if burning is otherwise prohibited by WAC Chapter 173-430-080 WAC or other applicable law or regulation. This section shall be supplemental to any other applicable law or regulation, and if any provision hereof shall conflict with other applicable law or regulation then the more restrictive burning limitation shall be deemed to apply.~~

#### K. Permit Fee Adjustment.

~~A permit fee of one dollar (\$1.00) per each acre shall be paid by an applicant prior to issuance of a permit to burn grass field(s). The Director shall separately account for all permit fees collected pursuant to this provision and shall annually report to the Board of Directors all sums collected and all expenses incurred in administration and enforcement of this section. If revenues are found to exceed or fall below expenses of administration and enforcement then the Board of Directors shall act to adjust the fee herein provided in future years.~~

~~I. Penalties. Any person found to have violated any requirement or prohibition contained in this Section 6.10 shall be subject to civil and/or criminal penalties as provided in Section 2.11 of this Regulation I. Burning in violation of any condition of a permit issued pursuant to this Section shall subject the violator to civil and or criminal penalties as provided in Section 2.11 of this Regulation I.~~

~~M J. Severability. If any portion of this Section 6.10 shall be deemed invalid, illegal or unenforceable by any court of competent jurisdiction then the remainder of this section shall not thereby be affected and shall remain in full force and effect.~~

Reviser's note: The typographical 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.

#### AMENDATORY SECTION SECTION 6.11 AGRICULTURAL BURNING

A. Purpose. This Section establishes ~~fees and~~ controls and conditions for agricultural burning in Spokane County, consistent with best management practices.

B. Applicability. This Section applies to agricultural burning in all areas of Spokane County unless specifically exempted. Nothing in this Section shall apply to silvicultural burning.

C. Definitions. The definitions of terms contained in Chapter 173-430 WAC are incorporated into this Section by reference, except that, Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning:

1. Agricultural Burning means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, necessary to destroy weeds or crop residue along farm fence rows, irrigation ditches, or farm drainage ditches, or where identified as a best management practice by the agricultural burning practices and research task force established in Chapter 70.94.650 RCW or other authoritative source on agricultural practices.

2. Authority means the Spokane County Air Pollution Control Authority.

3. Episode means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as stated in Chapter 173-435 WAC.

4. Impaired Air Quality, for purposes of agricultural burning, means a condition declared by the Authority when meteorological conditions are conducive to an accumulation of air contaminants, concurrent with at least one of the following criteria:

a. Particulates which are ten microns or 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.

b. Carbon monoxide is measured at any location inside Spokane County at an ambient level of eight parts of contaminant per million parts of air by volume (ppm), measured on an eight-hour average by a method which has been determined, by Ecology or the Authority, to have a

PROPOSED

reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix C, or equivalent.

c. Air contaminant levels reach or exceed other limits, established pursuant to Chapter 173-425-030 (5)(b) WAC, by resolution of the Board of Directors of the Authority.

5. Nuisance means an emission of smoke or other emissions from agricultural burning that unreasonably interferes with the use and enjoyment of property.

6. Permitting Authority means the Spokane County Air Pollution Control Authority, or Spokane County, the Spokane County Conservation District, or any fire protection agency, whenever the referenced agency is delegated the authority, pursuant to RCW 70.94.654, to issue permits. Whenever the Spokane County Air Pollution Control Authority is the permitting authority, the Control Officer may act on behalf of the permitting authority insofar as such action is consistent with the responsibilities established pursuant to RCW 70.94.170.

7. Prohibited Materials means garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, demolition debris, metal or any substance (other than natural vegetation) which when burned releases toxic emissions, dense smoke or obnoxious odors.

8. Responsible Person means any person who has applied for and received a permit for agricultural burning, or any person allowing, igniting or attending to agricultural burning, or any person who owns or controls property on which agricultural burning occurs.

D. Prohibitions. ~~Except as provided in Section 6.11.E,~~ No person shall practice or permit the practice of agricultural burning in any of the following circumstances and locations:

1. Within the No-Burn Area, as defined by resolution of the Board of Directors of the Authority.

2. When the materials to be burned include any prohibited materials.

3. During an episode or impaired air quality as declared by the Department of Ecology or the Authority for a defined geographical area.

4. When burning causes a nuisance, ~~or the Authority or permitting authority may prohibit burning on any specific day if it is determined that existing or forecasted meteorological conditions are likely to impede the dispersion of smoke or to direct smoke from the site of the burn toward roads, homes, population centers, or other public areas the creation of a nuisance is the likely result of burning.~~ that existing or forecasted meteorological conditions are likely to impede the dispersion of smoke or to direct smoke from the site of the burn toward roads, homes, population centers, or other public areas

5. Unless a written permit has been issued by the permitting authority.

6. If the applicant is unable to show to the satisfaction of the Authority or permitting authority that burning, as requested:

~~a. is reasonably necessary to successfully carry out the enterprise in which the applicant is engaged;~~ The applicant can show it is reasonably necessary when it meets the criteria of the

~~b. constitutes a best management practices and no practical alternative is;~~ or

~~c. is necessary to control disease or insect infestation, and other measures are not reasonably available.~~

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

~~E. Nothing in Section 6.11 shall apply to the following types of fires:~~

~~1. Silvicultural burning.~~

~~2. Grass Field Burning pursuant to Section 6.10.~~

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

1. Whenever an episode or impaired air quality is declared, all fires shall be extinguished by withholding new fuel, as appropriate and allowing the fire to burn down.

2. The fire shall be attended by a person who is responsible for the same and capable of extinguishing the fire. The fire must be extinguished before leaving it.

3. Burning shall occur during daylight hours only, or a more restrictive period as determined by the Authority.

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

5. The fire district of jurisdiction shall be notified by the responsible person, prior to igniting a fire.

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

G F. Administrative requirements.

~~1. Until January 1, 1995, all applicants for agricultural burning permits shall pay a one-time interim fee of \$20 at the time the application is submitted. Payment shall be made by check, payable to the Washington Department of Ecology.~~

~~2. After January 1, 1995, a~~ All applicants for agricultural burning permits shall pay a fee at the time of application, not to exceed the level determined by the agricultural burning practices and research task force, pursuant to Chapter 70.94.650 RCW. The schedule of fees shall be established by resolution of the permitting authority and shall include a portion for local administration, as determined by the permitting authority, and portions for state administration and research, as determined by the agricultural burning practices and research task force. The permitting authority shall transfer the state administration and research portions of each fee collected to the Department of Ecology, as provided in Chapter 70.94.650 RCW.

2. For permits issued by the Authority, the fee shall be:

a. Portion for local administration: the greater of a minimum fee of \$12.50 per year per farm, based on burning up to and including 10 acres or equivalent, or a variable fee of \$1.25 per acre; and

b. The state administration and research portions, as provided in Section 6.11.F.1.

3. Refunds of fees collected by the Authority may be provided at the discretion of the Authority for portions of acreage, or equivalent, unburned, provided that the total adjusted fee is no less than \$25.

4. Acreage equivalency shall be in accordance with the determinations of the agricultural burning practices and research task force.

5. ~~3.~~ The permitting authority shall act upon a complete permit application within 7 days from the date such complete application is filed.

H G. Compliance with other laws and regulations. Compliance with Section 6.11 does not necessarily mean that agricultural burning complies with applicable laws and regulations implemented by other authorities.

Reviser's note: The typographical 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 95-07-049**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed March 8, 1995, 11:29 a.m.]

Original Notice.

Title of Rule: WAC 388-506-0610 AFDC-Related medical programs.

Purpose: Simplifies the eligibility process. This proposed amendment requires establishment of a separate medical assistance unit only when the income of a financially nonresponsible person's income and/or resources render another person in the household ineligible for a CN program.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Requires establishment of a separate medical assistance unit only when the income of a financially nonresponsible person's income and/or resources render another person in the household ineligible for a CN program.

Reasons Supporting Proposal: This issuance is intended to simplify the eligibility process.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

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. Amendment to WAC 388-506-0610 does not have an economic impact on any industry, and it does not regulate any industry. This proposed rule amendment concerns eligibility for a DSHS program and affects only department staff.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on April 25, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by April 11, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by April 18, 1995.

Date of Intended Adoption: April 26, 1995.

March 8, 1995

Dewey Brock, Chief  
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3767, filed 8/10/94, effective 9/10/94)

**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 ~~((the))~~ a family member is not eligible for a categorically needy medical care program:

(i) A child with countable income ~~((or resources))~~;

(ii) A child with countable resources which render another family member ineligible for a Medicaid program;

(iii) A child in common of unmarried parents;

~~((iii))~~ (iv) Each unmarried parent of a child in common with such parent's separate children, if any; or

~~((iv))~~ (v) A nonresponsible caretaker relative.

(d) Categorically related family members, other than those described under subsection (1)(c) of this ~~((subsection))~~ section, 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 consider the countable income or resources of a child available only to the child when the exceptions in subsection (1)(c) of this section are met.

(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, for each separate MAU that owns such vehicle.

(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 categorical assistance unit (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; and

(b) The SSI-related member using SSI-related income and resource rules.

Statutory Authority for Adoption: RCW 43.70.040.

Statute Being Implemented: RCW 43.70.020.

Summary: During the last year the Department of Health has reorganized its divisional structure and changed the names of some of its functions. Several professional licensing boards and commissions have been reorganized and/or renamed.

Reasons Supporting Proposal: The organizational and statutory changes have made this amendment necessary.

Name of Agency Personnel Responsible for Drafting: Ann Foster, Legislative and Constituent Relations, 664-9381; Implementation and Enforcement: Bruce Miyahara, Department of Health, 753-5871.

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: During the last year the Department of Health reorganized its divisional structure and changed the names of some of its functions. Several professional licensing boards and commissions have been reorganized and/or renamed. These amendments update those changes. The anticipated effect is to make it easier for the public to find a specific function and/or board or commission.

Proposal Changes the Following Existing Rules: It clarifies the functions of each division.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The changes only change the name of the function or the name of the board or commission. Nothing in the changes causes the small business person to pay a disproportionate fee, to increase recordkeeping, or a loss in sales or revenue.

Hearing Location: Firgrove Business Park Training Room, 2413 Pacific Avenue, Olympia, WA 98501, on April 26, 1995, at 9:30.

Assistance for Persons with Disabilities: Contact 1-800-525-0127 ext. 664-9381 by April 17, 1995.

Submit Written Comments to: Ann Foster, Rules Coordinator, P.O. Box 47890, Olympia, WA 98504-7890, by April 25, 1995.

Date of Intended Adoption: April 26, 1995.

March 7, 1995

Bruce Miyahara

Secretary

AMENDATORY SECTION (Amending Order 346, filed 3/24/93, effective 4/24/93)

**WAC 246-01-040 Department and professional boards—Relationship.** The department works with the following professional boards, commissions, committees, and councils which have varying degrees of statutory authority, ranging from advisory powers to rule adoption and disciplinary powers:

~~((1)) Acupuncture advisory committee.~~

~~((2)) Board of chiropractic examiners.~~

~~((3)) Health professions advisory council.~~

Chiropractic (~~(disciplinatory board)~~) quality assurance commission.

~~((4)) Dental ((disciplinatory board)) quality assurance commission.~~

**WSR 95-07-054**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed March 9, 1995, 2:00 p.m.]

Original Notice.

Title of Rule: Relationship of department and professional boards and the Department of Health organization.

Purpose: To incorporate statutory and organization changes into existing rules.

- ~~((5))~~ Dental hygiene examining committee.  
~~((6))~~ Dental examining board.  
~~(7)~~ Dietician/nutrition board advisory committee.  
~~(8))~~ Board of denture technology.  
 Dispensing opticians examining committee.  
~~((9))~~ Health care assistants.  
~~(10)~~ Hearing aid council.  
~~(11)~~ Marriage and family therapist advisory committee.  
~~(12))~~ Board on fitting and dispensing of hearing aids.  
 Massage examining board.  
~~((13))~~ Medical ~~((examining board))~~ quality assurance commission.  
~~((14))~~ Medical disciplinary board.  
~~(15))~~ Mental health ~~((counselor advisory committee))~~ quality assurance commission.  
~~((16))~~ Midwifery advisory committee.  
~~((17))~~ Naturopathic advisory committee.  
~~((18))~~ Nursing assistants advisory committee.  
~~(19))~~ Nursing home administrators board.  
~~((20))~~ Board of nursing.  
~~(21))~~ Nursing care quality assurance commission.  
 Board of occupational therapy.  
~~((22))~~ Ocularists advisory committee.  
~~(23))~~ Optometry board.  
~~((24))~~ Board of osteopathic medicine and surgery.  
~~((25))~~ Board of pharmacy.  
~~((26))~~ Board of physical therapy.  
~~((27))~~ Podiatry board.  
~~((28))~~ Board of practical nursing.  
~~(29))~~ Examining board of psychology.  
~~((30))~~ Radiologic technical advisory committee.  
~~(31)~~ Respiratory care practice advisory committee.  
~~(32))~~ Sex offender treatment provider advisory committee.  
~~((33))~~ Social worker advisory committee.  
~~(34))~~ Veterinary board of governors.

AMENDATORY SECTION (Amending Order 346, filed 3/24/93, effective 4/24/93)

**WAC 246-01-080 Organization.** (1) The department is headed by the secretary. The office of the secretary provides overall agency management, and is comprised of the secretary, deputy secretary, state health officer, ~~((local health and community services, legislative and congressional relations, and the media relations))~~ policy and planning, legislative and constituent relations, minority affairs, and the communications office.

(2) ~~((Seven))~~ Six assistant secretaries direct specific programs within the department.

(a) ~~The assistant secretary for ((health information))~~ epidemiology and health statistics:

(i) Collects and analyzes data that provides information about the health of the population, hospital costs, hospital diagnosis and procedures, ~~((, disease and birth defect incidence and trends, and specific illnesses occurring within the state));~~ ~~((and))~~

(ii) Collects information on all births, deaths, marriages, and divorces within the state and makes official documentation of these events available to the public;

(iii) Conducts surveillance of communicable and noncommunicable diseases and other health-related events.

Investigates disease outbreaks, epidemics, and clusters; provides technical assistance and advice in developing and implementing prevention/control programs; provides expert consultation to local health departments on epidemiologically impacted issues and, when necessary, directs support for responding to emergent public health situations;

(iv) Develops a health services information system that supports the implementation of health reform as envisioned under the Health Services Act of 1993, and monitors the effectiveness of the reformed health care environment;

(v) Monitors the consistency, quality, continuity, and comprehensiveness of the department's health assessment activities, including disease surveillance and program evaluation;

(iv) Provides a scientific basis for health policy and program management decisions within the department and, when requested, to local health departments.

~~(b) ((The assistant secretary for health promotion and disease prevention:~~

~~(i) Implements programs to control the complications of diabetes, assists low income kidney dialysis and transplant patients pay for treatment, and identifies and develops interventions for the prevention of death and disability from intentional and unintentional injury;~~

~~(ii) Identifies needs in rural areas and by underserved populations for preventive and restorative health services. Develops policies to increase availability of needed health services and the resources required to provide them and to empower community based health system development. Assures access to prevention, primary care, and other restorative health services by purchasing services and providing technical and financial assistance to support local delivery systems. Assures availability of personnel and capital facilities and equipment to stabilize and improve health systems;~~

~~(iii) Conducts high visibility public education and marketing campaigns on a full spectrum of health related topics; develops and supplies health and safety educational materials to schools, local health, and community agencies;~~

~~(iv) Provides surveillance, programs, and services designed to reduce death and disease related to cancer, heart disease and stroke by providing public education/awareness programs, screening projects, professional education, and development of community coalitions;~~

~~(v) Interrupts the transmission of human immunodeficiency virus (HIV) and other sexually transmitted diseases (STD), and reduces associated morbidity and mortality by planning, implementing, and evaluating prevention and intervention programs targeting persons at risk of HIV/STD infection, as well as supporting the individual rights and human dignity of those infected and those considered at risk; and~~

~~(vi) Reduces the morbidity and mortality due to tuberculosis and vaccine preventable diseases.~~

~~(e))~~ The assistant secretary for ((licensing and certification)) health systems quality assurance:

(i) Administers laws and enforces rules, regulations, and standards for the following professions:

- Acupuncturists
- Airway management technicians
- Animal technicians

Chiropractic x-ray technicians  
 Controlled substance researchers  
 Counselors/registered & certified  
 Dental hygienists  
 Dentists  
Denturists  
 Dieticians/nutritionists  
 Dispensing opticians  
 Doctors of chiropractic  
 Drug manufacturers & wholesalers  
 Emergency medical technicians  
 First responders  
 Health care assistants  
 Hearing aid fitters  
 Intravenous technicians  
 Legend drug sample distributors  
 Massage practitioners  
 Midwives  
 Naturopathic physicians  
 Nursing assistants  
 Nursing home administrators  
 Nursing pools  
 Occupational therapists  
 Occupational therapists' assistants  
 Ocularists  
 Optometrists  
 Osteopathic physicians and surgeons  
 Osteopathic physicians' assistants  
 Osteopathic physicians' acupuncture assistants  
 Pharmacists  
 Paramedics  
 Pharmacy assistants  
 Physical therapists  
 Physicians and surgeons  
 Physician assistants  
 Podiatric physicians and surgeons  
 Practical nurses  
 Psychologists  
 Radiological technologists  
 Registered nurses  
 Respiratory care practitioners  
 Sex offender treatment providers  
 Veterinarians  
Veterinary med clerks  
 X-ray technicians

(ii) Reviews and approves plans and specifications for construction of new buildings, alterations, additions, and conversions of health and residential care facilities; and sets standards, inspects, licenses, or certifies, and provides consultation to:

Acute care hospitals  
 Adult residential rehabilitation centers  
 Alcoholism treatment facilities  
 Alcoholism hospitals  
 Ambulatory surgery centers  
 Boarding homes  
 Childbirth centers  
 Child day care centers  
 Comprehensive outpatient rehabilitation  
 Department of corrections facilities  
 (~~Department of~~) Juvenile rehabilitation facilities

(~~Domestic violence centers~~)  
 End (~~state~~) stage renal (~~disease~~)  
 Eye banks  
 (~~Farm worker housing~~  
~~Ferries~~) Ferry systems  
 (~~Hotels/motels~~)  
Group care facilities for children  
 Home health care agencies  
 Home care agencies  
 Hospice agencies  
 Hospice care facilities  
 (~~Induction term centers~~  
~~Mammography~~)  
 Occupational therapist-independent practice  
 Outpatient physical therapy/speech pathology  
 Physical therapist-independent practice  
 Private adult treatment homes  
 Psychiatric hospitals  
Residential treatment facilities for psychiatrically impaired children & youth  
 Rural health care facilities  
 Rural health care clinics  
 Soldiers' home  
 (~~State residential schools~~)  
State school for the blind  
State school for the deaf  
State hospitals for the mentally ill  
Temporary worker housing  
Transient accommodations  
 Veterans' home  
 (~~Work training release~~)

(iii) Regulates the development of various new health care facilities and services based on community need, financial feasibility, cost containment, and quality of care;

(iv) Establishes and promotes a system of emergency medical and trauma services, which includes: Developing, evaluating, and monitoring training programs; licensing and inspection; and technical assistance for a comprehensive state-wide integrated emergency medical system; and

(v) Regulates clinical laboratory testing sites and practices.

(c) The assistant secretary for community and family health is responsible for assessing the health status of Washington state citizens regarding disease, injury, and nutrition; developing policy based on those assessments that will prevent disease, premature death and disability, and will promote health lifestyles and environments; and assuring access to quality services consistent with approved policy in the following areas:

(i) Comprehensive planning for health services for children and adolescents and their families and primary caretakers, including parenting education, nutrition consultation, oral health programs, teen pregnancy prevention and immunizations;

(ii) A continuum of services designed for infants or children with, or at risk for, special health care needs and their families;

(iii) High quality low cost, comprehensive family planning and reproductive health care services;

(iv) Health and support services for pregnant women, lactating and other post-partum women, and infants;

(v) Supplemental foods, nutrition education, and referral for health services for eligible pregnant women, lactating and other post-partum women, and infants and children at risk;

(vi) Programs to control the complications of diabetes and to identify and develop interventions for the prevention of death and disability from intentional and unintentional injury;

(vii) Public education and marketing campaigns on a spectrum of health related topics; programs which develop and supply health and safety educational materials to schools, local health, and community agencies;

(viii) Surveillance and services designed to reduce death and disease related to cancer, heart disease and stroke by providing public education/awareness programs, screening projects, professional education, and development of community coalitions;

(ix) Surveillance and services that interrupt the transmission of human immunodeficiency virus (HIV) and other sexually transmitted diseases (STD), and reduce associated morbidity and mortality by planning, as well as supporting the individual rights and human dignity of those infected and those considered at risk; and

(x) Surveillance and services that reduce the morbidity and mortality due to tuberculosis and vaccine-preventable disease.

(d) The assistant secretary for environmental health provides training, public education services, and technical assistance to local health agencies and other agencies; and provides direct surveillance, monitoring, and enforcement activities to prevent, control, and abate health hazards and nuisances related to:

- (i) Contaminated shellfish;
- (ii) Contamination due to illegal drug manufacturing and storage;
- (iii) Disease-carrying insects and rodents;
- (iv) Disposal of solid and liquid wastes;
- (v) Food service sanitation;
- (vi) On-site sewage disposal;
- (vii) Public drinking water systems;
- (viii) Ionizing radiation;
- (ix) Schools, campgrounds, and parks;
- (x) Toxic substance exposure; and
- (xi) Water recreation facilities.

(e) The assistant secretary for public health laboratories oversees laboratories that aid in the diagnosis, treatment, and prevention of various diseases by:

- (i) Testing and analyzing clinical and environmental specimens and samples including food, food products, shellfish, drinking water, and seawater;
- (ii) Testing to detect certain treatable metabolic disorders in newborns;
- (iii) Testing for radioactivity in materials, mine tailings, and ores; and
- (iv) Performing inorganic and organic chemical analyses on drinking water, and other environmental samples such as soil, paint chips, ceramics and potteries, beverages, food, and others.

~~(f) ((The assistant secretary for parent and child health services is responsible for assuring access to quality maternal and child health care services for children and families who have limited availability to those services, including access to:~~

~~(i) Nursing assessment, intervention and follow up, parenting education, nutrition consultation, system planning, and dental health programs for children, adolescents, and their primary caretakers;~~

~~(ii) A continuum of services designed for infants or children with, or at risk for, special health care needs and their families;~~

~~(iii) High quality, low cost, comprehensive family planning and reproductive health care services;~~

~~(iv) Health and support services for pregnant and post-partum women and infants; and~~

~~(v) Supplemental foods, nutrition education, and referral for health services for eligible pregnant women, infants, and children at risk.~~

~~(g)) The assistant secretary for management services provides administrative, financial, contracting, ((rule making,)) information processing, and human resource services to the department's operating programs.~~

(3)(a) Each assistant secretary is hereby delegated authority to administer the programs within their respective areas of responsibility, including, without limitation, the authority to sign documents on behalf of the secretary and the department. Each assistant secretary is authorized to further delegate his or her authority to such persons and in such manner as deemed necessary or appropriate in the management of the department's business.

(b) In the absence of the secretary, the following are authorized to act on behalf of the department:

- (i) The deputy secretary;
- (ii) In the absence of the deputy secretary, the state health officer;
- (iii) In the absence of the state health officer, the assistant secretary for management services;
- (iv) In the absence of all of the foregoing, any assistant secretary.

(c) Any person designated as "acting" in a position described in this section shall have the same authority while so designated as if she or he had been appointed to fill the position on a permanent basis.

**WSR 95-07-078**  
**PROPOSED RULES**  
**OFFICE OF MINORITY AND**  
**WOMEN'S BUSINESS ENTERPRISES**

[Filed March 15, 1995, 2:04 p.m.]

Original Notice.

Title of Rule: WAC 326-30-041 Annual goals.

Purpose: To implement RCW 39.19.030(4) and encourage MWBE participation in state contracting and procurement.

Statutory Authority for Adoption: RCW 39.19.030(7).

Statute Being Implemented: RCW 39.19.030(4).

Summary: The Office of Minority and Women's Business Enterprises reevaluates MWBE participation goals on an annual basis. This proposed rule sets goals for different classes of contracts, to be flexibly implemented on a contract by contract basis during 1994-1995.

Reasons Supporting Proposal: The Office of Minority and Women's Business Enterprises' review of reasonably

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obtainable information indicates that the goals should remain at the same level.

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: This proposed rule implements chapter 39.19 RCW by promoting minority and women's business participation in state contracting opportunities. Goals are reviewed and implemented annually, to ensure that they are consistent with current information about contracting opportunities and availability of MWBEs. Anticipated effect is increased awareness by contractors and agencies about the benefits of utilizing qualified MWBEs for various classes of contracts.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This rule affects small business, as it is designed to assist small businesses seeking contracting opportunities with state agencies. Any impact will be negligible, because the goals proposed for 1994-95 are the same as those implemented during 1993-94. Analysis is inappropriate under RCW 19.85.040, because Office of Minority and Women's Business Enterprises does not have data from which to make comparison of costs, and because the effect, if any, is negligible.

Hearing Location: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504-1160, on April 25, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Tammi Hazlitt/Jean Wheat by April 19, 1995, (206) 753-9691.

Submit Written Comments to: Juan Huey-Ray, FAX (206) 586-7079, by April 24, 1995.

Date of Intended Adoption: April 28, 1995.  
March 14, 1995  
James A. Medina  
Director

**AMENDATORY SECTION** (Amending WSR 94-03-068, filed 1/14/94, effective 2/14/94)

**WAC 326-30-041 Annual goals.** The annual overall goals for participation by certified firms in the public works, other contracting, and procurement of each state agency and educational institution, subject to this chapter, shall be as follows:

July 1, ((1993)) 1994, through June 30, ((1994)) 1995,

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods and Services	8% MBE	4% WBE
Other Consultants	10% MBE	4% WBE

**WSR 95-07-081**

**PROPOSED RULES**

**DEPARTMENT OF TRANSPORTATION**

[Filed March 16, 1995, 9:08 a.m.]

Original Notice.

Title of Rule: Traffic control devices, manual on uniform traffic control devices (MUTCD) part VI, WAC 468-95-100.

Purpose: To allow sufficient time to consider statewide impacts of the new MUTCD part VI, and to develop modifications as needed to address those statewide impacts.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 47.36.030.

Summary: RCW 47.36.030 mandates Washington State Department of Transportation to adopt uniform standards for the placement of traffic control devices on public highways. The MUTCD is incorporated into chapter 468-95 WAC for that purpose.

Reasons Supporting Proposal: MUTCD rule-making process requires review coordination with local agencies.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David K. Peach, Washington State Department of Transportation, Republic Building, Olympia, Washington, (206) 705-7280.

Name of Proponent: Washington State Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provide statewide uniformity in the application of traffic control devices in workzones by identifying the appropriate modifications to the new MUTCD part VI in cooperation with Washington State Department of Transportation and local traffic engineering officials.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No economic impact on small businesses.

Hearing Location: Department of Transportation, Transportation Building, Room 1D-2, Olympia, Washington 98504, on May 8, 1995, at 11:00.

Assistance for Persons with Disabilities: Contact Tammy Osborne by May 4, 1995, TDD (360) 705-6980.

Submit Written Comments to: David K. Peach, State Traffic Engineer, FAX (206) 705-6826, by May 4, 1995.

Date of Intended Adoption: May 8, 1995.  
March 15, 1995  
S. A. Moon  
Deputy Secretary

**AMENDATORY SECTION** (Amending Order 127, filed 12/21/90, effective 1/21/91)

**WAC 468-95-100 Compliance dates.** Through rulings approved by the Federal Highway Administrator, the 1988 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) contains compliance dates to specific sections for application of certain traffic control devices. These compliance dates are hereby amended as follows:

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Ruling #	MUTCD Section	Compliance Date
IV-59	4D-2, 4D-7, 7D-5, 7D-9	12/31/95
<del>((VII-12</del>	<del>8B-2, 8B-4</del>	<del>12/31/94))</del>
II-5	2D-48, 2H-1 Thru 2H-16	9/30/97
<del>((H-33</del>	<del>2B-43, 2B-43a, 2A-11</del>	<del>9/30/93</del>
<del>H-86(e)</del>	<del>2B-43e</del>	<del>9/30/93</del>
<del>VI-3</del>	<del>3B-16, 6D-1, 6D-3</del>	<del>9/30/92))</del>
II-110	2I-1 Thru 2I-7	9/30/95
III-38	3B-5	9/30/95
IV-58	2B-37, 4B-5(4)(c), 4B-6-2	9/30/2001
	4B-6(5)(b), 4B-6(8), 4B-12, 4B-18	
<del>((VI-33</del>	<del>3F-2, 6C-3</del>	<del>9/30/93</del>
<del>VI-34</del>	<del>3F-2, 6C-3</del>	<del>9/30/93</del>
<del>IX-4</del>	<del>9B-20</del>	<del>9/30/93</del>
<del>H-89</del>	<del>6A-1 Thru 6A-6, 6H-1 Thru 6H-4</del>	<del>9/30/92))</del>
II-122	2D-15, 2E-11, 2F-11	9/30/97
IV-73	4B-6-5(a), 4B-15	9/30/96
II-119	2B-44	11/30/97

The December 10, 1993, Federal Register published the Federal Highway Administration's Docket No. 89-1, Notice No. 7, adopting final amendments to the Manual on Uniform Traffic Control Devices (MUTCD) for work zone traffic control. The department shall adopt these amendments, and all necessary modifications thereto, by January 10, 1996.

**WSR 95-07-096**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed March 17, 1995, 3:38 p.m.]

Original Notice.

Title of Rule: WAC 230-48-010 Tribal-state compacts—Phase II commission review.

Purpose: This rule allows tribal casinos a mechanism to increase wagering limits, wagering stations, and hours of operation through a Phase II investigative review and commission approval process.

Statutory Authority for Adoption: RCW 9.46.360.

Summary: Rule will allow tribal casinos to increase wagering limits, wagering stations and hours of operation.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 ext. 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 ext. 302; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 ext. 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: This rule allows tribal casinos a mechanism to increase wagering limits, wagering stations, and hours of operation through a Phase II investigative review and commission approval process.

Proposal does not change existing rules.

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: 1. No cost or expenditure of re-

sources; 2. no affect on industry; and 3. no substantive change in existing regulatory scheme.

Hearing Location: Red Lion Inn at the Quay, 100 Columbia, Vancouver, WA 98660, on May 12, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by May 10, 1995, TDD (360) 438-7638, or (360) 438-7654 ext. 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by May 10, 1995.

Date of Intended Adoption: May 12, 1995.

March 17, 1995  
 Patricia Norman-Cole  
 Rules Coordinator

NEW SECTION

**WAC 230-48-010 Tribal-state compacts—Phase II commission review.** (1) Pursuant to each tribal/state compact and upon successful completion of a Phase II investigative review, the director shall forward a summary of the material aspects of the investigative review with a recommendation for approval to Phase II status to the commissioners at least seven days prior to a meeting of the commission.

(2) At least ten days prior to the same meeting, the director's recommendation along with a notice of formal review shall be forwarded to the tribal government and local law enforcement agencies surrounding the Class III gaming operation. The notice shall set forth the proposed action and instructions for submission of written comments to the formal review process.

(3) During the meeting of the commission for which notice of formal review was given, the commission shall conduct a review of the Class III gaming operation. The review shall address the following criteria:

(a) Whether there have been any violations of the provisions of the compact which have resulted in sanctions imposed by the Federal District Court;

(b) Whether there have been any violations of the compact which are substantial or, due to repetition, would be deemed material;

(c) Whether there have been any material adverse impacts on the public safety or welfare of the surrounding communities in the nature of criminal activities directly related to the operation of the Class III operation;

(d) Whether there have been any unresolved and material violations of Appendix A of the compact; and

(e) Whether the tribal gaming agency has developed a strong program of regulation and control and demonstrated an adequate level of proficiency, which includes the hiring of trained tribal gaming agents, an independent regulatory and reporting structure that is separate from that of the gaming operation or tribal bodies, a thorough and developed system for the reporting of compact violations, and a strong and consistent presence within the Class III facility.

(4) Upon completion of the review, the commission shall either approve, deny, or grant a conditional Phase II approval.

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(5) If Phase II is denied or conditionally approved, the commission shall within ten working days issue a written order to the tribe setting forth the basis for the decision.

**WSR 95-07-097**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed March 17, 1995, 3:39 p.m.]

Continuance of WSR 95-06-013.

Title of Rule: WAC 230-04-280 Licensees must notify law enforcement and local taxing authorities; 230-04-400 Denial, suspension or revocation of licenses; and 230-50-010 Adjudicated proceedings—Hearings.

Purpose: These rules set out guidelines for suspension or revocation of licenses for failure to pay applicable gambling taxes.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: These rules set out guidelines for notifying local authorities and procedures for failure to make required gambling tax payments.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 ext. 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 ext. 302; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 ext. 369.

Name of Proponent: Washington State Association of County Treasurers, Mary Dodge, President, Douglas County Treasurer, P.O. Box 609, Waterville, WA 98858, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: (1) WAC 230-04-280 sets out guidelines for notification to local law enforcement and local taxing authorities; (2) WAC 230-04-400 amendment will include failure to make required gambling tax payments to local taxing authorities; and (3) WAC 230-50-010 amendment includes hearings held for failure to pay required gambling taxes.

Proposal Changes the Following Existing Rules: (1) WAC 230-04-280 amendment sets out guidelines to notifying local law enforcement and local taxing authorities; (2) WAC 230-04-400 amendment includes failure to make required gambling tax payments to local taxing authorities; and (3) WAC 230-50-010 amendment includes hearings held for failure to pay required gambling taxes.

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: 1. No cost or expenditure of resources; 2. no affect on industry; and 3. no substantive change in existing regulatory scheme.

Hearing Location: Red Lion Inn at the Quay, 100 Columbia, Vancouver, WA 98660, on May 12, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by May 10, 1995, TDD (360) 438-7638, or (360) 438-7654 ext. 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by May 10, 1995.

Date of Intended Adoption: May 12, 1995.

March 17, 1995

Patricia Norman-Cole  
Rules Coordinator

AMENDATORY SECTION (Amending Order 5, filed 12/19/73)

WAC 230-04-280 ((Notification to)) Licensees must notify law enforcement and local taxing authorities. ((Each licensee for the operation of an authorized gambling activity, within ten days after issuance of the license and before initially conducting any activity under the license, shall notify, in writing, the law enforcement agencies set forth below of the name and address of the licensee, the address where the activity will be conducted, the type of activity licensed, the date the activity shall first be conducted, and if the activity is planned to be conducted on a regular basis, the proposed schedule for the operation of the activity.

When the activity is to be conducted within a city or town, the local police agency shall be notified, and when the activity is to be conducted within a county, then the sheriff's office shall be notified.

No activity shall be initially conducted until such notification has been made.)) In accordance with RCW 9.46.070, the commission will continue to cooperate, and share information, with other governmental agencies, including local law enforcement and local taxing authorities.

(1) Before a licensee may operate an authorized gambling activity, it must notify law enforcement and the local taxing authority, in writing, of the following:

(a) Its name and address;

(b) The type of gambling activity it will conduct;

(c) The address where the gambling activity will be conducted;

(d) The date the gambling activity will begin; and

(e) If the gambling activity will be conducted on a regular basis, the proposed schedule for the operation of the gambling activity.

(2) The licensee must provide this information to law enforcement and to the taxing authority within ten days after the commission issues the initial license and before the licensee can conduct the gambling activity. If the licensee is renewing its license for a particular gambling activity and if this information has not changed, it need not provide law enforcement and the taxing authority this information.

(3) If the activity is to be conducted within a city or town, the licensee must notify the local police agency and the local city or town treasurer or the agency responsible for collecting local gambling taxes. If the activity is to be conducted within the county, the licensee must notify the sheriff's office and the county treasurer, finance division, or the agency responsible for collecting local gambling taxes.

(4) The licensee may not conduct a gambling activity until it has notified law enforcement and the local gambling tax authority.

**AMENDATORY SECTION** (Amending WSR 93-12-082, filed 5/28/93, effective 7/1/93)

**WAC 230-04-400 Denial, suspension or revocation of licenses.** The commission may deny a license or permit to any applicant, or may suspend or revoke any and all licenses or permits of any holder, when the applicant or holder, or any other person with any interest in the applicant or holder:

(1) Commits any act that constitutes grounds under RCW 9.46.075 for denying, suspending, or revoking licenses or permits;

(2) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person, whether any of these crimes is a misdemeanor or felony;

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level. This includes, but is not limited to, failure to make required gambling tax payments to local taxing authorities, as supported by a petition submitted by the local taxing authority;

(4) Is serving a period of probation or community supervision imposed as a sentence for any criminal offense, whether juvenile, misdemeanor, or felony, and whether or not the offense is covered under RCW 9.46.075(4): *Provided*, That each case will be individually analyzed to determine the extent to which the probationary or supervisory status affects the person's qualifications to hold a license or permit;

(5) Is the subject of an outstanding gross misdemeanor or felony arrest warrant;

(6) Poses a threat to the effective regulation of gaming or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities, as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations;

(7) When other than a charitable or nonprofit organization operates punchboards or pull tabs, or operates or allows card games at any time other than as a commercial stimulant;

(8) Fails to provide at the office of the commission any information required under the commission's rules within the time required therefor by applicable rule, or if no maximum time has been established respecting the particular kind of information by other rule then within thirty days after receiving a written request therefor from the commission or its staff;

(9) Allows any person to participate in the management or operation of any activity regulated by the commission without prior written approval of the commission or its director when that person:

(a) Has been convicted of, pleaded guilty to, or forfeited bond upon any of the offenses set out in RCW 9.46.075(4);

(b) Has violated any other provisions of chapter 9.46 RCW or Title 230 WAC; or

(c) Would otherwise be subject to denial or revocation under the provisions of this section.

(10) Commits any other act that the commission determines constitutes a sufficient reason in the public interest for denying, suspending, or revoking licenses or permits.

**AMENDATORY SECTION** (Amending Order 231, filed 9/18/92, effective 10/19/92)

**WAC 230-50-010 Adjudicated proceedings—Hearings.** (1) Adjudicated proceedings shall be commenced for any and all matters wherein the commission is causing administrative charges to be brought against any applicant, licensee or permittee within the limitations to chapter 34.05 RCW as applicable.

(2) The commission shall afford an applicant for a license an opportunity for an adjudicated proceeding prior to denying such application, and shall afford a licensee the opportunity for an adjudicated proceeding prior to suspending or revoking a license.

(3) The commission will afford a person applying to the commission for approval of a pull tab dispensing device under WAC 230-30-095 an opportunity for an adjudicated proceeding prior to denying approval of such device.

(4) No hearing will be conducted with respect to any adjudicated proceeding unless an application for an adjudicated proceeding and request for hearing is timely filed by the applicant or licensee with the commission in compliance with WAC 230-50-210. The application must be made upon a form to be obtained from the commission, or facsimile thereof, and must be received within 20 days following service upon the party affected by the commission or the director of a notice of administrative charges and opportunity for an adjudicated proceeding. Said document shall contain the maximum penalty that may be assessed should an application not be filed by the party affected. An application for an adjudicated proceeding and request for hearing shall accompany all notices of administrative charges.

(5) If an application for an adjudicated proceeding is not timely filed, then the party affected shall have waived the right to a hearing on the allegations set forth in the notice of administrative charges. The party shall be deemed to be in default pursuant to RCW 34.05.440 and the commission and director may take action against the party not to exceed the maximum penalty as stated in the notice of administrative charges and opportunity for an adjudicated proceeding, which action shall be final.

(6) The procedures of RCW 34.05.485, brief adjudicated proceedings, shall be used for the following purposes:

(a) All hearings in which the penalty sought by the commission is for a suspension of seven days or less;

(b) Hearings held pursuant to WAC 230-50-015 (stay of summary suspension);

(c) Hearings held pursuant to WAC 230-04-400(3) (failure to pay required gambling taxes);

(d) Hearings held pursuant to WAC 230-04-190 (10)(c) (two part payment plan: Failure to make second payment);

(e) Hearings in which the parties have stipulated to facts or the parties have stipulated to charges, and the hearing is limited to a determination of whether facts constitute

violations as charged and/or determination of appropriate penalty to be imposed; or

((~~f~~)) (f) Where the parties have stipulated to the use of brief adjudicative proceedings.

**PROPOSED**

**WSR 95-07-098**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed March 17, 1995, 3:40 p.m.]

Original Notice.

Title of Rule: WAC 230-04-110 Licensing of manufacturers; 230-04-115 Licensing of manufacturers—Exception—Special sales permit; and 230-04-203 Fees—Commercial stimulant and other business organizations.

Purpose: The director may grant a special sales permit authorizing a manufacturer to sell to a distributor only, on a limited basis, authorized gaming equipment, patented or otherwise restricted scheme or paraphernalia.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: Allows manufacturers to sell to distributors, only, gaming equipment under a special sales permit.

Reasons Supporting Proposal: This rule would allow the director to grant a special sales permit authorizing a manufacturer to sell to a distributor only, on a limited basis, authorized gaming equipment patented or otherwise restricted gaming scheme or paraphernalia.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 ext. 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 ext. 302; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 ext. 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: These rules would allow the director to grant a special sales permit authorizing a manufacturer to sell to a distributor only, on a limited basis, authorized gaming equipment, patented or otherwise restricted scheme or paraphernalia.

Proposal Changes the Following Existing Rules: See Purpose above.

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: 1. No cost or expenditure of resources; 2. no affect on industry; and 3. no substantive change in existing regulatory scheme.

Hearing Location: Red Lion Inn at the Quay, 100 Columbia, Vancouver, WA 98660, on May 12, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by May 10, 1995, TDD (360) 438-7638, or (360) 438-7654 ext. 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400,

Olympia, WA 98504-2400, FAX (360) 438-8652, by May 10, 1995.

Date of Intended Adoption: May 12, 1995.

March 17, 1995

Patricia Norman-Cole  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-01-033, filed 12/6/93, effective 1/6/94)

**WAC 230-04-110 Licensing of manufacturers.** A license must be obtained from the commission prior to manufacturing, selling, or supplying gambling equipment to any person(s) within this state, or for use within this state. The following definitions and requirements apply to certification and licensing of manufacturers:

(1) For purposes of this title, "gambling equipment" includes at least the following devices:

- (a) Punchboards and pull tabs;
- (b) Devices for the dispensing of pull tabs;
- (c) Bingo equipment, as defined by WAC 230-02-250;

and

(d) Any gambling equipment, patented or otherwise restricted gaming schemes, or paraphernalia for use in connection with licensed fund raising events ((~~or a~~)), recreational gaming ((~~activity~~)) activities, or tribal gaming activities authorized by state/tribal compacts: *Provided, That a licensed manufacturer may sell gambling equipment, patented or otherwise restricted gaming schemes, or paraphernalia for use in activities listed under this subsection without obtaining a distributor's license if the manufacturer of such equipment has been granted a special sales permit under the authority of WAC 230-04-115.*

(2) The applicant shall include upon the application form supplied by the commission, the following information, as well as all other information and materials required elsewhere in these rules:

- (a) The full name and address of the applicant;
- (b) The full name and address of each location where such devices are manufactured or stored;
- (c) The name, home address, and share of ownership of all owners of the manufacturing business if the business is not a corporation. If the business is a corporation, the name, address, and share of ownership of the officers, the directors, and substantial interest holders;
- (d) A full description of each separate type of gambling equipment or device that an applicant seeks to manufacture or to market in this state;
- (e) The brand name under which each type of gambling device or equipment is sold;
- (f) If the applicant is incorporated under laws other than the laws of Washington state, then the full name and business and home address of the resident agent designated by the applicant pursuant to WAC 230-12-300; and
- (g) A list of all distributors receiving gambling equipment and all businesses or organizations located within the state of Washington in which the applicant has any financial interest and the details of that financial interest. For the purpose of this subsection, the term financial interest shall include all arrangements through which a person directly or indirectly receives any portion of the profits of the licensed manufacturer and indebtedness between the licensee and any

other person, other than a regulated financial institution, in excess of five thousand dollars.

(3) An applicant must demonstrate the ability to comply with all manufacturing ~~((restrictions and))~~<sub>2</sub> quality control ~~((requirements))~~, and operational restrictions imposed on authorized gambling equipment, patented or otherwise restricted gaming schemes, or equipment that it seeks to manufacture or market for use within the state of Washington. The licensing process shall include an on-site review of the applicant's manufacturing equipment and process for each separate type of authorized gambling device, equipment, or scheme to ensure capability to comply with all regulatory requirements of this title and state/tribal compacts;

(4) The following information shall be included as an attachment to the application form:

(a) A list of all affiliated businesses or corporations in which the applicant, officers, directors, or substantial interest holders of the applicant, either directly or indirectly, own or control:

- (i) As a sole proprietor; or
- (ii) As a partner; or
- (iii) More than fifty percent of the voting stock of a privately held or closed corporation; or
- (iv) At least five percent of the voting stock of a publicly traded corporation.

(b) A list of all ~~((licensed))~~ businesses or corporations licensed to conduct gambling activities or to supply gambling-related equipment, supplies, or services in which the applicant, officers, directors, or substantial interest holders of the applicant have any interest;

(c) A list of all jurisdictions in which the applicant or any of the officers, directors, or substantial interest holders of the applicant have been licensed regarding gambling-related activities at any level during the preceding ten years;

(d) A statement regarding whether the applicant or officers, directors, or substantial interest holders have ever had a license for gambling-related activities denied, revoked, or suspended by any jurisdiction for a period longer than thirty days. All details of such must be provided as a part of the application; and

(e) A statement acknowledging that all records related to the ownership or operation of the business shall be made available for review at the time and place requested by commission staff. In addition to other records requested, the following shall be available:

- (i) Personal financial records of all substantial interest holders;
- (ii) All records related to the scope of activity, including sales of product, purchases of raw materials and parts, and any contracts, franchises, patent agreements, etc., related to sales or purchases; and
- (iii) Records related to any financial or management control of or by customers and suppliers.

(5) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form; and

(6) The applicant shall comply with all applicable laws of the United States and the state of Washington and all applicable rules of this commission.

## NEW SECTION

### **WAC 230-04-115 Licensing of manufacturers—**

**Exception—Special sales permit.** The director may grant a special sales permit authorizing a manufacturer to sell to a distributor only, on a limited basis, authorized gambling equipment, patented or otherwise restricted gaming scheme, or paraphernalia. A special sales permit may be issued when demand for a particular type of equipment, scheme, or paraphernalia is anticipated to be below the level of economic feasibility of obtaining a license or the type of product is not one for which licensing under WAC 230-04-110 is necessary to protect the public interest. Application for a special sales permit shall be processed in the following manner:

(1) An application shall be submitted on a form obtained from the commission setting forth the following information:

- (a) Description of product(s), including trade name(s);
- (b) Anticipated scope of sales, in quantity and dollar value;
- (c) The name and address of the operator requesting to purchase the equipment and the distributor(s) that will broker the equipment;
- (d) All information necessary to determine the qualification of the manufacturer;
- (e) A list of all jurisdictions in which the applicant business or any of the officers, directors, or substantial interest holders is currently licensed to conduct business related to gambling; and
- (f) The application shall be accompanied by a nonrefundable processing fee of two hundred dollars. Applicants may be assessed additional fees after an estimate of investigation costs have been established;

(2) Upon receipt of all moneys requested by the commission, a limited investigation shall be initiated, the scope of which shall be established using the following criterion:

- (a) Anticipated demand for such equipment;
- (b) The nature of the equipment, including other sources of such equipment;
- (c) The availability of information from appropriate sources to verify the qualification of such manufacturer;
- (d) Annual sales compared to the anticipated cost of a comprehensive licensing investigation;
- (e) Whether the equipment, after installation, will require an ongoing relationship with the manufacturer;
- (f) Security issues related to the manufacturing, installation, and ongoing service of the equipment; and
- (g) Other factors deemed relevant;

(3) At any time during the investigation process, the director may determine that a license is required under WAC 230-04-110. Upon notification of such, the applicant may withdraw their permit application without prejudice, and all unused fees will be returned. If the applicant elects to proceed with an application for a manufacturer's license, all fees will be credited toward the appropriate license fee;

(4) A special sales permit shall be valid for a period of one year from the date of issuance: *Provided*, That the director may void a permit upon written notice and require a license be obtained under WAC 230-04-110 prior to further sales.

**AMENDATORY SECTION** (Amending WSR 95-02-003 and 94-23-007, filed 12/22/94 and 11/3/94, effective 1/22/95 and 1/1/95)

**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
<b>1. CARD GAMES</b>		
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

LICENSE TYPE	DEFINITION	FEE
<b>2. COMMERCIAL AMUSEMENT</b> (Fee based on annual gross gambling receipts)		
* Class A	Premises only	** \$265/\$115
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.

LICENSE TYPE	DEFINITION	FEE	VARIANCE*
<b>3. PUNCHBOARDS/ PULL TABS</b> (Fee based on annual gross gambling receipts)			
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	\$4,460
Class H	Up to \$700,000	\$10,000	\$5,020
Class I	Up to \$800,000	\$10,000	\$5,530
Class J	Up to \$1,000,000	\$20,000	\$6,270
Class K	Up to \$1,250,000	\$25,000	\$6,960
Class L	Up to \$1,500,000	\$25,000	\$7,600
Class M	Up to \$1,750,000	\$25,000	\$8,130
Class N	Up to \$2,000,000	\$25,000	\$8,610
Class O	Over \$2,000,000	Nonapplicable	\$9,460

\* 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.

<b>4. DISTRIBUTOR</b> (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>(b) FUND-RAISING EVENT EQUIPMENT DISTRIBUTOR</b>		
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

<b>5. MANUFACTURER</b> (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.

<b>6. PERMITS</b>		
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 230-25-330)		
		\$ 50

<b>7. CHANGES</b>		
NAME	(See WAC 230-04-310)	\$25
LOCATION	(See WAC 230-04-320)	\$25
BUSINESS CLASSIFICATION	(Same owners)	\$50
LICENSE CLASS	(See WAC 230-04-340)	
	(See WAC 230-04-260)	
	New class fee, less previous fee paid, plus	\$25
DUPLICATE LICENSE OWNERSHIP OF STOCK LICENSE TRANSFERS	(See WAC 230-04-290)	\$25
	(See WAC 230-04-340)	\$50
	(See WAC 230-04-125, 230-04-340, and 230-04-350)	\$50

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8. SPECIAL FEES

INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND INSPECTION SERVICES STAMPS	(See WAC 230-08-017)	As required
QUALITY CONTROL INSPECTION FEES	(See WAC 230-30-030)	As required
REPLACEMENT OF IDENTIFICATION STAMPS	(See WAC 230-30-016)	\$25
EXCEEDING LICENSE CLASS REVIEW,	(See WAC 230-04-260)	As required
INSPECTION AND/OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-08-017)	As required
<u>SPECIAL SALES PERMITS</u>	<u>(See WAC 230-04-115)</u>	<u>As required</u>

9. SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$25
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**WSR 95-07-099**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed March 17, 1995, 3:41 p.m.]

Continuance of WSR 95-04-037.

Title of Rule: WAC 230-02-240 Commercial gambling manager defined; 230-02-418 (~~(Bingo)~~) Charitable or nonprofit gambling manager defined; 230-04-145 Licensing of charitable or nonprofit gambling managers (~~(of bingo games)~~)—Application procedures; 230-04-147 Notification to the commission upon beginning, terminating, or changing responsibilities (~~(as bingo game)~~) of charitable or nonprofit gambling managers; 230-12-079 duties and responsibilities of a charitable or nonprofit gambling manager; and 230-20-070 Regulation of managers, operators, and other employees—Charitable or nonprofit organizations.

Purpose: This packet of rules would require licensing charitable or nonprofit gambling managers. Amendments would also include the application requirements, procedures for licensing, and guidelines for the duties and responsibilities of a charitable or nonprofit gambling manager.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Defines charitable or nonprofit gambling manager, outlines application guidelines, licensing procedures and the duties and responsibilities of gambling managers.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 ext. 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 ext. 302; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 ext. 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: Packet of rules would require charitable or non-

profit gambling managers to be licensed. Application requirements, procedures for licensing and guidelines for the duties and responsibilities of a charitable or nonprofit gambling manager are included.

Proposal Changes the Following Existing Rules: Amendments define charitable or nonprofit gambling manager, outlines application guidelines, licensing procedures and duties and responsibilities of a gambling manager.

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: 1. No cost or expenditure of resources; 2. no affect on industry; and 3. no substantive change in existing regulatory scheme.

Hearing Location: Red Lion Inn, Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, on April 14, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by April 12, 1995, TDD (360) 438-7638, or (360) 438-7654 ext. 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by April 12, 1995.

Date of Intended Adoption: April 14, 1995.

March 17, 1995  
 Patricia Norman-Cole  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 91-07-021, filed 3/13/91, effective 4/13/91)

**WAC 230-02-240 Commercial gambling manager defined.** A "commercial gambling manager" is a person, whether compensated or not, who is responsible for operating and controlling authorized commercial gambling activities (~~(other than bingo games)~~), and who has the authority to make decisions regarding the operation of such gambling activities. The gambling manager supervises and directs all other persons directly or indirectly involved in the conduct of such activities. A gambling manager may be: An owner; partner; officer of a corporation; or a person designated by any of the above. A gambling manager's duties include, but are not limited to the following: Hiring, firing, and evaluating gambling personnel; supervising and controlling the conduct of gambling activities; preparing or supervising the preparation of gambling records; controlling cash generated by gambling activities and making bank deposits; and purchasing gambling supplies.

AMENDATORY SECTION (Amending Order 223, filed 6/17/91, effective 7/18/91)

**WAC 230-02-418 ((Bingo)) Charitable or nonprofit gambling manager defined.** A "~~((bingo)) charitable or nonprofit gambling manager~~" is any ~~((person assigned the responsibility to conduct and/or oversee the conduct of bingo games by the governing board or elected officers of a charitable/nonprofit organization))~~ member or employee of a charitable or nonprofit organization who has the ability to,

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directly or indirectly, exercise a material degree of control over the operation of any gambling activity or the disbursement of funds generated from gambling activities. This definition includes all persons (~~directly or indirectly~~) compensated to advise the board and/or officers regarding specific aspects of operating (~~a bingo game~~) any gambling activity, whether as a consultant or any other short-term contract basis: *Provided*, That charitable or nonprofit organizations currently licensed to operate (~~bingo games~~) gambling activities, or their members or employees, may provide nonspecific advice to any other charitable/nonprofit organization, without being deemed a (~~bingo~~) gambling manager for the receiving organization, if they are not directly or indirectly compensated for such advice. This section is not intended to restrict actions regarding the operation of (~~a bingo game~~) any gambling activity that are initiated by the board and/or officers, if such actions are implemented through a (~~bingo~~) gambling manager appointed by the board and/or officers.

~~((1))~~ The duties and responsibilities of a bingo manager include but are not limited to the following:

(a) Personnel actions regarding workers in the activity including hiring, firing, training, evaluating, scheduling work periods, and/or setting salaries;

(b) Scheduling the gambling activity including determining the time and days of operation;

(c) Setting the scope of the gambling activity by determining:

(i) The number of games to be played;

(ii) The type of games to be played;

(iii) The cost for each player to participate; and

(iv) The type and amount of prizes to be awarded;

(d) Setting the scope of marketing activities related to the gambling activity by determining:

(i) Type and scope of promotional activities; and

(ii) The media, content, timing, and target market area of advertising;

(e) Supervising the operation of the bingo game including all auxiliary activities by ensuring that:

(i) The public is protected from fraud;

(ii) Persons participating in the activity are reasonably protected from physical harm and civil disorder;

(iii) All provisions of Title 230 WAC and chapter 9.46 RCW are followed;

(iv) All records are completed and correct; and

(v) All monies derived from the gambling and auxiliary activities are safeguarded until transferred to a guardian designated by the board and/or officers or directly deposited in the organization's bank account.

(2) An organization may appoint more than one person whose responsibilities include those of a bingo manager as defined above. When an organization has more than one bingo manager, the manager assigned the highest level of authority shall be designated as the "primary bingo manager" and all others as "assistant bingo managers." The primary bingo manager must be designated on the application for a bingo license.

(3) All bingo managers shall be knowledgeable of all provisions of Title 230 WAC and chapter 9.46 RCW that relate to the operation of bingo games and auxiliary activities.) For purposes of this Title, the following individuals

shall be deemed to be charitable or nonprofit gambling managers:

(1) Any member or employee who has the primary responsibility to supervise the operation of any gambling activity;

(2) Any employee of the organization who has been assigned the responsibility of supervising another gambling manager by the governing board or officers; or

(3) The employee who the officers or governing board of directors has delegated the highest level of authority over the day-to-day affairs of the organization and who is responsible for disbursement of funds generated from gambling activities and/or safeguarding assets purchased with funds generated from gambling activities.

AMENDATORY SECTION (Amending Order 262, filed 12/5/94, effective 1/5/95)

WAC 230-04-145 Licensing of charitable or nonprofit gambling managers (~~of bingo games~~)—Application procedures. ~~((1))~~ Each charitable or nonprofit organization licensed to conduct gambling activities shall designate gambling managers who will be responsible to the officers or board of directors for the proper conduct of the activity and safeguarding of all funds generated by such. An individual may be designated as the gambling manager for more than a single activity if so noted on the application for each activity. No person shall perform the duties of a (~~bingo game~~) gambling manager (~~as defined by WAC 230-02-418 for a Class D and above bingo licensee~~), as set out in WAC 230-12-079, unless they have(~~:~~

(a) Received a license to do so from the commission; or  
(b) Submitted) been approved by the commission.

Applicants for a license to perform duties of a gambling manager shall comply with the following procedures:

(1) Gambling managers responsible for the following functions of a charitable or nonprofit organization shall be licensed by the commission:

(a) Primary manager of Class D and above bingo games;

(b) Primary manager of Class C and above punchboards and pull tabs;

(c) Any employee responsible for supervision of gambling managers required to be licensed by (a) or (b) of this subsection; and

(d) The employee assigned the highest level of authority by the officers or governing board of directors to manage the day-to-day affairs of the organization and who is responsible for safeguarding assets purchased with gambling funds or managing the disbursement of gambling funds when:

(i) The organization is licensed to receive more than three hundred thousand dollars in gross gambling receipts; or

(ii) The organization has an established trust and/or endowment fund and gambling receipts in excess of one hundred thousand dollars have been contributed to such funds.

(2) Prior to performing duties as a licensed gambling manager, each applicant shall:

(a) Submit a completed application to the commission on or before the first day the applicant begins working: *Provided*, That (~~section (1)(b) above shall not apply~~) an applicant shall not perform any of the duties of a gambling

manager prior to issuance of a license by the commission if one or more of the following ~~((reasons))~~ conditions exist:

(i) The applicant ~~((s present or past license))~~ has been previously denied ~~((s))~~ a license or had a license suspended ~~((s))~~ or revoked by the commission; ~~((or))~~

(ii) The applicant ~~((is presently involved with pending commission charges or criminal prosecution; or))~~ has been served administrative or criminal charges and such charges are pending at the time of the application;

(iii) The applicant has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to ~~((ertain))~~ any offense ~~((s))~~ set forth in RCW 9.46.158; or

(iv) The applicant has violated, failed, or refused to comply with provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW or any rules of the commission.

~~((e Completed))~~ (b) Complete a training course ~~((as))~~ provided by the commission within ~~((30))~~ thirty days after the first day worked as required by WAC 230-04-020. Individuals that have been performing duties or assigned responsibilities that require a gambling manager license under this section, for at least ninety days prior to the effective date of this section, may be exempted from such training by the director. Types of training required:

(i) Individuals applying for a license under the provisions of subsection (1)(a), (b), or (c) of this section shall attend training for each gambling activity for which they have been assigned primary or secondary oversight responsibility; and

(ii) Individuals applying for a license under the requirements of subsection (1)(d) of this section shall attend training related to safeguarding assets and proper uses of gambling funds.

~~((2))~~ (3) Each application shall be submitted as specified in WAC 230-04-020, and signed by both the applicant and the highest ranking executive officer of the ~~((employing bingo licensee. The duration of the license shall be:~~

(a) One year from the date of application, if the applicant began working the same day or prior to licensure as authorized by section (1)(b) above; or

~~((b))~~ organization;

(4) A gambling manager license shall be valid for a period not to exceed one year ~~((from))~~ beginning on the date of issuance ~~((s))~~ or the date the application was submitted if the applicant ~~((waited for))~~ began working prior to licensure, as ~~((required))~~ authorized by ~~((section (1)(b)(i-iv) above; or~~

~~((e Upon termination of))~~ subsection (2)(a) of this section, whichever occurs first: *Provided*, That should a licensed gambling manager's employment with the organization listed on the license application be terminated, for any reason, the license shall ~~((expire and the licensee))~~ become immediately void. This individual must reapply for ~~((licensure))~~ a license prior to performing gambling manager duties for any other charitable or nonprofit organization. Prior to granting a license to a previously licensed gambling manager, the commission shall conduct an investigation to determine the continued qualification of the individual. Such investigation may include inquiries to the previous employer;

~~((3))~~ (5) The fee for this license shall be as required by WAC 230-04-204: *Provided*, That if an applicant is changing employment from one ~~((bingo))~~ licensee to another

prior to the expiration date as specified in ~~((2)(a) and (b) above))~~ subsection (4) of this section, the fee shall be as required for license renewal ~~((s))~~;

(6) An organization may appoint more than one gambling manager who is responsible for supervising bingo games or punchboard and pull tab operations. The manager assigned the highest level of authority for each specific activity shall be designated on the application as the "primary gambling manager" and all others as "assistant gambling managers."

AMENDATORY SECTION (Amending Order 113, filed 10/15/81)

**WAC 230-04-147 Notification to the commission upon beginning, terminating, or changing responsibilities ~~((as bingo game))~~ of charitable or nonprofit gambling managers.** A ~~((licensed bingo game operator))~~ charitable or nonprofit organization shall notify the commission in writing when a ~~((bingo game))~~ gambling manager has ~~((began work in the bingo game))~~ been assigned primary responsibility for the operation of any gambling activity or disbursement of funds, or has terminated employment and/or responsibilities for any reason. Individuals required to be licensed shall immediately submit an application for a license, as required by WAC 230-04-020 and 230-04-145. The following procedures shall be followed for notification of changes in responsibilities of gambling managers that do not require an application:

(1) The notification shall be in writing and include:

(a) The full name ~~((sex,))~~ and ~~((birthdate))~~ date of birth of the ~~((bingo game))~~ gambling manager ~~((and among other things,))~~;

(b) The date the ~~((bingo game))~~ gambling manager ~~((began to work for the bingo game operator, with an acknowledgment that he or she has done so with the operator's knowledge and consent,))~~ was assigned new responsibilities or the date employment and/or responsibilities terminated ~~((s))~~; and

(c) A full description of the change in duties and/or responsibilities;

(2) The notification shall be signed by the highest ranking elected officer or the individual assigned the responsibility of supervising the gambling manager;

(3) The ~~((report))~~ notification shall be made immediately and must reach the commission's ~~((Olympia))~~ headquarters office in Lacey not later than ~~((5))~~ 5:00 p.m. on the tenth day following the person's first day of work or last day of work, as applicable. If the tenth day falls on a Saturday, Sunday, or state holiday, it shall be due upon the next following business day.

#### NEW SECTION

**WAC 230-12-079 Duties and responsibilities of a charitable or nonprofit gambling manager.** Charitable or nonprofit gambling managers shall be knowledgeable of all provisions of Title 230 WAC and chapter 9.46 RCW that relate to the operation of gambling activities they manage and restrictions regarding the use of funds generated from gambling activities for which they have been assigned responsibility. Such managers shall be responsible for supervising the operation of the gambling activity, including

1 all ancillary activities conducted in conjunction with gambling activities, and for safeguarding funds or other assets generated from gambling activities which are under their control. This responsibility shall be fulfilled by ensuring that:

- (1) The public is protected from fraud;
- (2) The licensed premises is maintained in a safe condition and persons participating in the activity are reasonably protected from physical harm;
- (3) Activities are conducted in a manner that ensures fair and equal participation by players and all provisions of Title 230 WAC and chapter 9.46 RCW are followed;
- (4) The organization is reasonably protected from illegal acts committed by players or workers;
- (5) All records are completed and correct;
- (6) All moneys derived from the gambling and ancillary activities are safeguarded until transferred to a guardian designated by the board and/or officers or directly deposited in the organization's bank account;
- (7) All assets of the organization, for which the gambling manager is responsible, are protected from misuse or theft; and
- (8) All funds generated from gambling activities, for which the gambling manager is responsible, are disbursed or invested in accordance with the directions of the officers or governing board of the organization and used solely to further the purposes of the organization.

AMENDATORY SECTION (Amending Order 243, filed 8/17/93, effective 1/1/94)

**WAC 230-20-070 Regulation of managers, operators, and other employees—Charitable or nonprofit organizations.** Charitable or nonprofit organizations shall closely supervise all persons involved in the conduct of all gambling activities operated to ensure all rules of the commission are followed. The following restrictions apply to managers, operators, and other employees:

(1) Amusement games and raffles. No person other than a bona fide member of a qualified (~~bona fide~~) charitable or (~~qualified bona fide~~) nonprofit organization(~~(s)~~) shall take any part in the management or operation of, including (~~((with respect to amusement games))~~) the furnishing of equipment for amusement games, or work as an employee upon, amusement games or raffles conducted by that organization under a license from the commission: *Provided, ((however,))* That, (~~((except as to persons operating without a license under RCW 9.46.0315 and 9.46.0321,))~~) employees of the organization on a regular or part-time basis, employed primarily for purposes other than the conduct of such activities, shall be considered members of the organization for the purposes of (~~(this subsection))~~) conducting amusement games or raffles licensed by the commission.

(2) Bingo.

(a) No person other than a bona fide member or an employee of a charitable or nonprofit organization (~~licensee~~) shall take any part in the management or operation of bingo games conducted under a license issued (~~(to that organization))~~ by the commission, and no licensee shall allow any person not one of its members or employees to do so. No person other than a bona fide member of a charitable

or nonprofit organization operating without a license under RCW 9.46.0321 shall take any part in the management or operation of bingo conducted by that organization and no such organization shall allow any person not one of its members to do so.

(b) No person who takes any part in the management or operation of a bingo game conducted by one licensee shall take any part in the management or operation of any bingo game conducted by any other organization, or any other branch of the same organization(~~((Provided, That))~~) except under the following conditions:

(i) A person participating in the conduct of bingo games by one Class A, B, or C licensee may also participate in the conduct of bingo games by other Class A, B, or C licensees on a voluntary basis only when such person receives no remuneration for services to other licensees and when the requirements of (c) of this subsection (~~((3) below))~~ are satisfied; or

(ii) A person participating in the operation of bingo games conducted by one licensee under any class of license may also participate in the operation of bingo games conducted by other licensees under any class of bingo license, but only when that person has no managerial or supervisory responsibilities in connection with the operation of bingo activities by any licensee and when the requirements of (c) of this subsection (~~((3) below))~~ are satisfied. An assistant (~~(bingo game))~~ gambling manager, as defined by WAC (~~(230-02-418))~~ 230-04-145(6), shall not be deemed a person having managerial or supervisory responsibilities for the purpose of this section and may participate as an hourly employee in the bingo operations of other bingo licensees.

~~((3))~~ (c) Any licensee (~~(which))~~ that desires to have any person, who participates in any manner in the conduct of bingo games for another licensee, participate in the conduct of its bingo games shall notify the commission, (~~(and))~~ local police officials, and any other licensees for which the person works, in writing, of the following:

(i) The name and address of that person((s));

(ii) The name and address of any licensees for ((whom)) which that person is working((s)); and

(iii) The capacity in which that person is working for each licensee prior to the time that person participates in the conduct of the licensee's bingo games. ((In addition, the licensee shall notify any other licensees for which the person works that the individual is now also working for it.

~~(4))~~ (d) No licensee shall allow any person to take any part in the management, supervision or operation of a bingo game except in conformance with this rule.

~~((5))~~ (3) Certain premises excepted. The limitations set forth above in (1) and (2) shall not apply to qualified agricultural fairs conducting amusement games or bingo.

WSR 95-07-100

PROPOSED RULES

DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT

(Community Development)

[Filed March 17, 1995, 3:55 p.m.]

Original Notice.

Title of Rule: State funding of local emergency food programs, chapter 365-140 WAC.

Purpose: To update and clarify the WAC, and to allow for a reorganization of the program.

Statutory Authority for Adoption: RCW 43.63A.060.

Statute Being Implemented: Section 222(5), chapter 232, Laws of 1992.

Summary: Repeal of the section governing a pilot project. Changes allowing for reorganization of the program.

Reasons Supporting Proposal: The Department of Community, Trade and Economic Development was asked by the Office of Financial Management and the legislature to look at ways to make the program more efficient. The program's FTEs were reduced from 2 to 1, necessitating change.

Name of Agency Personnel Responsible for Drafting and Implementation: Susan Eichrodt, Program Manager, CBFS, 9th and Columbia, 586-4921; and Enforcement: Billy Colburn, Assistant Director, CBFS, 9th and Columbia, 753-4979.

Name of Proponent: Washington State Department of Community, Trade and Economic Development, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This WAC, currently in effect, governs the emergency food assistance program (EFAP). It defines terms, clarifies allocation of funds, the application process, and eligibility criteria. The changes will allow for more local control of how funds are spent, and will help consolidate the contracts in each county. The new model will streamline administration of the program.

Proposal Changes the Following Existing Rules: Repeal of WAC 365-140-045 governing pilot projects due to be completed June 30, 1995. Clarification of some definitions, and addition of others to help elucidate the WAC. New rules for selecting lead agencies and distribution centers, and allocating funds. New allocation formula for tribal food voucher program recipients. Clarification of contractor and subcontractor service areas.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No statement required for this rule.

Hearing Location: Department of Community, Trade and Economic Development, 906 Columbia Street S.W., Room 4A, Olympia, on April 25, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cindy Colvin by April 15, 1995, TDD (360) 753-3908, or (360) 634-4473.

Submit Written Comments to: Susan Eichrodt, FAX (360) 586-0489, by April 25, 1995.

Date of Intended Adoption: May 9, 1995.

March 16, 1995  
Debora Brown  
Special Assistant

AMENDATORY SECTION (Amending WSR 94-18-073, filed 9/2/94, effective 10/3/94)

**WAC 365-140-030 Definitions.** (1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Food bank" means an emergency food program that distributes unprepared food (~~and other products~~) on a regular basis without a charge.

(4) "Food distributor" means a food distribution agency that collects, warehouses, and distributes food (~~and other products~~) to emergency food programs and other charities on a county, regional, or state-wide basis.

(5) "Commodity program" means a program that primarily distributes USDA surplus commodities to clients (TEFAP).

(6) "Emergency food assistance program" means the (~~multifaceted~~) state-wide (~~administrative~~) activities (~~carried out within~~) of the department (~~to allocate, award, and monitor state funds appropriated~~) to assist local (~~food banks and food distributors, tribes or tribal organizations, and other food programs~~) emergency food programs by allocating and awarding state funds.

(7) "Applicant" means a public or private nonprofit organization, tribe or tribal organization which applies for state emergency food assistance.

(8) "Contractor" means an applicant which has been awarded state funds under the emergency food assistance program, and which has entered into a contract with the department of community, trade, and economic development to provide emergency food assistance to individuals.

(9) "Lead agency contractor" means a contractor which may subcontract with one or more local (~~organizations~~) food banks to provide emergency food assistance to individuals, and with food distributors to provide food to food banks.

(10) "Tribal food voucher program" means the state-wide (~~administrative~~) activities (~~carried out within~~) of the department (~~to~~) which allocate(~~s~~) and award(~~s~~) (~~and monitor~~) state funds (~~appropriated~~) to (~~assist~~) tribes (~~or~~) and tribal organizations (~~in issuing~~) that issue food vouchers to clients.

(11) "Religious service" means any sectarian or non-denominational service, rite, or meeting that involves worship of a higher being.

(12) "Participating (~~agency~~) food bank" means a local public or private nonprofit (~~organization~~) food bank which enters into a subcontract with a lead agency contractor to provide emergency food (~~program services~~) assistance to individuals.

(13) "Emergency food" means food that is given to clients who do not have the means to acquire that food themselves, so that they will not go hungry.

(14) "Special dietary needs" mean funds to purchase food that meets the nutritional needs of special needs population.

(15) "In-kind" means the value of volunteer services or donated goods such as staff time, rent, food, supplies and transportation.

(16) "Administrative costs" mean management and general expenses, including membership dues, that cannot be readily identified with a particular program or direct services.

(17) "Operational expenses" mean those costs clearly identifiable with providing direct services to eligible clients, or distribution services to food banks such as staff time, transportation costs, and equipment rental.

AMENDATORY SECTION (Amending Order 93-06, filed 8/25/93, effective 9/25/93)

**WAC 365-140-040 Contractor funding allocation and award of contracts.** At least ~~((sixty-five))~~ seventy percent of the total allocation appropriated by the legislature shall be contracted ~~((for food banks and food distributors))~~ to lead agency contractors. These funds shall be for the purpose of funding the activities of food banks and food distributors, the purchase of special dietary needs foods, and providing special dietary needs training. The specific appropriation for ~~((timber dependent))~~ timber and salmon dependent communities shall be contracted to food banks in those communities. Of the remainder of the total allocation, not including department ~~((administration))~~ administrative costs, allocations shall be contracted to a discretionary program if the department elects to award such contracts, the tribal food voucher program, ~~((special dietary needs foods,))~~ and additional special dietary needs training ~~((and a discretionary program))~~. Allocations for each county shall be contracted to ~~((food banks and food distributors))~~ lead agency contractors on the following basis:

~~(1) ((Sixty percent of funds allocated for food banks and food distributors shall be provided by county to a public or private nonprofit organization for food banks.~~

~~(2) Forty percent of funds allocated for food banks and food distributors shall be provided by county to a public or private nonprofit organization for food distribution centers.~~

~~(3))~~ A formula for distributing the funds in proportion to need shall be established by the department in consultation with a committee appointed by the director or the director's designee. The formula shall address the following:

- (a) Poverty population in each county; and
- (b) Unemployed population in each county.

~~((4))~~ (2) The department shall award the lead agency contract to an eligible contractor as defined by the department, that is supported by a least two-thirds of the participating food banks in a county.

(3) The department may award the combined allocation for two or more counties to a single applicant.

~~((5))~~ (4) The department shall award a contract to no more than one ((food bank)) lead agency contractor in each county, with the exception of ((Pierce County, where there may be two food bank lead agency contractors, and)) King County, where there may be ((five food bank)) three lead agency contractors, to administer subcontracts with one or more ~~((local providers of emergency))~~ participating food banks ((services)) and food distributors.

~~((6) The department shall award contracts to food distributors which are designated jointly by the emergency food assistance program and the food bank lead agency contractors.~~

~~(7))~~ (5) Tribes that have signed the Centennial Accord may apply to the department directly for the food bank program without having to subcontract with the lead agency. They must meet all the same criteria and requirements as lead agencies.

(6) Within each lead agency service area, except for the additional funds specifically allocated for food banks in timber and salmon dependent communities, funds shall be allocated between food distributors, food banks, and special dietary needs foods and training based on a two-thirds vote of all participating food banks and the lead agency.

(7) The additional funds specifically allocated for food banks in timber and salmon dependent communities shall remain in the amounts identified by the legislature.

(8) If participating food banks designate funds for food distribution, they shall elect with a two-thirds vote of the participating food banks and the lead agency, an eligible distributor as defined by the department. They may choose more than one distributor with which to subcontract. The lead agency contractor shall be responsible for subcontracting with the food distributor(s).

(9) A formula for distributing the funds to each tribe and tribal organization participating in the tribal food voucher program in proportion to need shall be established by the department in consultation with a committee appointed by the director or the director's designee. The formula shall address the following:

- (a) Poverty population in each tribe; and
- (b) Unemployment population in each tribe.

(10) The department shall pay for services provided under the emergency food assistance program after the contractor submits a monthly report of expenditures incurred and a request for reimbursement.

~~((8))~~ (11) Tribes may apply for either food bank funds or tribal food voucher funds, but not for both. A tribe's allocation for either the tribal food voucher program or the food bank program shall be the amount that the tribe would receive as a participant in the tribal voucher program. (E.g., should a tribe participate in the food bank program, its allocation will not be computed from the county's total food bank funds available, but from the tribal food voucher program's total funds available.)

(12) In the event that funds are not claimed by an eligible organization in a county or that a portion of the funds allocated to a county remains unspent, the lead agency contractor may request authorization from the department to reallocate funds, within its service area, to an area of unmet need.

(13) In the event that a portion of the funds allocated to a subcontracting tribe within a tribal contractor's contract remains unspent or unclaimed, the tribal contractor may request authorization from the department to reallocate funds to one of its other subcontracting tribes with unmet needs.

AMENDATORY SECTION (Amending WSR 94-18-073, filed 9/2/94, effective 10/3/94)

**WAC 365-140-050 Applicant eligibility criteria.** (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501 (c)3, or be a public nonprofit agency, be a recognized tribe, a tribal organization

with 501 (c)3 status, or an unrecognized tribe with 501 (c)3 status.

~~(2) The applicant ((must not require participation in a religious service as a condition of receiving emergency food or a food voucher.~~

~~(3) The applicant must provide food or food vouchers to individuals in an emergency, regardless of residency.~~

~~(4) The applicant must practice nondiscrimination in providing services and employment.~~

~~(5) The applicant must not deny food or food vouchers to an individual because of his or her inability to pay.~~

~~(6) Applicants for funding as participating agency or food distributor must have had a food bank program or food distribution center in operation for one year prior to the beginning date of the contract year.~~

~~(7) The applicant for food bank lead agency contractor may or may not actually provide emergency food program services)) for funding as lead agency must have been operating as a public nonprofit or private nonprofit with 501 (c)3 status for one year prior to the beginning date of the contract.~~

(3) The applicant for funding as a participating food bank must have been operating as a public nonprofit or private nonprofit with 501 (c)3 status food bank for one year prior to the beginning date of the subcontract. Participating private nonprofit food banks without 501 (c)3 status may also be sponsored by a local public nonprofit agency or private nonprofit agency with 501 (c)3 status.

(4) The applicant for funding as a food distributor must have been operating as a public nonprofit or a private nonprofit with 501 (c)3 status food distributor for one year prior to the beginning date of the contract.

(5) The applicant for lead agency or tribal contractor may or may not actually provide emergency food program services.

(6) The applicant must practice nondiscrimination in providing services and employment.

(7) The applicant must not require participation in a religious service as a condition of receiving emergency food or a food voucher.

(8) Applicants within a county or multicounty region, or tribes with established parameters for service, may define their service area boundaries for the purpose of equitably allocating resources. The department encourages the provider to serve the client no matter what service areas the client resides in. If appropriate, the provider may then refer the client to the agency servicing the area in which the client resides, or to the tribe which has established jurisdiction over the individual, for further assistance. Providers must practice nondiscrimination when applying their service area policies.

(9) The applicant may not charge for food or food vouchers given to a client.

AMENDATORY SECTION (Amending Order 93-06, filed 8/25/93, effective 9/25/93)

**WAC 365-140-060 Financial support application process.** (1) Potential applicants will be notified by the department that in order to be considered for state emergency food financial assistance, an application must be submitted to the department.

(2) An applicant must make formal application using forms issued and procedures established by the department. Such application shall be for the period indicated on the contract face sheet. Failure of an applicant to make application in a timely manner, as specified by the department, may result in denial of the funding request.

(3) Department funds may not supplant other existing funding sources.

~~(4) ((The total funds received by a food bank or food distributor contractor from the department for the emergency food assistance program must be equally matched by funds from other sources during the fiscal year. No more than fifty percent of that match may be documented in kind contributions; other emergency food assistance contractors are not required to meet such a match.~~

~~(5) Administrative costs for food bank and food distributor contractors under this program are limited to ten percent of the total contract award. Administrative costs for food bank lead agency contractors who also provide direct emergency food assistance services are limited to ten percent of the contractor's allocation for providing direct services as a participating food bank, and ten percent of the total contract award as food bank lead agency contractor; total administrative costs, however, may not exceed fifteen percent of the total contract award.~~

~~(6) Of their total contract award, tribal contractors may not spend more than ten percent on administrative costs and five percent on operational expenditures. The balance of funds is to be used for food vouchers issued to clients.~~

~~(7)) Department funds may not be used to defray costs of distributing USDA commodities under the commodity program.~~

(5) The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.

~~((8) Department funds may not be used to defray costs of distributing USDA commodities under the commodity program.))~~ (6) Applicants that receive food bank or food distribution funds are subject to the following fiscal requirements:

(a) The total funds from the department received by a lead agency contractor, participating food bank or food distributor subcontractor for the emergency food assistance program must be equally matched by funds from other sources during the fiscal year. No more than fifty percent of that match may be documented in-kind contributions.

(b) Administrative costs for food bank and food distributor subcontractors under this program are limited to ten percent of their total contract award. Administrative costs for lead agency contractors who also provide direct emergency food assistance services are limited to ten percent of the contractor's allocation for providing direct services as a participating food bank, and ten percent of the total contract award as food bank lead agency contractor; total administrative costs, however, may not exceed fifteen percent of the total contract award. Administrative costs for agencies who are lead agency contractors only are limited to ten percent of their total contract award.

(7) Applicants that receive tribal food voucher funds are subject to the following fiscal requirements:

(a) Tribal contractors and subcontractors must match thirty-five percent of the funds received by the department for the emergency food assistance program. No more than fifty percent of that match may be documented in-kind contributions.

(b) Of their total contract award, tribal contractors may not spend more than ten percent on administrative costs, and five percent on operational expenditures. The balance of funds is to be used for food vouchers issued to clients.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 365-140-045 Pilot project for consolidated emergency food assistance program.

#### **WSR 95-07-107**

##### **PROPOSED RULES**

#### **DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT**

(Public Works Board)

[Filed March 20, 1995, 3:17 p.m.]

Original Notice.

Title of Rule: WAC 399-10-010 Organization and operation of the Public Works Board.

Purpose: To reflect current state organization and to eliminate language duplicated in statute.

Statutory Authority for Adoption: RCW 43.155.040(4), chapter 43.155 RCW.

Summary: To reflect correct name of agency providing management services, correct mailing address, and eliminate language duplicating statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pete A. Butkus, Public Works Manager, P.O. Box 48319, Olympia, WA 98504-8319, (360) 586-7186.

Name of Proponent: Public Works Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: These matters were subject of a preproposal statement of intent meeting on December 6, 1994. No public input was received at that time.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed rule is a "housekeeping" matter, and is designed to provide citizens of the state with accurate information on how to contact the Public Works Board.

Proposal Changes the Following Existing Rules: To reflect correct name of agency providing management services to the Public Works Board, provide for a correct mailing address, and eliminate language duplicating statute regarding the purpose of the board.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This proposed rule change has no impact on small business.

Hearing Location: Batelle Conference Center, 4000 N.E. 41st Street, Seattle, WA 98105, on May 2, 1995, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Cecilia Asher by April 20, 1995, (360) 753-3158.

Submit Written Comments to: Cecilia Asher, Mail-P.O. Box 48319, Olympia, WA 98504-8319; In Person-Suite 350, 906 Columbia, Olympia, FAX (360) 664-3029, by April 25, 1995.

Date of Intended Adoption: May 2, 1995.

March 20, 1995

Pete A. Butkus

Public Works Manager

AMENDATORY SECTION (Amending WSR 93-22-014, filed 10/26/93, effective 11/26/93)

**WAC 399-10-010 Organization and operation of the public works board.** (1) The public works board, hereinafter referred to as the board, is a thirteen-member board appointed by the governor and created pursuant to RCW 43.155.030.

(2) The governor shall appoint one of the general public members of the board as chair. The board may elect such other officers for such terms as it may from time to time deem necessary in accordance with the board's bylaws.

(3) The board's staff support and office space is provided by the Department of Community, Trade, and Economic Development, ((whose main office is located at 906 Columbia Street S.W.,)) P.O. Box 48319, Olympia, Washington 98504-8319; phone ~~((AC 206))~~ (360) 753-2200.

~~((4) The purpose of the board is to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making loans, financing guarantees, and technical assistance available to local governments for these projects.))~~

#### **WSR 95-07-108**

##### **PROPOSED RULES**

#### **DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT**

(Public Works Board)

[Filed March 20, 1995, 3:19 p.m.]

Original Notice.

Title of Rule: WAC 399-20-020 Definitions.

Purpose: To reflect current state organization.

Statutory Authority for Adoption: RCW 43.155.040(4), chapter 43.155 RCW.

Summary: To reflect correct name of agency providing management services.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pete A. Butkus, Public Works Manager, P.O. Box 48319, Olympia, 98504, (360) 586-7186.

Name of Proponent: Public Works Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: These matters were the subject of a

preproposal statement of intent meeting on December 6, 1994. No public input was received at that time.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed rule is a "housekeeping" matter, and is designed to provide citizens of the state with accurate information on how to contact the Public Works Board.

Proposal Changes the Following Existing Rules: To reflect correct name of agency providing management services to the Public Works Board.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This proposed rule has no impact on small business.

Hearing Location: Batelle Seattle Conference Center, 4000 N.E. 41st Street, Seattle, WA 98105-5428, on May 2, 1995, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Cecilia Asher by April 20, 1995, (360) 753-3158.

Submit Written Comments to: Cecilia Asher, Mail-P.O. Box 48319, Olympia, WA 98504-8319; In Person-Suite 350, 906 Columbia Street, Olympia, FAX (360) 664-3029, by April 25, 1995.

Date of Intended Adoption: May 2, 1995.

March 20, 1995

Pete A. Butkus

Public Works Manager

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

**WAC 399-20-020 Definitions.** The following definitions shall apply to this chapter:

(1) "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 the board regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and all paper, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Board" means the public works board, created pursuant to chapter 446, Laws of 1985, and shall also refer to the board's officers and staff, where appropriate.

(4) "Department" means the department of community, trade, and economic development, and shall also refer to the department's staff, where appropriate.

Title of Rule: WAC 399-30-040 Application evaluation procedure and board deliberations.

Purpose: To specify board practices and procedures regarding consideration of financial assistance applications.

Statutory Authority for Adoption: RCW 43.155.040(4), chapter 43.155 RCW.

Summary: To reflect new application practices and procedures regarding consideration of financial assistance applications.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pete A. Butkus, Public Works Manager, P.O. Box 48319, Olympia, 98504, (360) 586-7186.

Name of Proponent: Public Works Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: These matters were the subject of a preproposal statement of intent meeting on December 6, 1994. No public input was received at that time.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed rule will simplify explanation of point scoring mechanisms as defined by the annual application for financial assistance. Further, this rule will clarify how applicants may provide information to the board during deliberations over prioritization of applications.

Proposal Changes the Following Existing Rules: The proposed change will eliminate point-specific language in the WAC, and replace it with category points, thus simplifying the WAC and reducing the need for annual WAC revisions. Further, the proposed change will make clear to local government applicants how information will be considered by the board when deliberations over prioritization of applications is taking place.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This proposed rule does not have an impact on small business. It is specific to local government applicants only.

Hearing Location: Batelle Seattle Conference Center, 4000 N.E. 41st Street, Seattle, WA 98105-5428, on May 2, 1995, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Cecilia Asher by April 20, 1995, (360) 753-3158.

Submit Written Comments to: Cecilia Asher, Mail-P.O. Box 48319, Olympia, WA 98504-8319; In Person-Suite 350, 906 Columbia Street S.W., Olympia, FAX (360) 664-3029, by April 25, 1995.

Date of Intended Adoption: May 2, 1995.

March 20, 1995

Pete A. Butkus

Public Works Manager

AMENDATORY SECTION (Amending WSR 93-22-015, filed 10/26/93, effective 11/26/93)

**WAC 399-30-040 Application evaluation procedure and board deliberations.** (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the

**WSR 95-07-109**  
**PROPOSED RULES**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**

(Public Works Board)  
(Filed March 20, 1995, 3:21 p.m.)

Original Notice.

board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local management efforts and project need.

(i) ~~(Up to forty points may be awarded in the evaluation of each application's demonstration of need for the proposed project. Responses to questions 3.04, 4.01, 4.021, 4.03, 4.04, and 4.05 will be evaluated to determine this score.~~

~~(ii) Up to sixty points may be awarded in the evaluation of the applicant jurisdiction's demonstration of local management effort. Responses to questions 5.01 through 5.141 will be evaluated to determine this score.)~~ Not less than sixty points, of a one hundred point total, shall be assigned to responses to questions identified in the application as relating to local management effort.

(ii) The remaining forty points shall be assigned to responses to questions identified in the application as relating to project need.

(d) Staff will provide the board with preliminary evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board may adjust the ranked list in consideration of the following factors:

- (i) Geographical balance;
- (ii) Economic distress;
- (iii) Type of projects;
- (iv) Type of jurisdiction;
- (v) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) In order to ensure ~~((fair treatment to all applicants))~~ fairness to all jurisdictions with applications pending before the board, the board will not accept oral or written testimony from any applicant while deliberating loan priorities, other than specific responses to information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.

(3) Applicants will be notified in writing of board decisions.

**WSR 95-07-110**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed March 20, 1995, 3:26 p.m.]

Original Notice.

Title of Rule: WAC 230-04-405 Commission may seek reimbursement for costs incurred in pursuing license revocation for failure to pay gambling taxes.

Purpose: Provides for reimbursement of agency costs in pursuing license revocation for failure to pay gambling taxes.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Provides for reimbursement of agency costs in pursuing payment of gambling taxes.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 ext. 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 ext. 302; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 ext. 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: Companion rule to accompany the petition by the taxing authorities, which provides for reimbursement of agency costs in pursuing license revocation for failure to pay gambling taxes.

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: 1. No cost or expenditure of resources; 2. no affect on industry; and 3. no substantive change in existing regulatory scheme.

Hearing Location: Red Lion Inn at the Quay, 100 Columbia, Vancouver, WA 98660, on May 12, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by May 10, 1995, TDD (360) 438-7638, or (360) 438-7654 ext. 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by May 10, 1995.

Date of Intended Adoption: May 12, 1995.

March 20, 1995

Patricia Norman-Cole  
Rules Coordinator

**NEW SECTION**

**WAC 230-04-405 Commission may seek reimbursement for costs incurred in pursuing license revocation for failure to pay gambling taxes.** Pursuant to WAC 230-04-400(3), upon referral from a local taxing authority, the commission will initiate license revocation actions for failure to pay gambling taxes. The commission will seek reimbursement for costs incurred in pursuing these gambling tax

PROPOSED

actions from the delinquent licensee. However, at the time of referral, the local taxing authority must agree, as a condition of referral, to reimburse the commission in full or in part for any unpaid costs not obtained from the delinquent licensee.

**WSR 95-07-111**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed March 20, 1995, 3:28 p.m.]

Original Notice.

Title of Rule: WAC 230-04-075 No license required for certain bingo, raffles, and amusement games, 230-20-090 Limits on compensation paid to members or employees, 230-20-170 Bingo operation date limitations, 230-20-190 Bingo card prices, 230-20-220 Operators shall not play, 230-20-630 Amusement games—Fees, rules, prizes and variations in objects to be posted—Fees to be paid in cash or ((~~script~~)) scrip—Prizes not to differ from those posted, 230-25-070 Fund-raising events—Central accounting system required, 230-25-055 Use of chips, ((~~script~~)) scrip or similar items at fund-raising event, 230-25-330 Recreational gaming activity—Rules for play, and 230-46-010 Purpose.

Purpose: Housekeeping changes to correct typographical errors.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Change typographical errors.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 ext. 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 ext. 302; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 ext. 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: Housekeeping changes to correct typographical errors.

Proposal Changes the Following Existing Rules: Changes correct typographical errors.

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: 1. No cost or expenditure of resources; 2. no affect on industry; 3. no substantive change in existing regulatory scheme.

Hearing Location: Red Lion Inn at the Quay, 100 Columbia, Vancouver, WA 98660, on May 12, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by May 10, 1995, TDD (360) 438-7638, or (360) 438-7654 ext. 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400,

Olympia, 98504-2400, FAX (360) 438-8652, by May 10, 1995.

Date of Intended Adoption: May 12, 1995.

March 20, 1995  
 Patricia Norman-Cole  
 Rules Coordinator

AMENDATORY SECTION (Amending Order 250, filed 3/16/94, effective 4/16/94)

**WAC 230-04-075 No license required for certain bingo, raffles, and amusement games.** Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of gambling activities, are hereby authorized to conduct the following gambling activities without obtaining a license to do so from the commission:

(1) Raffles when:

(a) Held in accordance with all other requirements of chapter 9.46 RCW, other applicable laws, and rules of the commission; and

(b) Gross revenues from all such raffles held by the organization during the calendar year do not exceed \$5000; and

(c) Tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle: *Provided*, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles; and

(2) Bingo, raffles, and amusement games when:

(a) Such activities are held in accordance with all other requirements of chapter 9.46 RCW as now or hereafter amended, other applicable laws, and rules of the commission; and

(b) Said activities are, alone or in any combination, conducted no more than twice each calendar year and over a period of no more than twelve consecutive days each time, notwithstanding the limitations of RCW 9.46.0205 as now or hereafter amended: *Provided*, That a raffle conducted under this subsection may be conducted for a period longer than twelve days; and

(c) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities; and

(d) Gross revenue to the organization from all the activities together does not exceed five thousand dollars during any calendar year; and

(e) All revenue therefrom, after deducting the cost of prizes and other expenses of the activity, is devoted solely to the purposes for which the organization qualifies as a bona fide charitable or nonprofit organization; and

(f) The organization gives notice at least five days in advance of the conduct of any of the activities to the local ((~~policy~~)) police agency of the jurisdiction within which the activities are to be conducted of the organization's intent to conduct the activities, the location of the activities, and the date or dates they will be conducted; and

(g) The organization conducting the activities maintains records for a period of one year from the date of the event

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which accurately show at a minimum the gross revenue from each activity, details of the expenses of conducting the activities, and details of the uses to which the gross revenue therefrom is put.

(3) An organization may exceed the separate limits set forth in (1) and (2) above only if it first obtains a license to conduct the appropriate gambling activity from the commission, with the classification and fee to be computed, including but not limited to, all income from the activity or activities already conducted during that calendar year. The duration of the license issued shall be one year from the date of the first gross receipts received for the particular activity during the calendar year.

**AMENDATORY SECTION** (Amending Order 53, filed 5/25/76)

**WAC 230-20-090 Limits on compensation paid to members or employees.** Compensation paid to persons employed to manage, operate or otherwise work at licensed bingo games shall not be in excess of that which is reasonable under the local prevailing wage scale.

Compensation paid to any person, including but not limited to, members and regular employees, shall not be in excess of that which is reasonably based upon the local prevailing wage scale, or local salary scale for a similar position.

*Provided*, That this rule shall not be construed to allow the payment of any wages in unlicensed bingo games conducted pursuant to chapter 9.46 RCW ((9.46.030(3))).

**AMENDATORY SECTION** (Amending Order 137, filed 10/18/83)

**WAC 230-20-170 Bingo operation date limitations.**

(1) No bona fide charitable or nonprofit organization, except when operating at an authorized agricultural fair or under chapter 9.46 RCW ((9.46.030(3))), shall:

(a) Conduct or allow its premises to be used for conducting bingo on more than three occasions per week;

(b) Conduct bingo in any location which is used for conducting bingo on more than three occasions per week.

(2) As used herein, the word "occasion" shall mean conducting bingo games for no more than sixteen consecutive hours, which shall begin when the first number for the first game is called until the last winning number on the final winning bingo card has been verified: *Provided*, That no occasion shall be conducted between the hours of 2:00 a.m. and 6:00 a.m. Further, a "session" shall be defined as a continuous series of bingo games with no breaks other than short intermission breaks.

**AMENDATORY SECTION** (Amending Order 53, filed 5/25/76)

**WAC 230-20-190 Bingo card prices.** No person shall be allowed to play in a bingo game for free nor without first paying the licensee's normal and usual charge therefor, except that this provision shall not apply to bingo games conducted under the authority of a Class A or B license issued by the commission or games conducted without a license under chapter 9.46 RCW ((9.46.030(3))).

**AMENDATORY SECTION** (Amending Order 250, filed 3/16/94, effective 4/16/94)

**WAC 230-20-220 Operators shall not play.** No operator shall allow a person who receives any compensation, directly or indirectly, for the operation of, any bingo game conducted by the operator to play in a bingo game conducted by that operator.

No operator shall allow any person who, without payment, assists in the operation of any bingo game conducted by that operator to play in any bingo game conducted by that operator on the same bingo occasion. However, the second paragraph of this rule shall not apply to Class A, B, and C bingo licensees, or to games operating under the authority of chapter 9.46 RCW ((9.46.0321)).

**AMENDATORY SECTION** (Amending WSR 94-01-036, filed 12/6/93, effective 1/6/94)

**WAC 230-20-630 Amusement games—Fees, rules, prizes and variations in objects to be posted—Fees to be paid in cash or ((script)) scrip—Prizes not to differ from those posted.** (1) No person shall conduct any amusement game at any location within the state of Washington unless there is posted in a conspicuous place, readily visible to persons playing the game, a sign(s) made of permanent material, such as wood, poster board, metal or plastic with lettering at least one and one-half inches in height that contains the following information:

- (a) Fees charged for playing;
- (b) The rules by which the game is to be played;
- (c) Prizes to be won;

(d) Any variation in the size or weight of objects utilized in the game which is not readily visible to the player;

(e) The name of the operator and an assigned concession number; and

- (f) The group number of the game being conducted.

(2) Licensed amusement game operators shall assign each concession a number and a list of all concessions and their assigned numbers shall be kept available in the concession office.

(3) No amusement games shall be conducted wherein the price charged for playing said game is paid other than in cash, or in an amount other than that posted upon the premises of said game. The term "cash" as used herein shall include checks. In addition, the operator may accept as consideration, tokens, ((script)) scrip or tickets, but only under the following conditions:

(a) The value of each token, ticket or item of scrip, as measured by the equivalent amount of cash which a player would have to present in lieu of said token, ticket or ((script)) scrip, must be indicated on the face thereof;

(b) Said tokens, tickets or ((script)) scrip are not redeemable for cash;

(c) Said tickets or ((script)) scrip shall bear the name of the operator or sponsor.

(4) No amusement games shall be conducted within the state of Washington wherein the prize to be given to a prospective winner is other than that posted upon the premises of said game: *Provided, however*, That after an individual player has won two or more prizes, an operator may offer said player the opportunity to exchange said prizes

for one or more other prizes, but only if the prize to be received by the player in exchange was on display during the play of the game. Any prize system which requires forfeiture of previously won prize(s) in exchange for another play is prohibited. Operators of amusement games may utilize a scheme for distribution of prizes wherein the winners of individual prizes receive tickets, which are subsequently redeemable in combination with other tickets won for a merchandise prize.

**AMENDATORY SECTION** (Amending Order 111, filed 9/15/81)

**WAC 230-25-070 Fund-raising events—Central accounting system required.** Each licensee for the operation of fund-raising events shall establish and maintain a central accounting system in a form prescribed by the commission for all activities conducted at the fund-raising event. Licensees shall obtain accounting forms from the commission, or use machine copies of such forms.

Such system shall contain, but not be limited to, the following items:

(1) There shall be adequate personnel and physical areas to provide for the following minimum separation of duties:

(a) A banker, cashier, or count room to handle the original bankroll, provide coin or chips to the games, redeem chips and cash checks for the players;

(b) A runner to transport money, chips and lock boxes between stations of the event;

(c) Pit bosses, each of whom shall supervise the operation of not more than six gambling stations and who shall supervise the transfer of lock boxes and chips/change trays to the count room;

(d) An area for the counting of money which is segregated from the area in which gambling is conducted. All money received in connection with the fund-raising event shall be brought to this area for counting. Once any such money has been brought to this area, three persons shall be assigned to the count area with a minimum of two in the counting area at all times.

(2) The beginning bankroll shall be verified by at least two persons who shall sign such verification.

(3) There shall be documentation containing verifying signatures for the transfer of money between any two stations of the event.

(a) All count/fill slips shall be used sequentially. VOIDED count/fill slips will be signed by two persons and retained with accounting records.

(b) ALL UNUSED count/fill slips shall be retained along with all other count/fill slips as part of that fund-raising event's accounting records.

(4) All games shall be numbered and provided with lock boxes and money paddles. The money paddle shall remain in the lock box slot whenever it is not in use. The money slot of the lock box shall not exceed three and one-half inches in length and one-half inch in width.

(5) The keys to all lock boxes are to be kept in the count room at all times and the lock boxes are to be opened only in the count room by the count room personnel.

(6) All games are to be played using coin or chips and all currency tendered by the players shall be exchanged for

coin or chips and immediately placed in the lock box by the dealer.

(7) All money and chips shall be transferred to the count room at the end of the day or event for final tabulation, reconciliation, and verification.

(8) The final tabulation and reconciliation shall be verified by at least three count room personnel who shall sign such verification.

(9) Access to the count room and the bankers and cashier's areas shall be restricted to the persons assigned to those functions and to the runner(s) who transport money or chips to or from those stations.

(10) Records shall provide sufficient detail to determine the net receipts of each activity conducted.

(11) The records shall contain a reconciliation of the ending cash on hand to net receipts.

(12) The ending cash on hand shall be deposited intact within two banking days of the conclusion of the event, and a validated deposit slip shall be included as part of the event records. There shall be no expenditure of any kind made from the ending cash prior to deposit. However, this subsection shall not prohibit a licensee from exchanging its ending currency and coin for a check of equal value to reduce the risk and exposure of carrying or storing large amounts of money.

This section shall not apply to those licensees whose receipts from the fund-raising event are limited to an admission charge or charge for a ticket, or tickets, to a drawing and who

(a) Conduct all activities with ~~((script)) scrip~~, play money, or similar items which are redeemable only for merchandise prizes; and

(b) Who award only merchandise prizes that have been purchased by or donated to the licensee.

These licensees need only comply with WAC 230-08-010 and record their net receipts in sufficient detail to verify these amounts.

**AMENDATORY SECTION** (Amending Order 80, filed 12/28/77)

**WAC 230-25-055 Use of chips, ~~((script)) scrip~~ or similar items at fund-raising event.** All chips, ~~((script)) scrip~~ or similar items, used as a substitute for money at a fund-raising event shall be issued only during and at the fund-raising event itself.

No such chips, ~~((script)) scrip~~ or similar items shall be redeemed by any licensee after the event is concluded.

**AMENDATORY SECTION** (Amending Order 224, filed 7/17/91, effective 8/17/91)

**WAC 230-25-330 Recreational gaming activity—Rules for play.** An organization or association issued a permit shall conduct a recreational gaming activity in accordance with the following rules:

(1) Any gambling device utilized for such activity must be rented or obtained from a licensed distributor of fund-raising event equipment or a licensee authorized to conduct fund raising events (not applicable to homemade, nonprofessional devices);

(2) Gambling of any type shall be prohibited on the premises where recreational gaming activity takes place;

(3) ((Script)) Scrip or chips having no value shall be utilized for each activity;

(4) There shall be no fee charged for the opportunity to participate or enter the premises, Provided: An organization may charge a fee for an accompanying dinner, meal, or entertainment associated with the activity, as long as such a fee is only related to those additional activities and the costs incurred in renting the devices utilized in the activity;

(5) An organization may utilize a scheme whereby participants can redeem their ((script)) scrip or chips for prizes; Provided: All prizes must be donated to or provided by the sponsoring organization;

(6) The activity shall be limited to eight hours. The director may for good cause shown, grant additional time;

(7) The sponsoring organization must notify local law enforcement officials at least ten days prior to the commencement of the activity, and specify the date, time and location of the activity.

AMENDATORY SECTION (Amending Order 156, filed 3/20/86)

**WAC 230-46-010 Purpose.** The Washington state gambling commission deems it to be in the public interest to interpret RCW ((9.46.030(10))) 9.46.0355 so as to insure uniformity and fairness to all sponsors of said promotional contests of chance. It is further the purpose of these regulations to notify all sponsors and their affiliates as to what types of promotional contests of chance are legal and not legal in the state of Washington.

**WSR 95-07-112  
WITHDRAWAL OF PROPOSED RULES  
PARKS AND RECREATION  
COMMISSION**

(By the Code Reviser's Office)  
[Filed March 21, 1995, 8:00 a.m.]

WAC 352-32-036 and 352-32-305, proposed by the Parks and Recreation Commission in WSR 94-18-077, appearing in issue 94-18 of the State Register, which was distributed on September 21, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 95-07-116  
PROPOSED RULES  
NORTHWEST AIR  
POLLUTION AUTHORITY**  
[Filed March 21, 1995, 9:55 a.m.]

Original Notice.

Title of Rule: Northwest Air Pollution Authority regulation.

Purpose: To amend, add, and delete subsections of the Northwest Air Pollution Authority regulations to reflect

changes in the state and federal rules, to clarify requirements that will promote effective air pollution control.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

Summary: Subsection:

- 102.7 This section allows the Control Officer to approve alternate compliance strategies if the safety of the individuals involved in carrying compliance requirements is compromised.
- 104.2 Recently promulgated federal rules will be adopted by reference.
- 322.9 New wording exempts portable sources operating in the Northwest Air Pollution Authority jurisdiction for less than 90 days from registration/new source review as long as we are notified in advance.
- 322.21 Portable sandblasting operations are exempt from registration/new source review provided that the Northwest Air Pollution Authority is notified in advance.
- 322.22 Portable asphalt plants, portable soil treatment units, and portable rock crushers operating for less than 90 days in a calendar year in the Northwest Air Pollution Authority jurisdiction and possessing a valid Order of Approval to Operate from another Washington state air permitting agency are exempt from registration/new source review.
- 322.23 Wording is modified to give the Control Officer some discretion in determining the registration classification of intermittent sources operating in the Northwest Air Pollution Authority jurisdiction.
- 324.115 Class "C" registered sources will be exempt from all registration fees.
- 324.225 New source review fees of \$100 are now established for autobody spray coaters and commercial dry cleaners.
- 324.26 New source review fees may be reduced for existing sources undertaking pollution prevention or voluntary emission reduction projects.
- 341.2 Sources will now be required to notify the Northwest Air Pollution Authority within the 72 hour period prior to a scheduled shutdown or start-up.
- 451.12 Section for exemption from opacity standard for soot blowing or grate cleaning is reworded for clarity.
- 455.15 New subsection allows the Control Officer to approve an alternate oxygen correction factor if it can be demonstrated that another correction factor is more representative of normal operations and the emissions will not cause a violation of any ambient air quality standard.
- 520 Delete the thirty days in a calendar year when sulfur content in fuel can exceed the standard.

PROPOSED

Reasons Supporting Proposal: Incorporation of new and amended requirements will simplify enforcement and aid in air pollution control.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James Randles, 302 Pine Street, Suite 207, Mount Vernon, WA 98273, (360) 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: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

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 "B"; Second and Kincaid Street, Mount Vernon, Washington 98273, on May 11, 1995, at 1:30.

Assistance for Persons with Disabilities: Contact Susan Duffy by April 30, 1995, (360) 428-1617 ext. 200.

Submit Written Comments to: FAX (360) 428-1620, by May 11, 1995.

Date of Intended Adoption: May 11, 1995.

March 20, 1995  
Terry L. Nyman  
Air Pollution  
Control Officer

Reviser's note: The material contained in this filing will appear in the 95-08 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 95-07-118  
PROPOSED RULES  
PARKS AND RECREATION  
COMMISSION**

[Filed March 21, 1995, 2:16 p.m.]

Continuance of WSR 95-02-052.

Title of Rule: WAC 352-32-035 Campsite reservation.

Purpose: Delete specific campsite reservation season dates from WAC 352-32-035 and empower the Washington State Parks and Recreation Commission to establish those dates as needed.

Statutory Authority for Adoption: RCW 43.51.040(2).

Statute Being Implemented: RCW 43.51.040(2).

Summary: WAC 352-32-035 Campsite reservation, establishes reservation parks, seasons and other process rules. This amendment will eliminate specific reservation season dates and empower the commission to establish those dates which will enhance service to the public.

Name of Agency Personnel Responsible for Drafting: Bill Gansberg, 7150 Cleanwater Lane, Olympia, 98506-2650, (360) 902-8598; Implementation: Kathy Smith, 7150 Cleanwater Lane, Olympia, 98506-2650, (360) 902-8594; and Enforcement: Park Managers, state wide.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule allows for advance campsite reservations to be available to certain state parks as designated by the director. The proposed amendment will allow for increased scheduling flexibility by deleting specific reservation season beginning and ending dates and empowering the commission to establish those dates as needed. This will allow the commission to expand the reservation season and enhance service to the public.

Proposal Changes the Following Existing Rules: This change will delete specific campsite reservation season dates from WAC 352-32-035. It will allow the commission to establish campsite reservation season beginning and ending dates as needed.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not required under chapter 19.85 RCW.

Hearing Location: City of Vancouver, City Council Chambers, 210 East 13th, Vancouver, WA 98668, on April 21, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Darrel Gustafson by April 11, 1995, TDD (360) 753-2036, or (360) 753-7143.

Submit Written Comments to: Bill Gansberg, P.O. Box 42650, Olympia, WA 98506-2650, FAX (360) 586-5875, by April 7, 1995.

Date of Intended Adoption: April 21, 1995.

March 21, 1995  
Sharon Howdeshell  
Office Manager

**WSR 95-07-120  
PROPOSED RULES  
BOARD OF  
PILOTAGE COMMISSIONERS**

[Filed March 22, 1995, 8:11 a.m.]

Continuance of WSR 95-04-096.

Title of Rule: Tariffs, and pilotage rates for the Grays Harbor pilotage district.

Purpose: To establish a Grays Harbor pilotage district annual tariff.

Other Identifying Information: WAC 296-116-185.

Hearing Location: Eikum Conference Room, 801 Alaskan Way, Pier 52, Seattle, WA 98104-1487, on June 8, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Peggy Larson by June 5, 1995, (206) 464-7818.

Submit Written Comments to: Larry Vognild, Chair, FAX (206) 464-6368, by May 31, 1995.

Date of Intended Adoption: June 8, 1995.

March 9, 1995  
Larry L. Vognild  
Chair

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**WSR 95-07-129  
PROPOSED RULES  
DEPARTMENT OF  
NATURAL RESOURCES**

[Order 629—Filed March 22, 1995, 9:05 a.m.]

**Original Notice.**

Title of Rule: WAC 332-24-221, specific rules for burning that requires a written burning permit.

Purpose: Amend WAC 332-24-221 to adjust the fee schedule to a level necessary to cover the costs of the burning permit program consistent with the provisions of Initiative 601.

Statutory Authority for Adoption: RCW 70.94.660.

Statute Being Implemented: RCW 70.94.660.

Summary: Amend existing fee schedule to increase fees by 5.13 percent as directed by RCW 70.94.660.

Reasons Supporting Proposal: The fee increase is required to cover actual program costs as required by the Clean Air Act, chapter 70.94 RCW.

Name of Agency Personnel Responsible for Drafting: Mark Gray, Natural Resources Building, Olympia, (360) 902-1300; Implementation and Enforcement: Department of Natural Resources, Natural Resources Building, Olympia, (360) 902-1300.

Name of Proponent: Department of Natural Resources, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The existing rule requires outdoor burners to obtain a burning permit (unless exempted under WAC 332-24-205 and/or 332-24-211) and identifies a fee (based upon fuel tonnage being burned) to be paid for by the permittee in order to cover the department's program costs in administering the Clean Air Act, chapter 70.94 RCW. The purpose of amending the existing rule is to increase the fee schedule by 5.13% as allowed under the provisions of Initiative 601 to cover the costs of the burning permit program as required by the Clean Air Act, chapter 70.94 RCW. This 5.13% increase will result in a \$1.00 fee increase for the majority of permittees (approximately 91%).

Proposal Changes the Following Existing Rules: Amending WAC 332-24-221 will increase existing burning permit fees by 5.13% as allowed under Initiative 601.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The department has determined that the fee increase is a minor or negligible economic impact as established under the Regulatory Fairness Act, chapter 19.85 RCW for the following reasons:

(1) The rule does not impact more than 20% of all affected industries or more than 10% of any one industry within the affected SIC codes.

(2) 99.9% of the affected industries will have an economic impact equal to or less than \$50.00, of which 90.8% will see only a \$1.00 increase and the remaining 9.1% will see an increase between \$1.00 and \$48.00.

Hearing Location: Natural Resources Building, 1111 Washington Street S.E., Room 175A, Olympia, WA 98504-7037, on April 26, 1995, at 10:00 a.m.

Assistant for Persons with Disabilities: Contact Mark Gray by April 25, 1995, (360) 902-1754.

Submit Written Comments to: Mark Gray, FAX (360) 902-1754, by April 10, 1995.

Date of Intended Adoption: July 1, 1995.

March 20, 1995  
Kaleen Cottingham  
Supervisor

**AMENDATORY SECTION** (Amending Order 619, filed 7/1/94, effective 8/1/94)

**WAC 332-24-221 Specific rules for burning that requires a written burning permit.** Persons not able to meet the requirements of WAC 332-24-205 and 332-24-211 must apply for a written burning permit through the department. In addition to the rules outlined in WAC 332-24-205, the following are additional requirements for written permits:

(1) Written burning permits will be in effect for one year from the validation date, unless suspended or revoked.

(2) Fees for written burning permits will be charged and collected pursuant to chapter 70.94 RCW and shall be ~~((twenty-one))~~ twenty-two dollars for under one hundred tons of consumable debris; and for burns one hundred tons of consumable debris and greater as follows:

Consumable Debris	Fee schedule
100 - 500 tons	<del>((106))</del> <u>\$111</u>
501 - 1,000 tons	<del>((349))</del> <u>335</u>
1,001 - 1,500 tons	<del>((532))</del> <u>559</u>
1,501 - 2,000 tons	<del>((745))</del> <u>783</u>
2,001 - 2,500 tons	<del>((958))</del> <u>1,007</u>
2,501 - 3,000 tons	<del>((1,171))</del> <u>1,231</u>
3,001 - 3,500 tons	<del>((1,383))</del> <u>1,453</u>
3,501 - 4,000 tons	<del>((1,596))</del> <u>1,677</u>
4,001 - 4,500 tons	<del>((1,809))</del> <u>1,901</u>
4,501 - 5,000 tons	<del>((2,022))</del> <u>2,125</u>
5,001 - 5,500 tons	<del>((2,235))</del> <u>2,349</u>
5,501 - 6,000 tons	<del>((2,448))</del> <u>2,573</u>
6,001 - 6,500 tons	<del>((2,661))</del> <u>2,797</u>
6,501 - 7,000 tons	<del>((2,874))</del> <u>3,021</u>
7,001 - 7,500 tons	<del>((3,087))</del> <u>3,245</u>
7,501 - 8,000 tons	<del>((3,300))</del> <u>3,469</u>
8,001 - 8,500 tons	<del>((3,513))</del> <u>3,693</u>
8,501 - 9,000 tons	<del>((3,726))</del> <u>3,917</u>
9,001 - 9,500 tons	<del>((3,939))</del> <u>4,141</u>
9,501 - 10,000 tons	<del>((4,151))</del> <u>4,363</u>
10,001 + tons	<del>((4,364))</del> <u>4,587</u>

For purposes of this section, consumable debris is the amount of debris that the department determines will be consumed by the proposed burning.

(3) Written burning permits are not considered valid unless all of the following conditions apply:

(a) The written permit has been signed by the applicant agreeing to follow all requirements of chapter 332-24 WAC, the smoke management plan in effect at the time of the burning, and any additional terms and conditions specified by the department in writing; and

(b) The required permit fee has been secured or paid according to approved department procedures; and

(c) The person doing the burning has the permit in possession while burning and is complying with all terms and conditions of such permit, the smoke management plan

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in effect at the time of the burning, and all applicable portions of chapter 332-24 WAC.

(4) Permits are written only for the burn site and fuel quantity that is presented at the time of the inspection. Addition of fuel, or changing the burn site after the site inspection has been made, is prohibited unless a new inspection is made and an added permit fee is paid, if required.

**WSR 95-07-130**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed March 22, 1995, 9:27 a.m.]

Original Notice.

Title of Rule: Amend WAC 480-120-141 Alternate operator services. Docket No. UT-950134.

Purpose: To establish and institute benchmark rates for telecommunications services. To require and revise reporting requirements. Add definitions and clarifying language on rate levels and reporting requirements. To require all alternate operator service companies to charge comparable rates.

Statutory Authority for Adoption: RCW 80.01.040.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McLellan, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

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

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? No. A small business economic impact statement has not been prepared because the amended rule has a minimal impact on the affected businesses.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on April 26, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Schlenker by April 12, 1995, TTY (360) 586-8203, or (360) 753-6447.

Submit Written Comments to: Steve McLellan, Secretary, P.O. Box 47250, Olympia, WA 98504-7250, by April 11, 1995.

Date of Intended Adoption: April 26, 1995.

March 22, 1995  
Terrence Stapleton  
for Steve McLellan  
Secretary

AMENDATORY SECTION (Amending Order R-422, Docket No. UT-940049, filed 9/22/94, effective 10/23/94)

**WAC 480-120-141 Alternate operator services.** All telecommunications companies providing alternate operator services (AOS), as defined in WAC 480-120-021, shall comply with this and all other rules relating to telecommunications companies not specifically waived by order of the commission.

(1) Each alternate operator services company shall (~~file with the commission at least every six months~~) maintain, revise and provide to the commission upon request a current list of operator services customers which it serves and the locations and telephone numbers to which such service is provided to each customer. A customer list provided pursuant to this rule is proprietary information and, if identified when filed as required in WAC 480-09-015, is subject to the protections of that rule.

(2) Each AOS company is responsible for assuring that each of its customers complies fully with contract and tariff provisions which are specified in this rule. Failure to secure compliance constitutes a violation by the AOS company.

(a) The AOS company shall withhold on a location-by-location basis the payment of compensation, including commissions, from a call aggregator, if the AOS company reasonably believes that the call aggregator is blocking access to interexchange carriers in violation of these rules.

(b) Violations of tariff, contract or other statements of conditions of service, in commission rules pertaining to AOS company service, or of other requirements contained in these rules, including interexchange carrier access requirements, will subject an aggregator to termination of alternate operator services as follows. When the AOS becomes aware of a violation, prior to disconnection of service, it shall immediately send written notification to the aggregator outlining all deficiencies. If any deficiency is not corrected within five days from the date of written notification to the aggregator, the AOS shall terminate service. Prior to effecting the termination of service, the AOS company shall make two bona fide attempts to reach the subscriber by telephone to advise the subscriber of the impending termination. WAC 480-120-081 shall not apply to such terminations.

(c) AOS company actions in furtherance of this rule may be reviewed by the commission in a formal complaint under WAC 480-09-420 through an adjudicative or a brief adjudicative proceeding under the provisions of chapters 34.05 RCW and 480-09 WAC.

(d) An AOS company shall refuse to provide operator services to a call aggregator who the commission has found to have knowingly and repeatedly violated commission rules regarding the provision of alternate operator service until the commission has found that the call aggregator will comply with relevant law and rule.

(3) For purposes of this section, "consumer" means the party initiating and/or paying for an interexchange or local call. "Customer" means the call aggregator, i.e., the hotel, motel, hospital, prison, campus, pay telephone, etc., contracting with an AOS for service.

(4) An alternate operator services company shall require, as a part of any contract with its customer and as a term and condition of service stated in its tariff, that the customer:

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(a) Post on the telephone instrument in plain view of anyone using the telephone, in eight point or larger **Stymie Bold** type, the information provided in the following notice:

SERVICE ON THIS INSTRUMENT MAY BE PROVIDED AT RATES THAT ARE HIGHER THAN NORMAL. YOU HAVE THE RIGHT TO CONTACT THE OPERATOR FOR INFORMATION REGARDING CHARGES BEFORE PLACING YOUR CALL. INSTRUCTIONS FOR REACHING YOUR PREFERRED CARRIER ARE ALSO AVAILABLE FROM THE OPERATOR.

(b) Post and maintain in legible condition on or near the telephone:

(i) The name, address, and without-charge number of the alternate operator services company, as registered with the commission;

(ii) Dialing directions so that a consumer may reach the AOS operator without charge to receive specific rate information; and

(iii) Directions to allow the consumer to reach the consumer's preferred carrier and to make it clear that the consumer has access to the other providers.

(c) Provide access from every instrument to 1-800 services and all available interexchange carriers; and

(d) Shall post, on or near the instrument, a notice stating whether a location surcharge or any other fee is imposed for telecommunications access through the instrument, the amount of any fee or location surcharge, and the circumstances when it will apply.

(e) Posting under these rules shall begin no later than October 1, 1991, and shall be completed no later than January 31, 1992. In the interim, posting in compliance with the immediate prior posting provisions of WAC 480-120-141 is required and shall constitute compliance with this rule.

(5) The alternate operator services company shall:

(a) Identify the AOS company providing the service audibly and distinctly at the beginning of every call, and again before the call is connected, including an announcement to the called party on calls placed collect.

(i) For purposes of this rule the beginning of the call is no later than immediately following the prompt to enter billing information on automated calls and, on live and automated operator calls, when the call is initially routed to the operator.

(ii) The message used by the AOS company shall state the name of the company as registered with the commission whenever referring to the AOS company. Terms such as "company," "communications," "incorporated," "of the northwest," etc., when not necessary to clear consumer identification of the entity providing service may be omitted when authorized by letter from the secretary of the commission.

(iii) The consumer shall be permitted to terminate the telephone call at no charge before the call is connected.

(iv) The AOS company shall immediately, upon request, and at no charge to the consumer, disclose to the consumer:

(A) A quote of the rates or charges for the call, including any surcharge;

(B) The method by which the rates or charges will be collected; and

(C) The methods by which complaints about the rates, charges, or collection practices will be resolved.

(b) Provide to the local exchange company such information as may be necessary for billing purposes, as well as an address and toll free telephone number for consumer inquiries.

(c) Reoriginate calls to another carrier upon request and without charge, when equipment is in place which will accomplish reorigination with screening and allow billing from the point of origin of the call. If reorigination is not available, the AOS company shall give dialing instructions for the consumer's preferred carrier.

(d) Assure that a minimum of ninety percent of all calls shall be answered by the operator within ten seconds from the time the call reaches the carrier's switch.

(e) Maintain adequate facilities in all locations so the overall blockage rate for lack of facilities, including as pertinent the facilities for access to consumers' preferred interexchange carriers, does not exceed one percent in the time consistent busy hour. Should excessive blockage occur, it shall be the responsibility of the AOS company to determine what caused the blockage and take immediate steps to correct the problem. This subsection does not apply to blockage during unusually heavy traffic, such as national emergency, local disaster, holidays, etc.

(6) The alternate operator services company shall assure that persons are not billed for calls which are not completed. For billing purposes, calls shall be itemized, identified, and rated from the point of origination to the point of termination. No call shall be transferred to another carrier by an AOS which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.

(7) For purposes of emergency calls, every alternate operator services company shall have the following capabilities:

(a) Automatic identification at the operator's console of the location from which the call is being made;

(b) Automatic identification at the operator's console of the correct telephone numbers of emergency service providers that serve the telephone location, including but not limited to, police, fire, ambulance, and poison control;

(c) Automatic ability at the operator's console of dialing the appropriate emergency service with a single keystroke;

(d) Ability of the operator to stay on the line with the emergency call until the emergency service is dispatched.

No charge shall be imposed on the caller by the telephone company or the alternate operator services company for the emergency call.

If the alternate operator services company does not possess these capabilities, all calls in which the consumer dials zero (0) and no other digits within five seconds shall be routed directly to the local exchange company operator, or to an entity fully capable of complying with these requirements. AOS companies lacking sufficient facilities to provide such routing shall cease operations until such time as the requirements of this section are met.

(8) Complaints and disputes shall be treated in accordance with WAC 480-120-101, Complaints and disputes.

(9) Charges billed to a credit card company (e.g., American Express or Visa) need not conform to the call detail requirements of this section. However, the AOS shall provide specific call detail in accordance with WAC 480-120-106 upon request.

(10) "Public convenience and advantage"; surcharges; variable rates.

(a) For services, public convenience and advantage means at a minimum that the provider of alternate operator services offers operator services which equal or exceed the industry standards in availability, technical quality and response time and which equal or exceed industry standards in variety or which are particularly adapted to meet unique needs of a market segment. In the absence of other persuasive evidence, a demonstration that operator service equals or exceeds that provided by US WEST Communications for intraLATA services or AT&T for interLATA services will be accepted as demonstrating public convenience and advantage.

(b) Charges no greater than ~~((the))~~ those prevailing charges in the relevant market - intraLATA or interLATA - will be accepted as demonstrating that charges are for the public convenience and advantage. In the absence of persuasive contrary evidence, ~~((the charges for US WEST))~~ \$.25 higher per call than AT&T daytime charges for intraLATA ((service)) and ((AT&T for)) interLATA service will be accepted as the prevailing charges.

(c) Surcharges; variable rates. No location surcharge may be added to without-charge calls nor to a charge for directory assistance. No tariff may provide for rate levels which vary at the option of a call aggregator, provided, that an aggregator may waive application of the surcharge to calls from its instruments, and provided further, that an AOS company may establish a tariff rate for high-cost locations if the conditions for application of the rate confine it to locations with substantially higher than average operating costs.

(11) Rates to the consumer for the provision of alternate operator services, including directory assistance, shall not exceed the prevailing rates for such services in the relevant market - intraLATA or interLATA - unless need for the excess to produce rates which are fair, just and reasonable is demonstrated to the satisfaction of the commission. In the absence of persuasive contrary evidence, ~~((rate levels of US WEST))~~ \$.25 higher per call than AT&T daytime charges for intraLATA ((service)) and ((AT&T for)) interLATA service will be considered the prevailing rate.

(12) Fraud prevention.

(a) A company providing interexchange telecommunications service may not bill a call aggregator for charges billed to a line for calls which originated from that line through the use of 10XXX+0; 10XXX+01; 950-XXXX; or 1-800 access codes, or when the call originating from that line otherwise reached an operator position, if the originating line subscribed to outgoing call screening and the call was placed after the effective date of the outgoing call screening order.

(b) A company providing interexchange telecommunications service may not bill to a call aggregator any charges for collect or third number billed calls, if the line serving to which the call was billed was subscribed to incoming call screening and the call was placed after the effective date of the call screening service order.

(c) Any calls billed through the local exchange carrier in violation of subparagraphs (a) or (b) above must be removed from the call aggregator's bill by the local exchange company upon identification. If investigation by the local exchange company determines that the pertinent call

screening was operational when the call was made, the local exchange company may return the charges for the call to the interexchange telecommunications company as not billable.

(d) Any call billed directly by an alternate operator service company, or through a billing method other than the local exchange company, which is billed in violation of subparagraphs (a) and (b), above, must be removed from the call aggregator's bill. The telecommunications company providing the service may request an investigation by the local exchange company. If the local exchange company, after investigation, determines that call screening which would have protected the call, which is offered by the LEC and was subscribed to by the call aggregator, was not operational at the time the call was placed, the AOS company shall bill the LEC for the call.

### WSR 95-07-132

#### PROPOSED RULES

#### THE EVERGREEN STATE COLLEGE

[Filed March 22, 1995, 10:16 a.m.]

Original Notice.

Title of Rule: Parking and traffic regulations.

Purpose: To provide for greater efficiency of vehicular parking and traffic control through the development of revised campus parking and traffic regulations.

Statutory Authority for Adoption: RCW 28B.10.560.

Summary: Establishes regulations to allow vehicle access and parking for college business. These regulations also establish a means of providing funds in order to maintain suitable campus parking facilities.

Name of Agency Personnel Responsible for Drafting: Gary Russell, Director of Public Safety, Se. 2150, 866-6000 ext. 6140; Implementation: Jane Jervis, President, Lib. 3109, 866-6000 ext. 6100; and Enforcement: Board of Trustees, The Evergreen State College, 866-6000 ext. 6100.

Name of Proponent: The Evergreen State College, A Public Education Institution Higher Education System of the State of Washington, Olympia, Washington 98505, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule establishes regulations for parking and traffic control within the campus perimeters and allows for rate increase with the intent of generating revenue in order to maintain parking lots and keep the parking operation solvent. Expanded hours of operation and the collection of parking fees for special events takes into account the additional use of facilities and services during the evening hours and summer to allow for more equity in parking facility usage.

Proposal Changes the Following Existing Rules: Expanded hours of operation; and increase parking permit fees.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not applicable, on campus parking rules.

Hearing Location: The Evergreen State College, Campus Activities Building, Room 110, on May 9, 1995, at 3:00 - 5:00 p.m.

Assistance for Persons with Disabilities: Contact Jodi Woodall by April 18, 1995, TDD (360) 866-6834.

Submit Written Comments to: FAX (360) 866-6823, by April 18, 1995.

Date of Intended Adoption: May 11, 1995.

March 2, 1995

Jodi Woodall

Parking Program Manger

**AMENDATORY SECTION** (Amending Order 88-3, Resolution No. 88-32, filed 9/20/88)

**WAC 174-116-020 Authority.** (1) The Evergreen State College through its board of trustees is authorized to establish traffic and parking regulations as stated in RCW 28B.10.560. The board of trustees reserves the right to add, delete or modify portions of these regulations including the appended fee and fine and penalty schedules in accordance with its regulations and applicable laws. Administration and enforcement of these parking regulations will be delegated to the ~~((security))~~ department of public safety and parking office~~((s))~~.

(2) The Evergreen State College parking office is authorized to issue annual, quarterly, daily, car-pool, and special permits to park upon the campus. Special permits are issued pursuant to the provisions of these regulations. All outstanding campus parking violations must be satisfactorily settled before a special permit will be issued or renewed.

(3) The authority and powers conferred upon the ~~((security chief and))~~ director of ~~((facilities))~~ public safety by these regulations ~~((shall be subject to delegation by him/her))~~ may be delegated to subordinates.

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-030 Enforcement.** Whenever an unattended vehicle is observed in violation of the regulations herein set forth, the parking or ~~((security personnel))~~ public safety department shall take the registration number and other identifiable information and shall affix to such vehicle a parking infraction in a conspicuously visible location.

**AMENDATORY SECTION** (Amending Order 88-3, Resolution No. 88-32, filed 9/20/88)

**WAC 174-116-040 Parking permits—General information.** (1) Parking permits are issued by the parking office following application and the payment of the appropriate fees. All privately-owned motor vehicles parked or left standing unattended on college property are required to display a currently valid Evergreen parking permit during the hours of 7:00 a.m. to ~~((5:00))~~ 9:00 p.m., Monday through Friday throughout the calendar year. The college maintains the authority to sell and require the display of special event parking permits during times and days established by the college. Vehicles parked on campus pursuant to these regulations are required to display valid parking permits at all times and days of the week as established by these rules.

(2) Fees for parking permits are as follows:

	Automobile	Motorcycle
Quarterly	<del>((22.00))</del> 25.00	<del>11.00))</del> 12.50
Quarterly-mod resident	<del>((22.00))</del> 25.00	<del>11.00))</del> 12.50
Annual	<del>((54.00))</del> 75.00	<del>27.00))</del> 37.00
Annual-mod resident	<del>((54.00))</del> 75.00	<del>27.00))</del> 37.00
Daily	<del>((.75))</del> 1.00	<del>.75))</del> 1.00
Special event parking	1.00	1.00

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-041 Parking permits—~~((Visitors and guests))~~ Special exceptions.** All ~~((visitors, including guests, salespersons, maintenance or service personnel and all other members of the public))~~ persons parking vehicles on campus will park in available space as established by The Evergreen State College parking regulations and will pay the established parking fee except as ~~((noted below))~~ follows:

(1) ~~((Federal, state, county, city, school district, and similar governmental personnel, on official business in))~~ Vehicles with government tax exempt licenses~~((s))~~ will be ~~((admitted))~~ allowed to park without charge.

(2) Vehicles owned by contractors and their employees working on campus construction may be parked within available construction sites or designated areas without charge ~~((but must have a permit to do so))~~ when displaying a construction permit issued by a TESC project manager through the parking office.

(3) Members of the press, television, radio and wire services, on official business, after obtaining a permit from the parking office, may park without charge~~((, and must obtain a permit at the parking booth))~~.

(4) Taxis and commercial delivery vehicles may enter the campus without payment of the parking fee only for pick up and delivery of passengers, supplies and equipment.

~~((5))~~ Visitors and guests attending special college events may be parked without charge if prior arrangement has been made with the parking office.

~~((6))~~ Visitors invited to the campus for the purpose of rendering uncompensated services to The Evergreen State College may be parked without charge, provided prior notification is given to the parking office.

~~((7))~~ Persons utilizing campus facilities may park for up to one hour in the B lot visitor stalls.)

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-042 Parking permits—Special permits.** (1) ~~((Physically challenged users must display a valid TESC parking permit and a state of Washington "disabled person parking permit." Temporary permits must be approved by The Evergreen State College affirmative action~~

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~~office.))~~ Permanently and temporarily disabled persons may request parking permits from the parking office. Vehicles parked in handicapped spaces must display a valid paid parking permit and a state of Washington "disabled person parking permit" if the user is permanently disabled.

(2) ~~(Salespersons, maintenance and service personnel, persons serving the college without pay, and other visitors who must frequently visit the campus on college business.))~~ Service providers may be issued a parking permit ~~((from the parking office.))~~ upon request from the division or unit benefiting from the services provided ~~((, subject to approval by the parking office.))~~. Complimentary parking on campus will not be provided to persons intending to make personal solicitations from, or personal sales to, college employees or students.

(3) ~~((Overnight or))~~ Extended period ~~((permits))~~ parking clearance may be ~~((purchased))~~ obtained from the public safety or parking office for disabled vehicles, vehicles left for field trips, or other valid reasons that may necessitate ~~((the operator's))~~ leaving ~~((the))~~ a vehicle on campus for more than a day.

**AMENDATORY SECTION** (Amending Order 88-3, Resolution No. 88-32, filed 9/20/88)

**WAC 174-116-043 Parking permits—Issuance and display.** (1) All parking permits must be ~~((positioned))~~ displayed so that they are clearly visible ~~((and readable))~~ from the outside of the vehicle.

(2) Car pool permits may be purchased by faculty, staff and students. One transferable permit will be issued by the parking office for each car pool. ~~((This))~~ The permit is transferable only among the registered members of the car pool. The permit must be displayed on the dashboard ~~((or in the left corner in front of the driver))~~ of the car pool vehicle being used.

(3) Annual and quarterly parking permits must be ~~((affixed to the vehicle's rear window))~~ displayed in the rear window area of the vehicle with the following exceptions:

(a) ~~((On))~~ Convertible(s) and truck ~~((s they))~~ permits may be affixed ~~((in))~~ to the lower left corner of the front windshield.

(b) ~~((On station wagons and cars with heated rear windows, permits may be affixed in the left rear side window.))~~

(c) Motorcycle permits must be ~~((affixed to the left front fork))~~ displayed so as to be readily visible.

(4) Daily parking permits shall be placed on the dashboard with date stamp facing up, so as to be clearly visible from the exterior of the vehicle.

(5) A parking permit application ~~((is required to be on file))~~ must be submitted to the parking office for each vehicle displaying a permit. Ownership of permits is not transferable except when approved by the parking office. If ~~((the))~~ a registered vehicle is sold, ~~((and for any reason a replacement permit is requested, the old permit must be removed and presented to the parking office to be eligible for a replacement or a refund))~~ the permit must be removed and surrendered to the parking office for a replacement or any refunds.

(6) ~~((Faculty, staff and students who do not live in campus housing may be issued a duplicate car permit for~~

~~another vehicle.))~~ Persons not residing on campus may apply for a duplicate permit for a second car either personally ~~((owned)), family ((owned)), or ((owned by their))~~ employer owned. Proof of ownership or appropriate authorization ~~((from the owner for all vehicles))~~ must be presented prior to issuance of a second permit. ~~((However,))~~ Two vehicles bearing the same numbered permit may not be parked on campus at the same time unless one also displays a valid daily permit.

(7) Vehicles displaying a valid permit may be parked in any designated campus parking lot ~~((with the exception of the modular housing lot. Only mod resident permits are valid for that lot. Mod residents, upon proof of residency, may purchase these decals, honored in all lots on campus.))~~. Vehicle parking in the modular housing area and F parking lot is restricted to residents. F lot parking permits are valid in B, C and F lots: Modular housing permits are valid in all of the campus parking lots.

(8) ~~((Any))~~ Permit holders may obtain a complimentary temporary permit at the parking booth ~~((without charge for another vehicle when the vehicle for which a permit was purchased is unavailable due to repair or for another valid reason))~~ for a vehicle being used as a temporary replacement.

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-044 Parking permits—Validity periods.** (1) Annual parking permits shall be valid from the date of issue until the first day of the following fall academic quarter.

(2) Quarterly parking permits shall be valid from the date issued ~~((each academic quarter))~~ until the first day of the following academic quarter.

(3) Daily parking permits shall be valid from the time purchased until ~~((5:00))~~ 9:00 p.m. on the date of purchase.

**AMENDATORY SECTION** (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

**WAC 174-116-046 Parking permits—Revocations.** Parking permits are licenses and remain the property of the college ~~((and)).~~ Parking permits may be recalled for any of the following reasons:

(1) When the purpose for which the permit was issued changes or no longer exists.

(2) When a permit is used ~~((by))~~ in an unauthorized ~~((individual))~~ manner.

(3) Falsification ~~((of))~~ of a second car parking permit application.

(4) Counterfeiting or altering ~~((of))~~ a permit ~~((s)).~~

~~((5))~~ Appeals of permit revocations must be made in accordance with the institutional hearing procedures outlined in infraction review committee's governing document.

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-050 Responsibility and presumption in reference to illegal parking.** (1) The registered owner or permit holder shall be responsible for all parking violations involving the vehicle on which the permit is displayed.

PROPOSED

(2) In any review, appeal or hearing alleging the violation of any parking regulation, proof that the particular vehicle described was ~~((stopping))~~ stopped, standing or parked in violation of ~~((any))~~ such regulation together with proof that the person named in the complaint or infraction at the time of such violation was the registered owner or permit holder of such vehicle shall constitute in evidence a prima facie presumption that the registered owner or permit holder was the person who parked or placed such vehicle in the location the violation occurred.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

**WAC 174-116-060 Designated and assigned parking areas.** (1) The motor vehicle laws of the state of Washington and any rules stated herein shall be applicable at all times in areas covered under the scope of this policy including all college-owned property.

(2) The college assumes no liability for vehicles operated or parked on college properties. No bailment, but only a license, is created by the purchase and/or issuance of any permit.

~~((4))~~ (3) No vehicle shall be parked on the campus except in those areas set aside and designated as parking areas.

~~((2))~~ (4) No vehicle shall be parked in any parking area without a permit for that area.

~~((3))~~ (5) Vehicles may only park within marked spaces provided in each parking lot.

AMENDATORY SECTION (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-071 Parking—Prohibited places and fines.** (1) No ~~((person))~~ vehicle shall stop, stand or park ~~((any vehicle))~~ so as to obstruct traffic along or upon any street or sidewalk or in any parking lot.

(2) No vehicle shall park, stop or stand in a location likely to interfere with traffic flow except momentarily to pick up or discharge passengers.

(3) No vehicle shall be parked on any lawn or grass areas except as required for maintenance or construction authorized by the director of facilities.

(4) The following schedule of fines for violations is hereby established:

(a) No valid permit	<del>((5.00))</del> <u>10.00</u>
(b) Overtime parking	<del>((5.00))</del> <u>10.00</u>
(c) Improper position	<del>((5.00))</del> <u>10.00</u>
(d) <del>((Parked where signs prohibited))</del>	<del>10.00</del>
(e) <del>((Parked within fifteen feet of hydrant))</del>	<del>15.00</del>
(f) <del>((Handicapped zone))</del>	<del>15.00</del>
(g) <del>((Blocking driveway))</del>	<del>10.00</del>
(h) <u>Disabled person parking</u>	<u>25.00</u>
(e) Parked at painted curb	10.00
<del>((f))</del> (f) Parked in prohibited zone	10.00
<del>((g))</del> (g) Obstructing traffic	10.00
<del>((k))</del> (h) Parked in bus zone	<del>((15.00))</del> <u>25.00</u>
<del>((4))</del> (i) Parked in fire lane	<del>((15.00))</del> <u>25.00</u>
(m) Altered permit	25.00

(5) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated

within the parking area. The fact that other vehicles may have been so parked as to require the violator to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

AMENDATORY SECTION (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-072 Impounding of vehicles.** (1) No disabled or inoperative vehicle shall be parked on the campus for a period in excess of ~~((ninety-six))~~ seventy-two hours. Vehicles which have been parked for periods in excess of ~~((ninety-six))~~ seventy-two hours and which appear to be disabled or inoperative may be impounded and stored at the expense of the registered owner. Neither the college nor its employees shall be liable for loss or damage of any kind resulting from impounding and/or storage services provided by a private vendor. Notice of intent to impound will be posted on the vehicle twenty-four hours prior to impound. In any case, the owner or operator of a disabled vehicle should notify the ~~((security))~~ public safety or parking office of the vehicle's location and estimated time of removal or repair.

(2) Any vehicle parked upon property of The Evergreen State College in violation of these regulations, including the motor vehicle and other traffic laws of the state of Washington, may be impounded ~~((or immobilized and taken))~~ and removed to such place for storage as the ~~((chief of security and director of facilities))~~ director of public safety selects. The expense of such impounding and storage shall ~~((be charged to))~~ rest solely on the owner or operator of the vehicle ~~((and paid by him/her prior to its release)).~~ Vehicles in violation of campus regulations or state traffic laws may also be impounded in place. Release from in-place impounds is contingent on payment of all outstanding fines and charges prior to release of the impounded/immobilized vehicle. The college and its employees shall not be liable for loss or damage of any kind resulting from such impounding and/or storage services provided by a private vendor.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

**WAC 174-116-080 Access.** Privately owned motor vehicles shall be driven only on those roadways designed and built for their use. Marked "service" drives shall be used only by college employees conducting official business, emergency vehicles, and authorized delivery vehicles. ~~((Any and))~~ All other vehicles are prohibited from traveling or parking in these areas.

Brick-paved and other designated areas are for pedestrian and bicycle traffic only, except as needed for emergency vehicles or for maintenance of buildings or grounds.

AMENDATORY SECTION (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-091 Special parking and traffic regulations and restrictions authorized.** No person without authorization from the director of facilities or the director of public safety shall move, deface, or in any way change a sign, barricade, structure, marking or direction so

placed, or previously placed, for the purpose of regulating traffic or parking.

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-092 Parking of motorcycles.** (1) Motorcycles are, for the purpose of these regulations, considered to be motor vehicles and are subject to all parking regulations.

(2) Motorcycles may be parked in designated areas in addition to the regular parking lots.

(3) Motorcycles are not permitted on paths, sidewalks, in buildings or in pedestrian areas at any time.

**AMENDATORY SECTION** (Amending Order 88-3, Resolution No. 88-32, filed 9/20/88)

**WAC 174-116-119 Fines.** (1) Payment.

(a) Persons cited for violation of these regulations (~~((may respond by paying))~~) are required to pay a fine within ten days of the date of notice of infraction. (~~((However, persons cited for "no valid permit" or for "overtime parking" which are designated as five dollar fines, may pay a reduced fine of two dollars, if the citation is attached to the two dollar payment and deposited in the parking booth drop box on the same day the citation is issued. Such payment shall constitute a waiver of the right to request a review as described in WAC 174-116-121.))~~)

(b) All fines (~~((, excepting reduced fines,))~~) are payable (~~((to The Evergreen State College cashier))~~) at the parking office. Fines may be paid in person during normal business hours or by mail (~~((by sending the notice of infraction and amount of fine to The Evergreen State College cashier. The cashier will not discuss the appropriateness of the fine with the payor))~~). The notice of infraction must accompany any fine payment.

(2) Unpaid fines.

If any fine remains unpaid after ninety days from the date of the notice of infraction, the account will be referred to the controller's office for collection and the following actions may be taken (~~((by The Evergreen State College))~~):

(a) All services on campus may be withheld including academic registration for the following (~~((quarter))~~) academic period.

(b) Transcripts may be withheld for any persons having outstanding unpaid fines.

(c) (~~((Unless payment of the fine has been made, the amount of the fine may be deleted from an employee's paycheck after notice from the controller.))~~) The college has authority to contract with collection agencies in order to collect public debts according to RCW 19.16.500.

(d) A vehicle accumulating three or more unpaid citations with one or more being ninety days delinquent in payment, may be impounded in-place until the outstanding fines are paid.

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-121 Election to pay or contest a notice of infraction.** The notice of infraction issued pursuant to these regulations shall direct the alleged violator

that he/she may elect either to pay the fine applicable to the violation (~~((s))~~) charged or to request a review with the infraction review committee within ten calendar days of the date of the infraction.

(1) If the alleged violator chooses to contest, a written request for a review will be filed with the chairperson of the infraction review committee, through the parking office. Requests for review forms are available at the parking office and at the parking booth. Requests for a review may be submitted without posting of the fine within ten calendar days after date of infraction.

(2) The infraction review committee will review the written request for review and notify the appellant by mail of its decision.

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-122 Appeal/hearing procedure.** (1) If the decision of the infraction review committee is not supportive of the alleged violator's request, the alleged violator may request (~~((a))~~) one hearing before the review committee to present his/her case in person. The infraction review committee will meet a minimum of once a month (~~((usually the first Wednesday of the month))~~) to hear such appeals.

(2) Persons requesting a hearing before the infraction review committee must make such requests to the chairperson of the (~~((said))~~) committee in writing within ten (~~((class))~~) calendar days of notification of the initial review decision.

(3) The appellant will be notified by the chairperson of the infraction review committee of the time and date of such hearing. Decisions rendered by the infraction review committee on appeals heard shall be binding.

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-123 Establishment of infraction review committee.** The Evergreen State College infraction review committee is hereby established, the members of which shall be composed of the following:

(1) One faculty member (~~((chosen))~~) appointed by the vice-president and provost;

(2) One exempt staff member (~~((chosen))~~) appointed by the president;

(3) One classified staff member (~~((chosen))~~) appointed by the (~~((vice president for development and administrative services))~~) executive vice-president for finance and administration;

(4) Two currently enrolled students (~~((chosen by the vice president for student affairs;))~~

(5) A nonvoting secretary chosen by the director of facilities) appointed by the student communications center under the direction of the vice-president for student affairs (these positions are offered salary compensation).

**AMENDATORY SECTION** (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

**WAC 174-116-124 Jurisdiction of the infraction review committee.** The infraction review committee established by these regulations shall have jurisdiction to

hear and review parking infractions involving alleged violations of these rules and to render a judgment as to the validity of such infractions.

**AMENDATORY SECTION** (Amending Order 87-2, Resolution No. 87-13, filed 6/24/87)

**WAC 174-116-127 Appeal/hearing—Mitigation and suspension of fines.** Upon the showing of good cause or mitigating circumstances, the infraction review committee may impose any lesser fine than those established in WAC 174-116-260 of these regulations or may dismiss the fine. The chairperson may grant an extension of time within which to comply with the review and/or appeal decision. A person charged with a parking infraction who deems himself or herself aggrieved by the final decision in an internal adjudication may, within ten calendar days after written notice of the final decision, appeal further by filing a written notice (~~(thereof)~~) with the parking office indicating their intention to pursue the infraction through the civil courts. Documents relating to the appeal shall (~~(immediately be forwarded to the district court in the county in which the offense was committed, which court shall have jurisdiction over such offense and such appeal shall be heard de novo)~~) be maintained for such court process.

**WSR 95-07-134**  
**PROPOSED RULES**  
**PUGET SOUND AIR**  
**POLLUTION CONTROL AGENCY**  
[Filed March 22, 1995, 10:38 a.m.]

Original Notice.

Title of Rule: Adopt Regulation III - Section 2.07; and amend Regulation III - Appendix A.

Purpose: To incorporate guidelines for evaluating toxic air contaminant emissions into the regulations; and to clearly indicate with check marks, the Puget Sound Air Pollution Control Agency toxic air contaminants that are listed in 112(b) of the federal Clean Air Act.

Other Identifying Information: Section 2.07 pertains to Evaluating the Impacts of Toxic Air Contaminants; Appendix A pertains to the Acceptable Source Impact Levels.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: Describes procedures for evaluating toxic air contaminants; indicates with check marks, the Puget Sound Air Pollution Control Agency toxic air contaminants that are listed in 112(b) of the federal Clean Air Act.

Reasons Supporting Proposal: To clarify requirements by incorporating guidelines into the regulations. To provide assistance to regulated community and others in determining which toxic air contaminants are also hazardous air pollutants, which is necessary for determination of operating permit status.

Name of Agency Personnel Responsible for Drafting: Maggie Corbin, 110 Union Street, #500, Seattle, 98101, 689-4057; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, 98101, 689-4050; and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, 98101, 689-4053.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal would describe procedures for evaluating toxic air contaminants as required in Section 6.07(e) of Regulation I and Section 2.05 of Regulation III; and add check marks to toxic air contaminants listed in 112(b) of the federal Clean Air Act, which will assist the regulated community with operating permits.

Proposal Changes the Following Existing Rules: This proposal will add toxic evaluation procedures into the regulations.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on May 11, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, 689-4010 by May 4, 1995, TDD (800) 833-6388, or (800) 833-6385 (braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA 98101, FAX (206) 343-7522, by May 1, 1995.

Date of Intended Adoption: May 11, 1995.

March 21, 1995

Margaret L. Corbin  
Air Pollution Engineer

Reviser's note: The material contained in this filing will appear in the 95-08 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 95-07-135**  
**PROPOSED RULES**  
**LOTTERY COMMISSION**  
[Filed March 22, 1995, 10:38 a.m.]

Original Notice.

Title of Rule: New sections WAC 315-11A-142 Instant Game Number 142 ("Lucky Queen"), 315-11A-143 Instant Game Number 143 ("High Stakes") and 315-11A-144 Instant Game Number 144 ("Pay Day"); and amending WAC 315-11A-122 Instant Game Number 122 ("High Card") and 315-11A-138 Instant Game Number 138 ("\$2 Bank Roll").

Purpose: To establish the game play rules and criteria for determining winners of Instant Games Nos. 142 ("Lucky Queen"), 143 ("High Stakes"), and 144 ("Pay Day"); and to amend WAC 315-11A-122 and 315-11A-138.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

PROPOSED

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Jeff Burkhardt, Rules Coordinator, Olympia, 586-6583; Implementation and Enforcement: Evelyn P. Yenson, Director, Olympia, 753-3330.

Name of Proponent: Washington State Lottery Commission.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11A-142, 315-11A-143 and 315-11A-144, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets.

Proposal Changes the Following Existing Rules: The proposal makes permanent the emergency amendment to WAC 315-11A-122 adopted on January 27, 1995, which added an "A" play symbol to the game and made the "A" the highest play symbol; and amends WAC 315-11A-138 to add eight play symbols and three prize symbols, and to delete one prize combination and add four others.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons:

1. The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games.

2. The rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

Hearing Location: Washington State Lottery, Suite 106, 5963 Corson Avenue South, Seattle, WA 98108, on May 5, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jeff Burkhardt by April 25, 1995, (360) 586-6583.

Submit Written Comments to: Jeff Burkhardt, Lottery, FAX (360) 753-2602, by May 4, 1995.

Date of Intended Adoption: May 5, 1995.

March 22, 1995  
Evelyn P. Yenson  
Director

**NEW SECTION**

**WAC 315-11A-142 Instant Game Number 142 ("Lucky Queen"). (1) Definitions for Instant Game Number 142.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the six play spots shall be labeled "winning cards."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 142, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	FOUR
	FIVE
	SIX
	SEVEN
	EIGHT
	NINE
	TEN
	JACK
	QUEEN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$4.00," "\$6.00," "\$10.00," "\$20.00," "\$24.00," "\$50.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning cards."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 142, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 6.00	SIX DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 24.00	TFY DOL
\$ 50.00	\$FIFTY\$
\$ 5,000	FIVTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14200001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 142 constitute the "pack number" which starts at 14200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify

instant winners of \$600.00 or less. For Instant Game Number 142, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
THR	\$ 3.00 (\$1, \$1 AND \$1)
EGT	\$ 8.00 (\$2, \$2, \$2 AND \$2; \$4 AND \$4)
SXT	\$ 16.00 (\$4, \$4, \$4 AND \$4; \$10 AND \$6)
TTF	\$ 24.00 (\$6, \$6, \$6 AND \$6; \$24)
FTY	\$ 50.00 (\$20, \$20 AND \$10; \$50)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 142.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly one of the two play symbols labeled "winning cards," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 142, the "☼" play symbol with the caption "QUEEN" shall always be a winning play symbol, and the bearer of a ticket which has a "☼" play symbol with the caption "QUEEN" shall be entitled to the prize shown below the "☼" play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 142 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 142; and/or

(ii) Vary the number of tickets sold in Instant Game Number 142 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 142.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 142 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning cards" play symbol captions, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-144 Instant Game Number 144 ("Pay Day"). (1) Definitions for Instant Game Number 144.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 144, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$6.00," "\$8.00,"

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"\$30.00," "\$60.00," and "\$500.00." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 144, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 6.00	SIX DOL
\$ 8.00	EGT DOL
\$ 30.00	\$THIRTY
\$ 60.00	\$\$SIXTY\$
\$ 500.00	FIVHUND

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14400001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 144 constitute the "pack number" which starts at 14400001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 144, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
ONE	\$ 1.00
THR	\$ 3.00 (\$1, \$1 AND \$1; \$2 AND \$1)
SIX	\$ 6.00 (\$3, \$1, \$1 AND \$1; \$4 AND \$2; \$6)
TLV	\$ 12.00 (\$3, \$3, \$3 AND \$3; \$8 AND \$4)
TTF	\$ 24.00 (\$6, \$6, \$6 AND \$6; \$8, \$8 AND \$8)
SXY	\$ 60.00 (\$30 AND \$30; \$60)
FVH	\$ 500.00

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 144.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 144 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 144; and/or

(ii) Vary the number of tickets sold in Instant Game Number 144 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 144.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 144 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

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(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-143 Instant Game Number 143 ("High Stakes"). (1) Definitions for Instant Game Number 143.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the ten play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the ten play spots shall be labeled "winning cards."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 143, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	TWO
	THREE
	FOUR
	FIVE
	SIX
	SEVEN
	EIGHT
	NINE
	TEN
	JACK
	QUEEN
	KING
	ACE

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$6.00," "\$8.00," "\$16.00," "\$20.00," "\$50.00," and "\$20,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning cards."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 143, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL

\$ 4.00	FOR DOL
\$ 6.00	SIX DOL
\$ 8.00	EGT DOL
\$ 16.00	SXT DOL
\$ 20.00	TWY DOL
\$ 50.00	\$FIFTY\$
\$ 20,000	TWYTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14300001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 143 constitute the "pack number" which starts at 14300001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 143, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2 AND \$2)
EGT	\$ 8.00 (\$1, \$1, \$1, \$1, \$1, \$1 AND \$1)
SXT	\$ 16.00 (\$2, \$2, \$2, \$2, \$2, \$2, \$2 AND \$2; \$16)
TTF	\$ 24.00 (\$3, \$3, \$3, \$3, \$3, \$3, \$3 AND \$3; \$6, \$6, \$6 AND \$6; \$20 AND \$4)
OHN	\$100.00 (\$20, \$20, \$20, \$20 AND \$20; \$50 AND \$50)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 143.**

(a) The price of each instant game ticket shall be \$2.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the eight play symbols matches exactly one of the play symbols labeled "winning cards," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 143, the "" play symbol with the caption "ACE" shall always be a winning play symbol, and the bearer of a ticket which has a "" play symbol with the caption "ACE" shall be entitled to the prize shown below the "" play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

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(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 143 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 143; and/or

(ii) Vary the number of tickets sold in Instant Game Number 143 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 143.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 143 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the ten play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning cards" play symbol captions, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**AMENDATORY SECTION** (Amending WSR 94-19-063, filed 9/20/94, effective 10/21/94)

**WAC 315-11A-122 Instant Game Number 122 ("High Card").** (1) **Definitions for Instant Game Number 122.**

(a) **Play symbols:** The following are the "play symbols": "7"; "8"; "9"; "10"; "J"; "Q"; (~~and "K."~~) "K"; and "A." One of these play symbols appears in each of the three play spots in the "your card" column and in each of the three play spots in the "dealer's card" column in the playfield on the front of the ticket.

(b) **Play symbol captions:** The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The number 1, 2 or 3 precedes each play symbol caption to indicate the location of the play symbol in Game (row) 1, Game 2 or Game 3. For Instant Game Number 122, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
7	SVN
8	EGT
9	NIN
10	TEN
J	JCK
Q	QUE
K	KNG
<u>A</u>	<u>ACE</u>

(c) **Prize symbols:** The following are the "prize symbols": "\$1.00"; "\$2.00"; "\$6.00"; "\$9.00"; "\$40.00"; and "\$4,000." One of these prize symbols appears for each game in the prize column on the front of the ticket.

(d) **Prize symbol captions:** The small printed characters appearing below the prize symbol which verify and correspond with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under each prize symbol. The number 1, 2 or 3 precedes each prize symbol caption to indicate the location of the prize symbol in Game 1, Game 2 or Game 3. For Instant Game Number 122, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 6.00	SIX DOL
\$ 9.00	NIN DOL
\$ 40.00	\$FORTY\$
\$ 4,000	FORTHOU

(e) **Validation number:** The unique nineteen-digit number on the front of the ticket. The number is covered with latex.

(f) **Pack-ticket number:** The twelve-digit number of the form 12200001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 122 constitute the "pack number" which starts at 12200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) **Retailer verification codes:** Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify

instant winners of \$600.00 and less. For Instant Game Number 122, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1)
SIX	\$ 6.00 (\$2, \$2 AND \$2; \$6)
TLV	\$ 12.00 (\$6 AND \$6; \$9, \$2 AND \$1)
EGN	\$ 18.00 (\$6, \$6 AND \$6; \$9 AND \$9)
FRY	\$ 40.00
ETY	\$ 80.00 (\$40 AND \$40)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 122.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner: The bearer of a ticket having a play symbol in the "your card" column that is superior to the play symbol in the "dealer's card" column in the same game shall win the prize shown in the prize column for that game. The bearer of a ticket having winning play symbols in more than one game shall win the sum of the prizes in each winning game. Play symbols in different games may not be combined to win a prize.

(c) For purposes of this game, the ("K") "A" shall be the play symbol with the highest superiority followed by "K," "Q," "J," "10," "9," "8," and "7" in that order.

(d) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(e) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 122 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(f) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 122; and/or

(ii) Vary the number of tickets sold in Instant Game Number 122 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 122.**

(a) In addition to meeting all other requirements in these rules and regulations, a valid instant game ticket for Instant Game Number 122 shall comply with all of the following validation requirements.

(i) Exactly one play symbol must appear in each of the three play spots in the "your card" column and in each of the three play spots in the "dealer's card" column under the latex covering on the front of the ticket.

(ii) Each of the six play symbols must have a caption below and each must agree with its caption.

(iii) Exactly one prize symbol for each of the three games must appear under the latex covering in the prize column on the front of the ticket.

(iv) Each of the three prize symbols must have a caption below it and each must agree with its caption.

(v) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(vi) Each of the play symbols and its caption, prize symbol and its caption, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(vii) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section, each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and (a) of this subsection is invalid and ineligible for any prize.

**AMENDATORY SECTION** (Amending WSR 95-03-062, filed 1/13/95, effective 2/13/95)

**WAC 315-11A-138 Instant Game Number 138 (" \$2 Bank Roll"). (1) Definitions for Instant Game Number 138.**

(a) Play symbols: The following are the "play symbols": "2," "3," "4," "5," "6," "7," "8," "9," "10," "12," "13," "14," "15," "16," "17," "18," "19," "20," and " ". One of these play symbols appears in each of the ten play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the ten play spots shall be labeled "winning numbers."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 138, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV

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6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
<u>13</u>	<u>THN</u>
<u>14</u>	<u>FRN</u>
<u>15</u>	<u>FTN</u>
<u>16</u>	<u>SXT</u>
<u>17</u>	<u>SVT</u>
<u>18</u>	<u>EGN</u>
<u>19</u>	<u>NIT</u>
<u>20</u>	<u>TWY</u>
	DLR

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FIV	\$ 5.00 (\$1, \$1, \$1, \$1 AND \$1; \$2, \$2 AND \$1; \$3, \$1 <u>AND \$1</u> )
TEN	\$ 10.00 (\$5 AND \$5; <u>\$4, \$4 AND \$2; \$10</u> )
TWY	\$ 20.00 (\$5, \$5, \$2, \$2, \$2, \$2, \$1 AND \$1; \$5, \$5, \$5 AND \$5; <u>\$20</u> )
FTY	\$ 50.00 (\$10, \$10, \$5, \$5, \$5, \$5, \$5 AND \$5; ( <del>(\$20, \$20 AND \$10)</del> ) <u>\$25 AND \$25</u> )

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$10.00," "\$20.00," "\$25.00," and "\$10,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning numbers."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 138, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
<u>\$ 3.00</u>	<u>THR DOL</u>
<u>\$ 4.00</u>	<u>FOR DOL</u>
\$ 5.00	FIV DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
<u>\$ 25.00</u>	<u>TWF DOL</u>
\$ 10,000	TENTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 13800001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 138 constitute the "pack number" which starts at 13800001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 138, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 138.**

(a) The price of each instant game ticket shall be \$2.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the eight play symbols matches exactly one of the two play symbols labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 138, the " " play symbol shall always be a winning play symbol, and the bearer of a ticket which has a " " play symbol shall be entitled to the prize shown below the " " play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 138 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 138; and/or

(ii) Vary the number of tickets sold in Instant Game Number 138 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 138.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 138 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the ten play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol captions, shall have a prize

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symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**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 95-07-136**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed March 22, 1995, 10:54 a.m.]

Original Notice.

Title of Rule: Chapter 308-96A WAC, Vehicle licensing.

Purpose: Adopt regulations for issuance of special collegiate license plates. Repeal regulations pertaining to license plate emblems depicting institutions of higher education.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: RCW 46.16.301.

Summary: These rules establish standard criteria for evaluating applications and design criteria for special collegiate license plates.

Reasons Supporting Proposal: Provide institutions of higher education with instructions and qualification criteria when applying for a special collegiate license plate series.

Name of Agency Personnel Responsible for Drafting: Jack Lince, 1125 Washington Street S.E., Olympia, (360) 902-3773; Implementation and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 902-3811.

Name of Proponent: Department of Licensing, Vehicle Services Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Not applicable.

Proposal Changes the Following Existing Rules: WAC 308-96A-550, repeal college emblem program and establish application criteria for obtaining special collegiate license plate series; and WAC 308-96A-560, administrative amendments to approval of special vehicle license plate criteria including additional discriminatory language.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This rule making does not affect small business.

Hearing Location: Room 406, Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA, on April 26, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact TDD (360) 664-8885, by April 21, 1995.

Submit Written Comments to: Eric Andersen, License Services Manager, Title and Registration Services, P.O. Box 48030, Olympia, WA 98507, FAX (360) 664-0339, by April 21, 1995.

Date of Intended Adoption: May 3, 1995.

March 22, 1995

David M. Hankins

Assistant Attorney General

AMENDATORY SECTION (Amending WSR 91-03-091, filed 1/18/91, effective 2/18/91)

**WAC 308-96A-550 Vehicle special collegiate license plates (~~emblems—Higher education institutions~~).** (1) The department shall approve (~~a petition~~) an application for special (~~vehicle~~) collegiate license plate (~~emblems~~) series pursuant to RCW 46.16.301 (1)(d) from an institution of higher education (~~as defined in RCW 28B.10.016~~) after determining the following criteria is satisfied:

(a) (~~It is reasonable to expect that a minimum of five thousand emblems in the approved configuration will be ordered by the institution within the first two years.~~)

(b) ~~The institution will offer emblems for purchase to any vehicle owners who are attending, have attended, or have made a contribution to the institution.~~

(c) ~~The general public will receive benefit from display of the emblems.~~

(d) ~~The emblem lettering and color scheme is compatible with the basic license plate design.~~

(e) ~~The emblem has state wide appeal and is not limited to a particular geographic area.~~

(f) ~~The institution will be the sole source for procuring the emblems from the department. Accountability of the emblems and all fees derived from the sale thereof, after delivery by the department is the responsibility of the institution.~~

(g) ~~When ownership in a vehicle displaying a vehicle license plate emblem is transferred, the emblem is also transferred. The new owner may remove or display the emblem at the owner's option.--) The special collegiate license plate lettering and color scheme is compatible with the basic license plate design. The plates shall consist of numbers, letters, or figures or any combination thereof not exceeding seven positions that do not conflict with existing license plates. The plate design must provide at least four positions to accommodate serial numbering. A license plate~~

PROPOSED

shall not be approved that may carry connotations offensive to good taste or decency, which may be misleading, vulgar in nature, a racial, ethnic lifestyle or gender slur, related to illegal activities or substances, blasphemous, contrary to the department's mission to promote highway safety, or a duplication of other license plates provided in chapter 46.16 RCW.

(b) The special collegiate license plate is designed so that it can be readily recognized by law enforcement personnel as an official Washington state issued license plate. A collegiate license plate design may not be issued in combination with any other license plate configuration or in lieu of any other special, personalized or exempt license plate.

(c) The special collegiate license plate may be issued to all applicants regardless of the applicant's age, gender, religion, race, color, creed, marital status, national origin, disability, or affiliation with an institution of higher education.

(2) The institution shall provide a design including color and dimension specifications of the requested ~~((emblem))~~ special collegiate license plate series requested with their application. The department shall approve or disapprove the design based on compatibility with the basic license plate's design. ~~((An emblem))~~ A collegiate license plate series shall not be approved that may carry connotations offensive to good taste or decency or which may be misleading.

(3) The department ~~((shall collect a fee from the institution in))~~ may deduct an amount from the collegiate license plate fee sufficient to offset the department's plate production costs ~~((associated with the institution's emblem))~~. The department's production costs are the difference between the costs to purchase a standard set of passenger vehicle license plates and the costs to purchase a set of collegiate license plates. All such amounts deducted shall be deposited with the state treasurer and credited to the motor vehicle fund.

(4) ~~((The original order of vehicle license plate emblems for each approved design shall be not less than three thousand emblems. Reorder of each approved design shall be not less than one thousand emblems.))~~ When ownership of a vehicle, issued collegiate license plates, is sold, traded, or otherwise transferred, the owner may relinquish the plates to the new vehicle owner or remove the plates from the vehicle for transfer to a replacement vehicle. If the plates are removed from the vehicle a transfer fee to another vehicle shall be charged as provided in RCW 46.16.316(1). If the registration expiration date for the new vehicle exceeds the old vehicle registration expiration date, an abated fee for the collegiate plate shall be charged at the rate of one-twelfth of the annual collegiate plate fee for each exceeding month and partial month. If the new registration expiration date is sooner than the old expiration date, a refund shall not be made for the unexpended registration period.

(5) Upon the loss, defacement, or destruction of one or both collegiate license plates the owner shall make application for new collegiate or other license plate and pay the fees pursuant to RCW 46.16.270. New collegiate license plates shall be issued bearing the next available license plate number.

AMENDATORY SECTION (Amending WSR 93-14-083, filed 6/30/93, effective 7/31/93)

**WAC 308-96A-560 Special vehicle license plates—Criteria.** The department may approve applications for special vehicle license plates ~~((under))~~ pursuant to RCW 46.16.301 (1)(a), (b), or (c) after determining that all of the following criteria is satisfied:

(a) It is reasonable to expect a minimum of one thousand special license plates in the approved configuration will be purchased by vehicle owners satisfying the qualifications set forth in the approved application.

(b) The applicant organization is a local chapter or equivalent of a nationally recognized organization.

(c) The special license plate is designed so that it can be readily recognized by law enforcement personnel as an official Washington state issued license plate.

(d) Qualifications for the special license plate do not discriminate between age, sex, religion, gender, race, color, creed, marital status, disability, or national origin. Qualifications may not include being a member of the applicant organization. Purchasers of plates that identify members of professions that are related to public safety, health, and/or welfare may require proof of professional standing.

(e) The special license plate lettering and color scheme is compatible with the basic license plate design. The plates shall consist of numbers, letters, or figures or any combination thereof not exceeding seven positions that do not conflict with existing license plates. The plate design must provide at least four positions to accommodate serial numbering. The plate may not advertise a product or service. A license plate shall not be approved that may carry connotations offensive to good taste or decency which may be misleading, vulgar in nature, a racial, ethnic lifestyle or gender slur, related to illegal activities or substances, blasphemous, contrary to the department's mission to promote highway safety, or a duplicate of other license plates provided in chapter 46.16 RCW.

(f) The applicant organization is recognized as a nonprofit entity by Washington state law and the Internal Revenue Service.

(g) The special license plate has state-wide appeal and is not limited to a particular geographic area.

(h) The applicant organization will not use the special license plate to raise funds or as a qualification ~~((to))~~ for gaining or retaining membership in an organization.

**WSR 95-07-140**

**PROPOSED RULES**

**HORSE RACING COMMISSION**

[Filed March 22, 1995, 11:40 a.m.]

Original Notice.

Title of Rule: WAC 260-12-010 Definitions, amend definitions to update the eligibility requirements for the past performance of horses.

Purpose: Amend the amendment to be consistent with the change of WAC 260-40-100 regarding performance information on horses.

Statutory Authority for Adoption: RCW 67.16.040.

PROPOSED

**Summary:** To be consistent with intended change in language contained in WAC 260-40-100 regarding the information on past performances on horses to be entered into race.

**Reasons Supporting Proposal:** Request by racing associations to upgrade the eligibility requirement for past performances listed on horses that may have run in a race that was not, in the past, listed as a performance.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Bruce Batson, Olympia, Washington, (360) 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:** This rule is the definition of the past performance record of horses and their eligibility requirements at the various tracks throughout the state. This amendment will clarify the definition to be consistent with the amendment to WAC 260-40-100 regarding past performance.

**Proposal Changes the Following Existing Rules:** Will be consistent with the changes clarifying the past performance to WAC 260-40-100 rule defining the requirement of horses past performance eligibility.

**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:** Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, on April 25, 1995, at 9:00 a.m.

**Submit Written Comments to:** Bruce Batson, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, FAX (360) 459-6461, by April 24, 1995.

**Date of Intended Adoption:** April 25, 1995.

March 22, 1995

Bruce Batson  
Executive Secretary

**AMENDATORY SECTION** (Amending Order 81-06, filed 7/10/81)

**WAC 260-12-010 Definitions.** In applying the rules herein set forth and all amendments thereof the following definitions, constructions and interpretations shall apply, except where otherwise indicated in said rules:

(1) Age of a horse is reckoned as beginning on the first day of January in the year in which the horse is foaled.

(2) "Arrears" shall mean all moneys due for entrance forfeits, fees (including jockey's, etc. fees), forfeitures, subscriptions, stake, purchase money in claiming races, and also any default in money incident to the rules.

(3) "Authorized agent" shall mean a person appointed by a written instrument signed and acknowledged before a notary public by the owner and filed in accordance with the rules.

(4) "Association" shall mean any person or persons, associations, or corporations licensed by the commission to conduct racing for any stake, purse or reward.

(5) "Breeder" of a horse shall mean the owner of its dam at the time of foaling.

(6) "Breeding place" shall mean the place of horse's birth.

(7) "Calendar day" shall mean twenty-four hours ending at midnight.

(8) "Declaration" shall mean the act of withdrawing an entered horse from a race before the closing of overnight entries.

(9) "Entry" shall mean according to the requirement of the text (a) a horse made eligible to run in a race, (b) two or more which are entered or run in a race owned by the same owner or trained by the same trainer.

(10) "Equipment," as applied to a horse, shall mean whips, blinkers, tongue straps, muzzle, nosebands, bits, shadow rolls, martingales, breast plates, bandages, boots and plates.

(11) "Forfeit" shall mean money due because of an error, fault, neglect of duty, breach of contract, or a penalty.

(12) "Grounds" shall mean all real property owned or leased by an association used in the conduct of a race meet.

(13) "Horse" includes filly, mare, colt, horse, gelding or ridgling.

(14) "Jockey" shall mean a race rider, whether a licensed jockey, apprentice or amateur.

(15) "Maiden" shall mean a horse which at the time of starting has never won a race on the flat in any country (~~at a track which is covered by a recognized racing publication showing the complete results of the race~~). A maiden which has been disqualified after finishing first is still to be considered a maiden.

(16) "Meeting" shall mean the entire consecutive period for which license to race has been granted to any one association by the commission.

(17) "Month" shall mean a calendar month.

(18) "Nominator" shall mean a person in whose name a horse is entered for a race.

(19) "Owner" includes sole owner, part owner or lessee of a horse. An interest only in the winnings of a horse does not constitute part ownership.

(20) "Place" in racing shall mean first, second or third and in that order is called "win," "place," and "show."

(21) "Post position" shall mean the position assigned to the horse at the starting line of the race.

(22) "Post time" shall mean the time set for the arrival at the starting point of the horses in a race and must be shown a reasonable time prior to the race on a clock device, provided for that purpose, prominently displayed and clearly readable from the grandstand.

(23) "Race" shall mean a contest between horses for purse, stakes, or reward on any licensed course and in the presence of judge or judges. A race which overfills may be contested in two or more divisions.

(a) "Claiming race" shall mean a race in which any horse entered therein may be claimed in conformity with the rules.

(b) "Free handicap" shall mean a handicap in which no liability for entrance money is incurred.

(c) "Handicap" shall mean a race in which the weights to be carried by the entered horses are adjusted by a handicapper or board of handicappers for the purpose of equalizing their respective chances of winning.

(d) "Highweight handicap" shall mean a handicap in which the weight assigned to the top horse in that handicap is not less than 140 pounds.

(e) "Match" shall mean a private sweepstakes between two horses which are the property of two different owners. If prior to the running of the race either of the horses entered in the match dies, or if either owner dies the match is void. It remains a match even if money or any other award is added to the stakes.

(f) "Optional claiming race" shall mean a race restricted to horses entered to be claimed for a stated claiming price and to those which have started previously for that claiming price or less. In the case of horses entered to be claimed in such a race, the race will be considered, for the purposes of these rules, a claiming race.

(g) "Overnight race" shall mean a race for which entries close seventy-two hours, or less, before the time set for the first race of the day on which such race is to be run.

(h) "Owner's handicap" shall mean a race wherein the owner fixes, at the time of entry, the weight his horse is to carry.

(i) "Post race" shall mean a race in which the subscribers announce at declaration time the horse, or horses, each intends to start, without limitations of choice other than prescribed by the rules and conditions of the race.

(j) "Private sweepstakes" shall mean a race to which no money or other prize is added, and which, previous to closing, has not been advertised, either by publication, or by circular or entry blank, or in any other way.

(k) "Produce race" shall mean a race to be run for by the produce of horses named or described at the time of entry.

(l) "Purse race" shall mean a race for money or any other prize to which the owners of the horses engaged do not contribute.

(24) "Race day" shall mean any period of twenty-four hours beginning at midnight and included in the period of a race meeting and in the matter of penalties the word "day" means a "calendar day."

(25) "Recognized meeting" shall mean any meeting wherever held under the sanction of a turf authority having reciprocal relations with the commission and other turf authorities (approved by said commission) for the mutual enforcement of rulings imposed on persons guilty of fraudulent turf practices of any kind.

(26) "Rules" shall mean the rules herein prescribed and any amendments or additions thereto.

(27) "Scratch" shall mean the act of withdrawing an entered horse from the race after the closing of overnight entries.

(28) "Scratch time" shall mean the time set by the association for the closing of applications for permission to withdraw from races of that day.

(29) "Stake race" or "sweepstakes" shall mean a race for which nominations close more than seventy-two hours in advance of its running and for which subscribers contributed money toward its purse, or a race for which horses are

invited by an association to run for a guaranteed purse of thirty thousand dollars or more without payment of stakes.

(30) "Starter." A horse is a "starter" for a race when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses.

(31) "Stewards" shall mean the stewards of the meeting or their duly appointed deputies.

(32) "Subscription" shall mean the act of nominating to a stake race.

(33) "Untried horse" shall mean a horse whose produce are maidens.

(34) "Walk over" shall mean a situation in which two horses in entirely different interest do not run in a race.

(35) "Weight for age" shall mean standard weight according to the rules. A "weight for age" race is one in which all horses carry weight according to the scale without penalties or allowances.

(36) "Year" shall mean a calendar year.

**WSR 95-07-143**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**  
[Filed March 22, 1995, 11:49 a.m.]

Original Notice.

Title of Rule: WAC 260-40-100 Performance records, amendment will change eligibility requirements on horses past performance requirements.

Purpose: Amend the rule to clarify performance requirements at Class A and Class B associations.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: This amendment would clarify performance requirements at the various associations throughout the state.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 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: This rule regulates the performance records of horses and their eligibility requirements at the various tracks throughout the state. This amendment will clarify the eligibility requirements for Class A and Class B associations.

Proposal Changes the Following Existing Rules: This change will amend WAC 260-40-100 Performance records. The change will clarify the eligibility requirements and reporting requirements.

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: Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, on April 25, 1995, at 9:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912

Martin Way, Suite D, Olympia, WA 98506, FAX (360) 459-6461, by April 24.

Date of Intended Adoption: April 25, 1995.

March 22, 1995

Bruce Batson

Executive Secretary

AMENDATORY SECTION (Amending Order 86-02, 4/21/86)

**WAC 260-40-100 Performance records.** (1) A horse which during the past calendar year, has started in a race which is not reported ~~((in))~~ to the daily racing form ~~((monthly chart book))~~ and/or equibase shall not be entered at a Washington track unless and until the owner or trainer shall have furnished to the racing secretary, at ~~((least forty-eight hours prior to such))~~ entry time, performance records as hereinafter designated. Such performance records shall show where and when said horse raced; the distance; the weight carried; amount earned; said horse's finishing position and time. ~~((Such performance records furnished to the racing secretary shall be signed and sworn to by the owner of the horse.))~~

(2) In a maiden race, a horse which at any time, has started in a race which is not reported in the daily racing form ~~((monthly chart book))~~ and/or equibase shall not be entered at a Washington track unless and until the owner(s) or trainer shall have furnished to the racing secretary at ~~((least forty-eight hours prior to such))~~ entry time, complete performance records hereinafter designated. Such performance of said horse; where and when said horse raced; the distance; the weight carried; amount earned; said horse's finishing position and time. ~~((Such performance records furnished to the racing secretary shall be signed and sworn to by the owner of the horse.))~~

(3) No horse may be permitted to enter in a race whose recent workouts have not been properly recorded with the ~~((stewards))~~ official commission clocker.

(4) If the net value to the winner of a race run in the state of Washington is nine hundred dollars or less, said winnings shall not be counted in considering eligibility of horses running at ~~((Longacres))~~ Class A or Class B associations which had gross receipts from parimutuel machines in excess of fifty million dollars in the previous year, if the net value to the winner of a race run in the state of Washington is four hundred dollars or less, said winnings shall not be counted in considering eligibility of horses running at ~~((Playfair and Yakima Meadows))~~ Class A and Class B associations which had gross receipts from parimutuel machines at or below fifty million dollars in the previous year; however, the maiden allowance shall be lost by the winning of any race at a track which conducts parimutuel wagering. ~~((whose complete official results are carried in the daily racing form, morning telegraph, quarter running horse chart book or appaloosa horse club charts. Furthermore, for any race to count against a horse's eligibility at Longacres, Playfair or Yakima Meadows the complete results of that race must be carried in the daily racing form, morning telegraph, quarter running horse chart book or appaloosa horse club charts.))~~

(5) ~~((All wins, regardless of the net value to the winner, shall be considered in eligibility requirements in all races,~~

~~including maiden races at all tracks other than at a track whose complete official results are carried in the daily racing form, morning telegraph, quarter running horse chart book, or appaloosa horse club charts.))~~ All wins outside the state of Washington, including maiden races and regardless of the net value to the winner, shall be considered in eligibility requirements.

**WSR 95-07-144**

**PROPOSED RULES**

**DEPARTMENT OF ECOLOGY**

[Order 95-01—Filed March 22, 1995, 11:50 a.m.]

Original Notice.

Title of Rule: King County shoreline master program.

Purpose: Amend WAC 173-19-250.

Statutory Authority for Adoption: Chapter 90.58 RCW.

Statute Being Implemented: Chapter 90.58 RCW.

Summary: The proposal would redesignate a shoreline environment from conservancy to rural for the historic Snoqualmie mill industrial site to provide compatibility with the current M-H-P (heavy manufacturing) zoning on the site.

Reasons Supporting Proposal: Request for amendment was made by King County.

Name of Agency Personnel Responsible for Drafting: Wayne Turnberg, NWRO, 3190 160th Avenue S.E., Bellevue, WA, (206) 649-7030; Implementation and Enforcement: Linda Crerar, 300 Desmond Drive, Lacey, WA, (360) 407-7013.

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 objective of the amendment is to redesignate a shoreline environment in the King County shoreline master program from conservancy to rural for the historic Snoqualmie mill industrial site. The site is bounded by the Millpond Road on the west, the northern perimeter or Borst Lake (mill pond) on the south, and those properties presently zoned AR-5 and AR-10 on the north. The purpose is to provide compatibility with the current M-H-P (heavy manufacturing) zoning on the site, thus making the Snoqualmie mill site a "conforming" shoreline use within the requested "rural" shoreline environment designation (the existing "conservancy" designation does not allow industrial/commercial uses).

Proposal Changes the Following Existing Rules: See the description 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 King County does not meet the criteria requiring the preparation of a small business economic impact statement.

Hearing Location: Department of Ecology, 3190 160th Avenue S.E., Bellevue, on April 25, 1995, at 6:30 p.m.

Assistance for Persons with Disabilities: Contact Kris Jessett by April 18, 1995, TDD (206) 649-4259, or (206) 649-7011 (voice).

Submit Written Comments to: Wayne Turnberg, NWRO, 3190 160th Avenue S.E., Bellevue, WA 98008-5452, FAX (206) 649-7098, by May 9, 1995.

Date of Intended Adoption: May 19, 1995.

March 22, 1995

Mary Riveland

Director

AMENDATORY SECTION (Amending Order 90-52, filed 1/23/91, effective 2/23/91)

**WAC 173-19-250 King County.** King County master program approved July 8, 1976. Revision approved November 22, 1976. Revision approved June 30, 1978. Revision approved July 5, 1979. Revision approved September 23, 1981. Revision approved February 9, 1982. Revision approved March 14, 1984. Revision approved June 18, 1985. Revision approved January 22, 1991. Revision approved May 19, 1995.

PROPOSED



**WSR 95-07-001**  
**PERMANENT RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed March 2, 1995, 9:08 a.m.]

Date of Adoption: February 17, 1995.

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

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, 28B.30.095, 28B.30.125.

Pursuant to notice filed as WSR 94-17-043 on August 10, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 504-25-335(2), in the proposed rules, the last paragraph of this section stated that a chair or dean reviewing a professor's grading decision should report any finding and any modified grade. This language seemed inconsistent with university policy as it suggested that modifying a grade at the chair or dean level is a common practice. Ordinarily, only the professor can modify the grade. The revised language is less likely to suggest an inconsistency with existing university policy. WAC 504-25-335 (3)(f)(ii), the proposed rule stated that a student would be charged if the judicial officer found that there was any basis for an allegation. Upon review, the university determined that the use of the word "any" was too broad and not what was intended. The rule now requires the judicial officer to determine if a basis exists for the allegation.

Effective Date of Rule: Thirty-one days after filing.  
 February 27, 1995  
 Lou Ann Pasquan  
 Rules Coordinator

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**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 chapter, they are subject to the university disciplinary process defined in Part II of this chapter. 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 process))~~ these processes is to educate and to protect the welfare of the community.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-015 Academic dishonesty.** (1) A student organization's assistance in, or encouragement of, academic dishonesty as defined in subsection (2) of this section 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((including all forms of)) includes cheating, plagiarism and fabrication((is prohibited. Knowingly facilitating academic dishonesty is also prohibited. The expectation of)) in the process of completing academic work. The university ((is)) expects 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.))~~

**PART III**  
**ACADEMIC INTEGRITY**  
**STANDARDS AND 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;

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

(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 WAC 504-25-335(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.

#### NEW SECTION

**WAC 504-25-320 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.

#### 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.** 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, chapter 504-25 WAC, Part I, and the academic integrity standards, chapter 504-25 WAC, Part III, the alleged violation will be handled under the procedures of chapter 504-25 WAC, 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 WAC 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, this finding should be conveyed to the instructor. A report shall be filed with the office of student affairs indicating the finding and the accompanying action, if any.

(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 a 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; and

(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 504-25-225.

#### 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 panel 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. Membership of the university appeals board is defined by WAC 504-25-215.

(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 nonappealing 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 95-07-003**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed March 2, 1995, 1:39 p.m.]

Date of Adoption: February 23, 1995.  
 Purpose: To eliminate the requirement for testing the polishing of amalgam restorations on the dental hygiene licensure examination.  
 Citation of Existing Rules Affected by this Order: Amending WAC 246-815-050 (1)(b)(iv).  
 Statutory Authority for Adoption: RCW 18.29.120(2).  
 Pursuant to notice filed as WSR 95-03-018 on January 10, 1995.

Effective Date of Rule: Thirty-one days after filing.  
 March 2, 1995  
 Bruce Miyahara  
 Secretary

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-815-050 Examination.** (1) The dental hygiene examination will consist of both written and practical tests.

- (a) Written tests—The written tests will include:
  - (i) Successful completion of the dental hygiene national board examination.
  - (ii) Washington state written test. All applicants must successfully complete a written test covering anesthesia, restorative dentistry, and other subjects related to dental hygiene practice.
  - (b) Practical tests—The practical tests will include:
    - (i) Patient evaluation test which will include a health history, extraoral and intraoral examination, periodontal charting and radiographs.
    - (ii) Prophylaxis test which will include a clinical demonstration of a prophylaxis to consist of the removal of deposits from and the polishing of the surfaces of the teeth.
    - (iii) Anesthesia test which will include applicants demonstrating the administration of a local anesthetic.
    - (iv) Restorative test which will include demonstrating the insertion, condensation(~~(s)~~) and carving (~~and polishing~~) of amalgam restorations.

(2) Each applicant must furnish a patient for the patient evaluation test, prophylaxis test and anesthesia test. Patients must be at least eighteen years of age with a minimum of twenty-four teeth. A patient shall not be a dentist, dental student, or dental hygiene student. The state dental hygiene examining committee and the school of dentistry assume no responsibility regarding the work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance for the examination.

(3) The committee may, at its discretion, give a test in any other phase of dental hygiene. Candidates will receive information concerning each examination.

(4) The applicant will comply with all written instructions provided by the department of health.

**WSR 95-07-011**  
**PERMANENT RULES**  
**HEALTH CARE AUTHORITY**  
 [Filed March 3, 1995, 4:13 p.m.]

Date of Adoption: March 3, 1995.  
 Purpose: Establishes criteria for state residents for participation in Medicare supplement coverage available through the Health Care Authority.  
 Statutory Authority for Adoption: RCW 41.05.197.  
 Pursuant to notice filed as WSR 95-03-075 on January 17, 1995.  
 Effective Date of Rule: Thirty-one days after filing.  
 March 3, 1995  
 Elin Meyer  
 Rules Coordinator

PERMANENT

**Chapter 182-13 WAC  
STATE RESIDENT - MEDICARE SUPPLEMENT**

**NEW SECTION**

**WAC 182-13-010 Purpose.** The purpose of this chapter is to establish criteria for state residents for participation in Medicare supplement coverage available through the HCA.

**NEW SECTION**

**WAC 182-13-020 Definitions.** Unless otherwise specifically provided, the definitions contained in this section apply throughout this chapter.

(1) "HCA" means the Washington state health care authority.

(2) "Health plan," or "plan" means any individual or group: Policy, agreement, or other contract providing coverage for medical, surgical, hospital, or emergency care services, whether issued, or issued for delivery, in Washington or any other state. "Health Plan" or "plan" also includes self-insured coverage governed by the federal Employee Retirement Income Security Act, coverage through the Health Insurance Access Act as described in chapter 48.41 RCW, coverage through the Basic Health Plan as described in chapter 70.47 RCW, and coverage through the Medicaid program as described in Title 74 RCW. "Health plan" or "plan" does not mean or include: Hospital confinement indemnity coverage as described in WAC 284-50-345; disability income protection coverage as described in WAC 284-50-355; accident only coverage as described in WAC 284-50-360; specified disease and specified accident coverage as described in WAC 284-50-365; limited benefit health insurance coverage as described in WAC 284-50-370; long-term care benefits as described in chapter 48.84 RCW; or limited health care coverage such as dental only, vision only, or chiropractic only.

(3) "Lapse in coverage" means a period of time greater than ninety continuous days without coverage by a health plan.

(4) "Resident" means a person who demonstrates that he/she lives in the state of Washington at the time of application for, and issuance of coverage.

**NEW SECTION**

**WAC 182-13-030 Eligibility.** Residents are eligible to apply for Medicare supplement coverage arranged by the HCA when they are:

- (1) Eligible for Parts A and B of Medicare, and
- (2) Actually enrolled in both Parts A and B of Medicare not later than the effective date of Medicare supplement coverage.

**NEW SECTION**

**WAC 182-13-040 Application for Medicare supplement coverage.** Residents meeting eligibility requirements may apply for Medicare supplement coverage arranged by the HCA:

- (1) During the initial open enrollment period of January 1 through June 30, 1995, or
- (2) Within sixty days after becoming a resident, or

(3) In the thirty day period before the resident becomes eligible for Medicare, or

(4) Within sixty days of retirement, or

(5) During any open enrollment period established by federal or state law, or

(6) During any open enrollment period established by the HCA subsequent to the initial open enrollment period provided that the applicant is replacing a health plan with no lapse in coverage.

**WSR 95-07-012  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 95-20—Filed March 3, 1995, 4:45 p.m.]

Date of Adoption: February 28, 1995.

Purpose: Establish salmon license buy-back program.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-95-011, 220-95-016, 220-95-021, 220-95-026, and 220-95-031.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 95-03-088 on January 18, 1995.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-95-013, clarification of how design of plan was agreed to by NMFS and department. Elimination of second offer period; WAC 220-95-018, extend the base year and reduce the comparison year by one year, 1991 becomes part of the base year period. Clarify that all three criteria must be met. Elimination of reference to second offer period; WAC 220-95-022, delay application period two weeks. Change base and comparison years. Allow salmon charter fishers to use total income. Require IRS forms only for salmon charter licensees using total income or other applicants claiming a percentage of fish ticket income; WAC 220-95-027, change tie breaker to purchase license from applicant with highest uninsured loss; and WAC 220-95-032, delay acknowledgment receipt deadline two weeks.

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

March 2, 1995

Judith Freeman

Deputy

for Robert Turner

Director

**NEW SECTION**

**WAC 220-95-013 1995 Salmon disaster relief license buy-back program established—Fund allocation—Expiration.** (1) The National Marine Fisheries Service has designated the department as the administrating agency for distribution of Northwest Emergency Assistance Plan funds to buy back salmon licenses from license holders who are affected by reductions in salmon fishing needed to conserve Columbia River threatened and endangered salmon stocks. The state of Washington in consultation with the National Marine Fisheries Service believes the program should be designed to purchase licenses from fisheries that are dependent on chinook and coho salmon and are affected by the

Endangered Species Act. The department hereby designates this program as the 1995 salmon disaster relief license buy-back program (program).

(2) The rules provided for in this chapter implement the provisions of the Northwest Emergency Assistance Plan as published in the *Federal Register*, and appeals as to which fishery license holders may apply for relief and the maximum level of monetary relief offered are to be made to the National Marine Fisheries Service.

(3) The department allocates the available federal funding for the program to the following categories in the following amounts:

- |   |                |
|---|----------------|
| (a) Salmon troll licenses and salmon delivery licenses                              | \$1,700,000.00 |
| (b) Willapa Harbor-Columbia River and Grays Harbor-Columbia River gill net licenses | \$1,700,000.00 |
| (c) Salmon charter licenses   | \$ 300,000.00  |
| (d) Program administration  | \$ 300,000.00  |

Program administration funds that will not be used will be reallocated to license purchases.

(4) The program expires March 31, 1996, or upon the distribution of all available funds, whichever occurs first.

#### NEW SECTION

**WAC 220-95-018 Program eligibility.** Only persons meeting the following criteria are eligible to participate in the program.

(1) The person participated in the coastal, Columbia River, Grays Harbor or Willapa Bay commercial salmon fisheries and had income derived from one of those fisheries in at least one year during the period 1986 through 1991 and has not participated nor will participate in a Northwest Emergency Assistance Plan jobs program; and

(2) The person possessed or was eligible to possess one of the following Washington state salmon fishery licenses in 1994:

- (a) Salmon troll license (RCW 75.28.110 (1)(f));
- (b) Salmon delivery license (RCW 75.28.113);
- (c) Salmon gill net—Grays Harbor-Columbia River (RCW 75.28.110 (1)(a));
- (d) Salmon gill net—Willapa Bay-Columbia River (RCW 75.28.110 (1)(c));
- (e) Salmon charter (RCW 75.28.095 (1)(b)); and

(3) The person incurred an uninsured loss computed under the federal plan requirements as follows: The maximum amount of uninsured loss under the program is the difference between the highest gross income derived from designated salmon fishing activity (including incidental catch provided that some salmon are included within the catch) during any calendar year 1986 through 1991 (the base year), less the sum of the least amount of gross income derived from salmon fishing activities during any calendar year from 1992 through 1994, plus any federal unemployment compensation received during that year, plus any federally funded training received during that year (the comparison year). The maximum amount payable under the program is 2.25 times the uninsured loss, but not to exceed \$100,000.00 to any individual for all payments received from the program.

For purposes of calculating income, the license holder must and may only use income from salmon fisheries in the coastal waters of Washington, Oregon, and California, the waters of Grays Harbor and Willapa Bay, and the waters of the Columbia River.

#### NEW SECTION

**WAC 220-95-022 Program application.** (1) A license holder may make only one offer per license during an offer period.

(2) An offer to sell a license must be made on department forms and must be received by the department's licensing division during the period 8:30 a.m., March 29 through 4:30 p.m., May 12, 1995.

(3) Income used in the calculation of offers that are accepted may not be used in the calculation of any other offer.

(4) The license holder may offer the license for any amount up to the maximum allowable under the program.

(5) An offer is not made unless a complete offer is received by the department. In order for an offer to be complete, the following must be received:

(a) A complete offer sheet, showing:

(i) The applicant's name, Social Security number, mailing address during the offer period and telephone number;

(ii) The license type and license number that is being offered;

(iii) The offer amount;

(iv) The base year income (1986-1991);

(v) The comparison year income (1992-1994, including federal unemployment funds and the amount of any federally funded training received);

(vi) The amount of uninsured loss.

(b) Supporting documents.

(i) For salmon troll, salmon delivery and gill net license fishing activity, the only acceptable supporting documents are official state fish receiving tickets, official state fish landing receipts, or computer generated landing lists that have been certified by a state agency or the Pacific States Marine Fisheries Commission to be true and correct copies. All landings count in calculation of base and comparison year incomes.

(ii) For salmon charter license fishing activity, acceptable supporting documents are trip tickets identifying the species targeted, the number of anglers, and the date of the trip or, if such tickets are unavailable, the department will accept a letter of endorsement from a charterboat association or charterboat booking office indicating salmon fishing was a major component of earnings, and, if such a letter is provided, will review the total income of the applicant for the base and comparison years.

(c) Copies of Internal Revenue Service returns for the base and comparison years are required from salmon charter license applicants who use income other than that shown on trip tickets and may be required for salmon troll, salmon delivery, and gill net license applicants claiming a percentage of income shown on fish tickets.

(d) A signed permission form that allows the department to receive copies of the applicant's Internal Revenue Service returns for the base and comparison years, and to receive

landing information from the Pacific States Marine Fisheries Commission, and the states of Oregon and California.

(e) A signed statement certifying that all information provided is true and correct.

#### NEW SECTION

**WAC 220-95-027 Ranking of offers.** (1) Incomplete offers will be returned.

(2) Complete offers will be verified prior to ranking.

(3) Ranking of complete offers will occur at the close of the offer period and offers will be ranked within the following three categories:

(a) Salmon troll and salmon delivery licenses.

(b) Willapa Bay-Columbia River and Grays Harbor-Columbia River gill net licenses.

(c) Salmon charter licenses.

(4) Ranking will be established in ascending order from the lowest offer to the highest offer in each license category.

(5) In the event of a tie, the offer of the person with the highest uninsured loss will be accepted.

#### NEW SECTION

**WAC 220-95-032 Offer acceptance—Acknowledgment—Retirement of licenses.** (1) Offers will be accepted in rank order, beginning with the lowest offer.

(2) The department will notify license holders that it has accepted a license offer by sending an acceptance and acknowledgment to the license holder by registered mail to the address provided on the offer sheet. The acknowledgment must be signed and returned to the department and must be received by the license division at or before 4:30 p.m. on June 14, 1995. Any acknowledgment received after that date is void and the acceptance is withdrawn.

(3) If the license being offered has been issued for 1995, the department will tender the amount of the offer upon return of the license card.

(4) If the license being offered has not been issued for 1995, the department will tender the amount of the offer upon receipt of a valid acknowledgment.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-95-011	Application to sell.
WAC 220-95-016	Ranking of applications.
WAC 220-95-021	Program options.
WAC 220-95-026	Surveys—Vessels—License—Permit values.
WAC 220-95-031	Use restrictions and penalties.

**WSR 95-07-014  
PERMANENT RULES  
DEPARTMENT OF**

**LABOR AND INDUSTRIES**

[Filed March 6, 1995, 10:23 a.m., effective April 20, 1995]

Date of Adoption: March 6, 1995.

Purpose: Chapter 296-52 WAC, Possession, handling and use of explosives, federal-initiated 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 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; amends safety fuse and cap use requirements; and corrects names and addresses of various associations or agencies, and minor housekeeping corrections. State-initiated 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; add exemption for common fireworks; amend quantity restrictions for WAC 296-52-509; amend the definition of improvised device; and remove the requirement to report theft of explosives to the department. Other state-initiated amendments are made 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; update radio frequency hazard requirements; amend the definition of natural barricade and source of ignition; 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; amend requirements for parking explosive laden vehicles; 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 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.

Citation of Existing Rules Affected by this Order: Amending chapter 296-52 WAC, Possession, handling and use of explosives, WAC 296-52-401 Scope and application, 296-52-409 Variance and procedure, 296-52-413 Equipment approval by nonstate agency or organization, 296-52-417 Definitions, 296-52-419 Basic legal obligations, 296-52-421 Licenses—Information verification, 296-52-423 Revoking or suspending licenses, 296-52-425 Dealer's license, 296-52-429 License for manufacturing, 296-52-433 Purchaser's license, 296-52-437 User's (blaster's) license,

296-52-441 Storage magazine license requirements, 296-52-449 Storage magazine license fees, 296-52-453 Construction of magazines, 296-52-461 Storage of explosives, 296-52-465 Storage of ammonium nitrate, 296-52-469 Storage of blasting agents and supplies, 296-52-477 Quantity and distance table for separation between magazines, 296-52-481 Recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents, 296-52-487 Low explosives, 296-52-489 Transportation, 296-52-493 Use of explosives and blasting agents, 296-52-497 Blasting agents, 296-52-501 Water gel (slurry) explosives and blasting agents, and 296-52-509 Small arms ammunition, primers, propellants, and black powder.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Pursuant to notice filed as WSR 94-17-164 on August 24, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-52-417 Definitions.

The following definitions have been amended:

**Blaster in charge:** "Licensed blaster" replaces the word "person" for clarification. The original definition was the result of explosive industry advisory committee recommendations. This amendment is a result of public hearing input.

**Day box:** The WAC reference in the last line is corrected to "WAC 296-52-453" from WAC 296-52-457. This amendment is a housekeeping correction. This amendment corrects a reference based on public hearing input.

**Explosive:** The wording in the second note following the definition is replaced with wording that the department will allow current United States Department of Transportation identification/classification markings on explosives and/or explosives containers; (the director of labor and industries has granted a written waiver of RCW requirements as authorized by RCW 70.74.020(3) to allow this amendment.\*) The original standard followed RCW 70.74.010, which is outdated. This amendment is made in response to public hearing request.

**Manufacturer:** Two exclusionary clauses are added to clarify where manufacturing licenses are required. Modification to this definition is based on public hearing input.

**Natural barricade:** Wording is added to the definition to accept qualified stands of trees as effective barricades for explosives storage (magazine) sites and; (the director of labor and industries has granted a written waiver of RCW requirements as authorized by RCW 70.74.020(3) to allow this amendment.\*) This amendment was made as a result of public hearing input and aligns state requirements for barricades with national standards.

**Public utility transmission system:** The minimum voltage limitation for electrical transmission systems is amended from 751 volts to 10kv. This amendment is made to comply with RCW 70.74.010 Definition, as identified through public hearing input.

WAC 296-52-419 Basic legal obligations.

The clearance for flame producing devices around manufacturing plants and storage magazines has been reduced from 200 feet to 50 feet in WAC 296-52-419 (7)(a). (The director of labor and industries has granted a written waiver of RCW requirements as authorized by RCW 70.74.020(3) to allow this amendment.\*) This amendment was made as a result of explosives industry advisory

committee and public hearing input. Clearance distances are now aligned with national standards.

WAC 296-52-461 Storage of explosives.

The quantity of small arms ammunition primers in WAC 296-52-461 (1)(b)(i), used to determine if subsection (1) would be applicable, is changed from 75,000 to 750,000 to be consistent with chapter 70.74 RCW, as identified through public hearing input.

The illustration in WAC 296-52-461(5) has been amended to include space for a phone number, and a note is added to indicate the phone number should be that of the individual or company responsible for the contents of the magazine. Modification of sign requirements was a direct recommendation of the explosives industry advisory committee. The phone number was added as a result of public hearing input.

Wording changes to WAC 296-52-461 (8)(a) are made to clarify explosives shall be marked "with the manufacturing date" before being stored in a magazine. In addition, a note is added which states that unidentified explosives confiscated by law enforcement may be marked with the confiscation date if the manufacturer's date is unknown. This amendment is made for clarification as a result of public hearing input.

Wording in WAC 296-52-461(10) is deleted to remove the requirement for clearances from public utility transmission systems at magazine and manufacturing sites. (The director of labor and industries has granted a written waiver of RCW requirements as authorized by RCW 70.74.020(3) to allow this amendment.\*) This action was requested by the explosives industry advisory committee and public hearing input.

WAC 296-52-477 Quantity and distance table for separation between magazines.

Note 1 under Table H-21 is amended to indicate that "natural barricade" is defined in WAC 296-52-417. This amendment is a housekeeping change to be consistent with the modification of the "natural barricade" definition.

Note 2 under Table H-21 is amended to correct the reference indicating that efficient artificial barricade is defined in WAC 296-52-417. This is a housekeeping amendment to be consistent with the modification of the "natural barricade" definition.

WAC 296-52-481 Recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

References in the notes following Table H-22 are amended to reference Table H-20 instead of Table H-21 where applicable. This amendment corrects a reference based on public hearing input.

WAC 296-52-489 Transportation.

WAC 296-52-489 (2)(a): The word "employee" is changed to "person" after the word "No," the word "or" is inserted after the word "device," and the word "or" is changed to "to" after the word "officers." The corrected sentence reads, "No person shall be allowed to smoke, carry matches or any other flame-producing device, or except guards or commissioned law enforcement officers, to carry any firearms...". These amendments are made based on public hearing input to clarify application of the subsection.

WAC 296-52-489 (3)(c): The following sentences are added: "In open top vehicles or trailers, explosives may

only be transported in the original DOT approved shipping container(s)/box(es) or a daybox or portable magazine which complies with the requirements of this chapter. In all instances the explosive container(s), box(es), daybox or portable magazine shall be secured to the bed of the vehicle or trailer;". This amendment was made to be at-least-as-effective-as OSHA based on OSHA's request and public hearing input.

WAC 296-52-489 (3)(c)(i): The first sentence is deleted and replaced with, "If an explosives transportation vehicle or trailer does not have a fully enclosed cargo area with nonsparking interior, the cargo bed and all explosive cargo shall be covered with a flameproof and moisture-proof tarpaulin or other effective protection against moisture and sparks;". This amendment was made to be at-least-as-effective-as OSHA based on OSHA's request and public hearing input.

WAC 296-52-489 (5)(a): The fire extinguisher minimum rating is changed from 10 ABC to 2A 10 BC. This amendment was made to be consistent with United States Department of Transportation requirements and in response to public hearing input.

WAC 296-52-489 (6)(a)(i): The word "manufacturer" is included to allow explosives to be transported by a licensed manufacturer. This amendment as [was] made based on public hearing input for clarification.

WAC 296-52-489 (6)(b): Existing wording is deleted and replaced with Department of Transportation requirements regarding parking of explosive laden vehicles. This change was made as a result of public hearing input and to be consistent with United States Department of Transportation requirements.

WAC 296-52-489 (7)(h): The word "certification" is added to the second sentence to clarify the type of record to be maintained to document conveyance electrical system weekly inspections. In addition, the following sentence is added, "The certification record shall contain the date of inspection, the serial number or other positive identification of the unit being inspected and the signature of the person performing the inspection." This amendment was made to be at-least-as-effective-as OSHA at OSHA's request.

WAC 296-52-489 (7)(j): The word "conveyor" is changed to "conveyance." This amendment corrects a typographical error as a result of public hearing input.

WAC 296-52-493 Use of explosives and blasting agents.

WAC 296-52-493 (1)(a): The proposed 200 feet fire/flame source distance requirement is returned to the previously adopted 100 feet. This amendment was requested by the explosives industry advisory committee and public hearing input.

WAC 296-52-493 (1)(f): The proposed amendments are deleted and the following sentence is added: "The blaster shall ensure that appropriate measures for safe control have been taken.["] This amendment was made to be at-least-as-effective-as OSHA based on OSHA request and public hearing input.

WAC 296-52-493 (1)(h): The last paragraph is designated as WAC 296-52-493 (1)(i) to correct a WAC numbering omission. This is a housekeeping amendment.

WAC 296-52-493 (1)(i)(iii): Existing wording, except for the note, is deleted and replaced with new wording which identifies OSHA distances for blasting zone warning signs

on highways. This amendment was made as a result of public hearing input.

WAC 296-52-493 (1)(1)[i](vi), relating to radio frequency transmitters, is deleted and subsequent subsections renumbered. This amendment was made based on public hearing input.

WAC 296-52-493 (1)(1)(i): The words "and currently licensed" are added after the word "qualified." The corrected sentence reads, "The blast site shall be under the control of a fully qualified and currently licensed "blaster in charge" throughout the course of the blasting operation." This amendment was made based on public hearing input for application clarity.

WAC 296-52-493 (1)(1)(ii): The proposed amendments are deleted and the following is added: "Whenever the site survey identifies conditions which conflict with safe blasting operations, the blaster in charge shall prepare a written site blasting plan before beginning blasting operations. The written plan shall identify the methods, materials, procedures and/or engineering calculations which will be used to address each identified conflicting condition. Note 1. When the site survey identifies that no conflicting conditions exist, a written blasting plan is not required. Note 2. Written blasting plans may be discarded at the end of a job provided that no blasting incident has occurred which resulted in bodily injury or property damage." These amendments were made based on public hearing input for clarification of when a written site blasting plan is required, and retention time.

WAC 296-52-493 (1)(1)(iii): The words "in the immediate presence" are deleted and replaced with "under the direct supervision." The corrected sentence reads, "Trainees and inexperienced personnel shall work only under direct supervision of licensed personnel fully qualified in the blasting method in use....;" This amendment was made based on public hearing input for application clarity.

WAC 296-52-493 (2)(c): The word "or" before the word "deterioration" is deleted. The corrected sentence reads: "Should cartridges or packages of explosives show signs of deterioration, the manufacturer or the department shall be notified." This amendment was made based on public hearing input for application clarity.

WAC 296-52-493 (4)(i)(j) [(4)(j)]: The word "connecting" is changed to "shunting." The corrected sentence reads, "The ends of lead wires which are to be connected to a firing device shall be shorted by twisting them together or otherwise shunting them before...." This amendment was made based on public hearing input to use this industry accepted term.

WAC 296-52-493 (11)(h): The WAC referenced is changed to WAC 296-52-493(10). This is a housekeeping amendment.

WAC 296-52-550 Appendix I (mandatory appendix) IME two-compartment transportation units.

WAC 296-52-550 (1)(d): The word "for" is replaced with the word "or." The corrected sentence reads, "Detonators shall not be transported in the same compartment with other explosives or blasting agents; and." This is a housekeeping amendment.

WAC 296-52-552 Appendix II (mandatory appendix) Radio frequency warning signs.

WAC 296-52-552(1): Wording is deleted and replaced with wording which grants relief from the ANSI regulation

on off-highway jobsites under specified provisions. This amendment was made based on public hearing input.

WAC 296-52-552 (4) through (8) are deleted as a result of public hearing input and the subsequent subsections renumbered.

\* A copy of the WRITTEN WAIVER OF REVISED CODE OF WASHINGTON REGULATIONS follows. This waiver was necessary to adopt the four changes from the proposed version identified and requested through public comment on the proposed amendments.

March 6, 1995

TO: Explosives Industry Stakeholders  
 FROM: Mark O. Brown, Director  
 SUBJECT: Condensed Notice: WRITTEN WAIVER of Revised Code of Washington Regulations

Revised Code of Washington (RCW) 70.74.020(3) (1969 amended) State Explosives Act delegated conditional authority for the Director of Labor and Industries to grant WRITTEN WAIVER OF RCW REQUIREMENTS when it can be shown that specific RCW requirements are not in compliance with federal regulations or (consensus) national safety standards. The director has chosen to exercise that conditional authority in four applications within this filing for adoption of amendments to Chapter 296-52 Washington Administrative Code (WAC). The four instances are:

1. RCW 70.74.010, Definitions, classifies explosives into three classes, Class A, Class B and Class C. RCW 70.74.300 requires that all explosives and/or containers shall be legibly marked with the correct classification identification.

In 1993, the United States Department of Transportation (USDOT) and the Bureau of Alcohol, Tobacco and Firearms (BATF) adopted and began administering the new international classification and identification marking system, making Class A, B or C obsolete.

WAC 296-52-417 definition for classification of explosives, adopts a new "NOTE 2" which accepts the international classification and marking system as being in compliance with RCW 70.74.300. WAC 296-52-555 publishes USDOT regulations which identify the new marking system.

2. RCW 70.74.010 definitions for "efficient artificial barricade" and for "natural barricade" do not include (conditionally qualified) stands of trees as being an acceptable barricade around (explosives) storage magazines or manufacturing buildings.

That omission does not comply with the Occupational Safety and Health Administration (OSHA) and BATF federal regulations or Institute Makers of Explosives (IME) consensus standards, all of which utilize the AMERICAN TABLE OF DISTANCES which does include (qualified) trees as barricades.

WAC 296-52-417 definition for "natural barricade" adopts a second paragraph which permits qualified stands of trees to serve as an acceptable barricade.

3. RCW 70.74.030 adopts by reference the (BATF) AMERICAN TABLE OF DISTANCES as providing minimum permissible separation distances from "public utilities" (as defined) and explosives storage magazines or manufacturing buildings - unless the department determines the TABLES inappropriate.

The AMERICAN TABLE OF DISTANCES, as published in BATF or OSHA regulations and IME standards, IS NOT APPLICABLE for utility clearances.

The department has concluded that the AMERICAN TABLE OF DISTANCES does not provide appropriate clearances from explosives storage magazines and/or manufacturing buildings. The department therefore grants conditional WRITTEN WAIVER OF RCW REQUIREMENTS for that portion of RCW 70.74.030 which relates to clearances from public utility transmission systems. An appropriate new table of clearances is being considered for development by IME.

4. RCW 70.74.170 (in part) requires 200 feet clearance from explosives storage magazines and or manufacturing buildings for all flame producing devices.

OSHA, BATF, IME, Uniform Fire Code and National Fire Protection Association (NFPA) all require 50 feet clearance but have additional "source of ignition" requirements to provide an acceptable level of assurance that said flame producing devices should not adversely influence either storage or manufacturing of explosives.

Chapter 296-52 WAC has adopted comparable "source of ignition" requirements and can assume a comparable level of assurance with 50 foot clearance like the federal regulations and national consensus standards. The Department of Labor and Industries grants WRITTEN WAIVER OF RCW REQUIREMENTS for that portion of RCW 70.74.170 which specifies 200 feet clearance for "flame or flame producing device."

In departmental analysis, these identified Chapter 296-52 WAC amendments comply with all applicable federal regulations and national consensus standards. This WRITTEN WAIVER OF RCW REQUIREMENTS will remain in effect until superseded by subsequent departmental action or until the identified RCW sections are amended or reaffirmed by subsequent legislative action.

To receive a full text copy of the WRITTEN WAIVER OF RCW REQUIREMENTS contact:

Department of Labor and Industries  
 Consultation and Compliance Division (Standards)  
 Post Office Box 44620—Mail Stop 4620  
 Olympia, Washington 98504-4620

Effective Date of Rule: April 20, 1995.

March 6, 1995  
 Mark O. Brown  
 Director

PERMANENT

**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:

~~((+))~~ "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 licensed blaster 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 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 surround-

ings 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))~~ 296-52-453(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 ~~((cap))~~ 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 immis-

cible 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 1: ~~((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 2: Under the authority of RCW 70.74.020(3), the department of labor and industries will accept federal (U.S. Department of Transportation and/or Bureau of Alcohol, Tobacco and Firearms) international identification marking on explosives and/or explosives containers or packaging in lieu of Washington state designated marking as defined in RCW 70.74.010 (Class A, B or C) and required by RCW 70.74.300. See Appendix III, WAC 296-52-555.

~~((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 salutes).

((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. The term manufacturer also shall not include nor be applicable to the act of on-blast site mixing, either by hand or by mechanical apparatus, binary components, ammonium nitrate and fuel oil and/or emulsion products to create explosives for immediate down-blasthole delivery. This defined exclusion is limited to materials and components which are not classified by U.S. DOT as explosives until after they are mixed.

((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. With site specific department approval, an acceptable natural barricade may be a stand of mature timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

((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)~~ 10 kV, 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 block-holing.

((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 muddapping.

((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 fifty

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, WA 98504.

(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))~~ 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 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.

PERMANENT

(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-resistant, 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 ~~((400))~~ 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 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;

(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.

(c) ~~((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.

(b) ~~((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.

(c) ~~((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.

PERMANENT

**DANGER: EXPLOSIVES STORAGE AREA. KEEP OUT. NO SHOOTING. DO NOT FIGHT EXPLOSIVE FIRES. PHONE: \_\_\_\_\_**

Letters: 3" high X 2" wide

Reflectorized finish  
White background with  
Red letters

Note: The phone number should be that of the individual or company responsible for the contents of the magazine.

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 manu-

facturer 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 marked with the manufacturing date before being stored in the magazine.

Note: Unidentified explosives confiscated by law enforcement may be marked with the confiscation date if the manufacturer's date is unknown.

(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 non-sparking 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~~((;))~~ and 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.

Chapter 296-52 WAC  
 Safety Standards for the Possession  
 and Handling of Explosives

WAC 296-52-461 (Cont.)

TABLE H-20  
 TABLE OF DISTANCES FOR STORAGE OF EXPLOSIVES

Column 1 Quantity that may be held, kept or stored		Column 2 Distance From Nearest Inhabited Building		Column 3 Distance from Nearest Railroad		Column 4 Distance from Nearest Highway & Pub. Util. Trans. System	
Pounds over	Pounds not over	Barreled Feet	UnBarreled Feet	Barreled Feet	UnBarreled Feet	Barreled Feet	UnBarreled Feet
<b>EXPLOSIVES</b>							
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	103	206	55	110
40	50	150	300	110	220	60	120
50	75	170	340	123	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	320	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	313	636	165	330
1,200	1,400	450	900	336	672	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	432	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	1,055	2,000	876	1,752	315	630
25,000	30,000	1,130	2,000	933	1,866	340	680
30,000	35,000	1,205	2,000	981	1,962	360	720
35,000	40,000	1,275	2,000	1,026	2,000	380	760
40,000	45,000	1,340	2,000	1,068	2,000	400	800

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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	1,397	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
230,000	250,000	2,155	2,155	1,890	2,000	650	1,300
250,000	275,000	2,215	2,215	1,950	2,000	670	1,340
275,000	300,000	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 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.

## 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 <sub>2</sub>		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	81	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		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 <sub>2</sub>		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 BATF (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 con-

ducted 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

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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 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" is defined in WAC 296-52-417.

Note 2. ("Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of 3 feet.) Efficient artificial barricade is defined in WAC 296-52-417.

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.

- ((4) 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>

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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
	300	4	14	12
	600	5	18	12
	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)) H-20 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)) H-20 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)) H-20), 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-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

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keeping weeds and other combustible materials cleared within 25 feet of such bin. Accumulation of spilled product on the ground shall be prevented.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION** (Amending Order 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))~~ person shall be allowed to smoke, carry matches or any other flame-producing device, ~~((or))~~ except guards or commissioned law enforcement officers, to 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). In open top vehicles or trailers, explosives may only be transported in the original DOT approved shipping container(s)/box(es) or a daybox or portable magazine which complies with the requirements of this chapter. In all instances the explosive container(s), box(es), daybox or portable magazine shall be secured to the bed of the vehicle or trailer.

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(i) If an explosives transportation vehicle or trailer does not have a fully enclosed cargo area with nonsparking interior, the cargo bed and all explosive cargo 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.

(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))~~ 2A 10BC. 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 manufacturer, 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.))~~ Parking. A motor vehicle which contains Class A or Class B explosives must not be parked under any of the following circumstances:

(i) On or within 5 feet of the traveled portion of a public street or highway;

(ii) On private property (including premises of a fueling or eating facility) without the knowledge and consent of the person who is in charge of the property and who is aware of the nature of the hazardous materials the vehicle contains; or

(iii) Within 300 feet of a bridge, tunnel, dwelling, building, or place where people work, congregate, or assemble, except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

(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) ~~((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 ~~((of))~~ 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 certification record of such inspection shall be kept on file for the duration of the job. The certification record shall contain the date of inspection, the serial number or other positive identification of the unit being inspected and the signature of the person performing the inspection.

(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))~~ conveyance 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.

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**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 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, 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. The blaster shall ensure that appropriate measures for safe control have been taken.

(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	100
25	150
50	220
100	350
250	450
500	650
1,000	1,000
2,500	1,500
5,000	2,200
10,000	3,500
25,000	5,000
50,000	7,000

Transmitter Power FM Mobile (Watts)	Minimum Distance (Feet)
1	5
10	10
30	15
60	30

~~(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.

(i) 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 transmission 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 lightening or conventional thunder and lightening storms; and

(iii) The posting of signs warning against the use of radio frequency transmitters including CBs, mobile phones and two-way radios. The required signs shall be placed in a manner to adequately warn transmitter users, including all routes into the required clearance zone around where electric blasting caps are used.

(A) The required clearance zone for construction and/or demolition operations shall be 1000 feet;

(B) The required clearance zone for general industry operations which are not subject to construction requirements shall be 350 feet.

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 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)) (j) 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)) (k) Electric detonators shall be shunted until wired into the blasting circuit.

((j)) (l) Explosives shall not be handled near open flames, uncontrolled sparks or ~~(open)~~ energized electric circuits.

((k)) (m) 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.)~~ (n) Blaster in charge.

(i) The blast site shall be under the control of a fully qualified and currently licensed "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) Whenever the site survey identifies conditions which conflict with safe blasting operations, the blaster in charge shall prepare a written site blasting plan before beginning blasting operations. The written plan shall identify the methods, materials, procedures and/or engineering calculations which will be used to address each identified conflicting condition.

Note 1. When the site survey identifies that no conflicting conditions exist, a written blasting plan is not required.

Note 2. Written blasting plans may be discarded at the end of a job provided that no blasting incident has occurred which resulted in bodily injury or property damage.

(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 under direct supervision 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))~~ (o) 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)) (p) No explosive shall be loaded or used underground in the presence of combustible gases or combustible dusts unless approved as permissible by MSHA.

(q) 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 each other.

(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)~~) shunting 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 (~~(lead-~~  
~~ing)) 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;

(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 crossties 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.

~~((8))~~ (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))~~ (10).

~~((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.

PERMANENT

~~((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.~~

~~(c) 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-21))~~ 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

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		equivalent, on all sides, top and bottom.
Dealer's warehouse	<del>((100))</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.

	<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.

**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 or 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

(b) Quantities in excess of 50 pounds shall be transported in accordance with federal department of transportation regulations. Quantities in excess of ~~((100))~~ 150 pounds shall be stored in approved, licensed magazines as required in WAC 296-52-441 and 296-52-453.

(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.

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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 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.

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Safety Standards for the Possession  
and Handling of Explosives

APPENDIX I-A

PERMANENTLY MOUNTED CONTAINERS

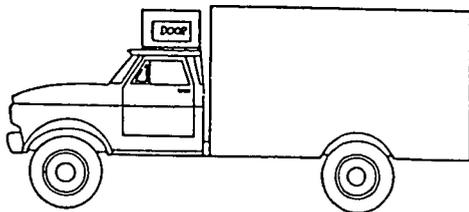


Figure 1

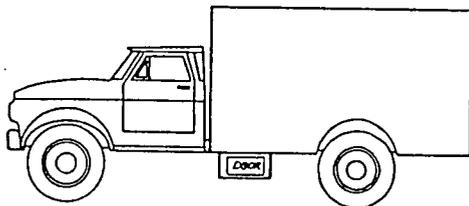


Figure 2

NOTE: The configurations shown in Figures 1 and 2 are equally applicable to multi-axle and "cab-over" vehicles.

[Diagrams: Courtesy of IME]

APPENDIX I-B

COMPARTMENTS

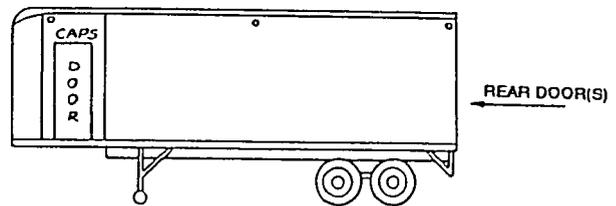


Figure 1

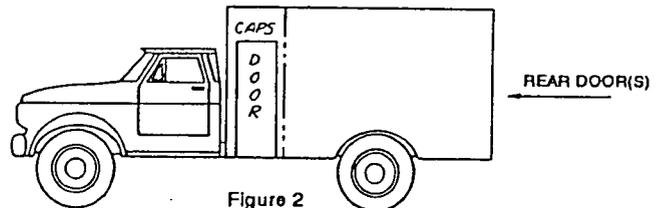


Figure 2

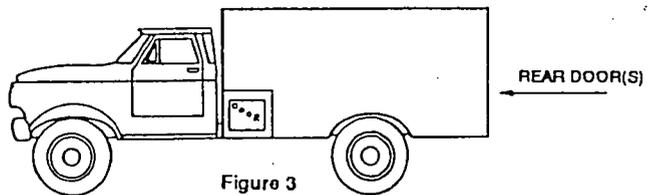


Figure 3

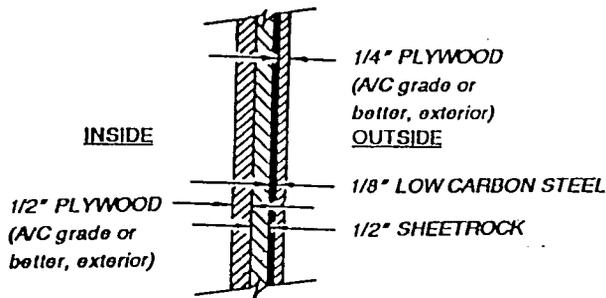
NOTE: The configurations shown in Figures 1 and 2 are equally applicable to multi-axle and "cab-over" vehicles.

[Diagrams: Courtesy of IME]

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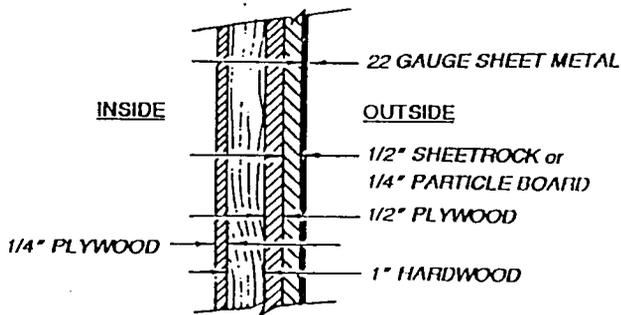
Part H, Appendices  
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APPENDIX I-C



Sketch of laminate construction for container or compartment for electric blasting caps use, as illustrated in Appendix 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 A.

[Diagrams: Courtesy of IME]

APPENDIX I-E

PORTABLE WHEELED TRAILERS

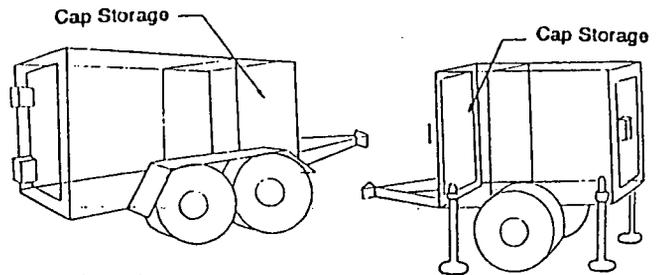


Figure 1

Figure 3

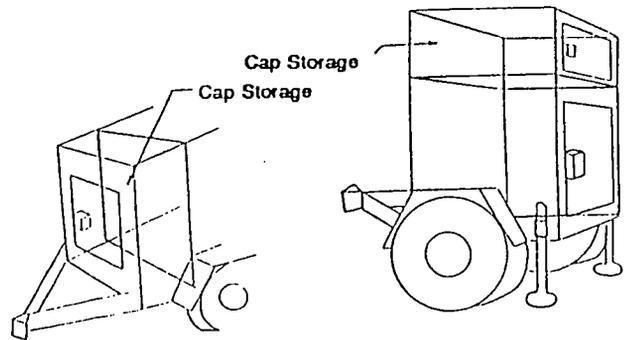


Figure 2

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 shall post warning signs to prohibit the use of radio frequency transmitters within a clearance zone around all locations where the electric caps are being used. This appendix provides specific sign illustrations and posting instructions.

(a) In construction operations, including demolition, the clearance zone around electric caps shall be 1000 feet.

(b) In general industry operations not subject to construction requirements, the clearance zone around electric caps shall be 350 feet.

(c) On public highways, the Washington utilities and transportation commission and Washington department of transportation requires compliance with ANSI D6.1-1988, the Uniform Traffic Control Devices manual. On private roads under the jurisdiction of the department of labor and industries, strict compliance with ANSI is not required provided that: All roads or right of ways where RF transmitters would be carried are adequately posted to achieve the necessary notice; the signs are maintained in the necessary positions throughout the time when electric caps are present.

(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) 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 clearance points where any road(s) or right-of-way(s) enter and exit the required clearance 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.

(5) The "TURN OFF 2-WAY RADIO" sign shall be posted at the beginning of the blast zone minimum clearance point.

(6) 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 quarries, the separation distance between the signs may be reduced to as little as 300 feet.

(7) The "END BLASTING ZONE" sign shall be posted past the point where the blasting zone clearance limit ends.

(8) The warning signs required by the appendix shall be prominently displayed at all times when blasting operations 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.

(9) The blasting signs shall be covered or removed when blasting operations are not being conducted.

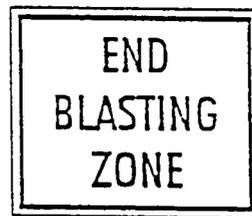
STANDARD WARNING SIGNS



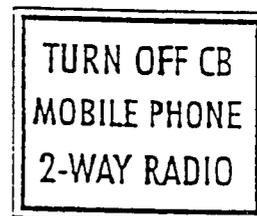
W22-1  
48" x 48"



W22-2  
42" x 36"



W22-3  
42" x 36"



42" x 36"

(10) 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.

PERMANENT

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 explo-  
sives.

(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. Transporta-  
tion 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 classifi-  
cation 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	1.1F
	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
Pyrotechnic substance or article containing a pyrotechnic substance, or article containing both an explosive substance and an illuminating incendiary, tear-producing or smoke-producing substance (other than a water-activated article or one containing white phosphorus, phosphide or flammable liquid or gel or hypergolic liquid).	J	1.1J
		1.2J
		1.3J
	K	1.2K
		1.3K
Article containing both an explosive substance and white phosphorus.	L	1.1L
		1.2L
		1.3L
	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.		

PERMANENT

**§ 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

PERMANENT

**Part H, Appendicies**  
**Chapter 296-52 WAC**  
**Safety Standards for the Possession**  
**and Handling of Explosives**

<p>Bureau of Alcohol, Tobacco and Firearms</p> <p>[Notice No. 695]</p> <p><b>COMMERCE IN EXPLOSIVES; LIST OF EXPLOSIVE MATERIALS</b></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><b>A</b></p> <p>Acetylides of heavy metals.          Aluminum containing polymeric propellant.          Aluminum ophomte explosive.          Amatex.          Amatol.          Ammonal.          Ammonium nitrate explosive mixnires (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>B</b></p> <p>Baratol.          Baronol.          BEAF (1,2-bis (2-3-difluoro-2-nitroacatoxyethane)).          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)).          BTN (1,2,4 butanetriol trinitrate).          Butyl tetryl.</p> <p><b>C</b></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 triaxide.          Cyclotrimathylenetrinitramine (RDX).          Cyclotetramethylenetetranitramine (HMX).          Cyclonite (RDX).          Cyclotol.</p> <p><b>D</b></p> <p>DATB (diaminotrinitrobenzene).          DDNP (diazodinitrophenol).          DEGND (diethyleneglycol dinitrate).          Detonating cord.          Detonators.          Dimethylol dimethyl methane dinitrate composition.          Dinitroethylensures.          Dinitroglycerine (glycerol dinitrate).          Dinitrophenol.          Dinitrophenolates.</p>	<p>Dinitrotolnene-sodium nitrate explosive mixtures.          DIPAM.          Dipicryl sulfone.          Dipicrylamina          DNDP (dinitropentano nitrite).</p> <p><b>E</b></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><b>F</b></p> <p>Flash powder          Fulminate of mercury          Fulminate of silver          Fulminating gold          Fulminating mercury          Fulminating platinum          Fluminating silver</p>
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PERMANENT

Part H, Appendicies  
Chapter 296-52 WAC  
Safety Standards for the Possession  
and Handling of Explosives

<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 trimethylolthane 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 fluoroide PLX [95% nitromethane, 5% ethylenediamine] Polynitro aliphatic compounds Polyolpolynitrate-nitrocellulose explosive gels Potassium chlorate and lead sulfocyanate 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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PERMANENT



**WSR 95-07-023**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 94-22—Filed March 6, 1995, 4:31 p.m.]

Date of Adoption: March 3, 1995.

Purpose: To clarify policies and provide guidance for integrating SEPA requirements and GMA planning processes, clarify lead agency responsibilities, and bring SEPA rules into compliance with the Administrative Procedure Act.

Citation of Existing Rules Affected by this Order: Repealing WAC 197-11-748; and amending chapter 197-11 WAC.

Statutory Authority for Adoption: RCW 43.21C.110.

Pursuant to notice filed as WSR 94-19-083 on September 21, 1994.

Changes Other than Editing from Proposed to Adopted Version: 1. Renumbering of sections; 2. removal of sections pertaining to the Model Toxics Control Act (MTCA), these will be considered for adoption at a later time; 3. the addition of a waiver of the seven day waiting period between a FEIS and an action as it pertains to the adoption of an integrated document (FEIS and GMA document); 4. clarification that if expanded scoping is conducted additional scoping at the time of a threshold determination is optional; and 5. the addition of the word "adequate" as it relates to evaluating significant impacts on critical areas.

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

March 3, 1995

Mary Riveland

Director

### NEW SECTION

**WAC 197-11-210 SEPA/GMA integration.** The purpose of WAC 197-11-210 through 197-11-235 is to:

(1) Authorize cities and counties to integrate the requirements of SEPA and the Growth Management Act (GMA) to ensure that environmental analyses under SEPA can occur concurrently with and as an integral part of the planning and decision making under GMA. Nothing in these sections is intended to jeopardize the adequacy or require the revision of any SEPA or GMA processes, analyses or document deadlines specified in GMA.

(2) Cities and counties may use the procedures of these rules to satisfy the requirements of SEPA for GMA actions. Other jurisdictions planning under GMA may also use these integration procedures.

### NEW SECTION

**WAC 197-11-220 SEPA/GMA definitions.** For purposes of SEPA:

(1) "Formal SEPA documents" mean:

- (a) A nonproject environmental checklist/DNS;
- (b) A notice of adoption with or without an addendum;
- (c) An addendum;
- (d) An EIS; or
- (e) An integrated GMA document.

(2) "GMA" means the Growth Management Act, chapter 36.70A RCW and those statutes codified in other chapters of the Revised Code of Washington that were enacted or

amended as part of chapter 17, Laws of 1990 1st ex. sess. and chapter 32, Laws of 1991 sp. sess.

(3) "Proposed GMA action" means a proposal for a GMA action that has been issued for public and interagency comment. It does not include drafts, preliminary drafts, or other materials or processes that have been used to develop GMA documents or elements of GMA documents. Such drafts are not considered a "proposal" as defined in WAC 197-11-784.

(4) "GMA action" means policies, plans and regulations adopted or amended under RCW 36.70A.106 or 36.70A.210. Actions do not include preliminary determinations on the scope and content of GMA actions, appeals of GMA actions, actions by the governor or by the growth management hearings boards.

(5) "Integrated GMA document" means a GMA document which contains or combines environmental analysis under SEPA.

### NEW SECTION

**WAC 197-11-228 Overall SEPA/GMA integration procedures.** (1) "Joint process." GMA jurisdictions are authorized to combine SEPA and GMA processes and analyses and to issue combined documents.

(2) "Phasing and level of detail." To integrate SEPA and GMA:

(a) The appropriate scope and level of detail of environmental review should be tailored to the GMA action being developed or considered for adoption.

(b) Jurisdictions may modify SEPA phased review as necessary to track the phasing of GMA actions, as provided in GMA and the procedural criteria in chapter 365-195 WAC. (For example, actions of narrower scope, such as interim urban growth boundaries or interim development regulations, subarea plans, and plan elements may be adopted prior to GMA actions of broader scope, such as an overall comprehensive plan revision.)

(c) The process of integrating SEPA and GMA should begin at the early stages of plan development. One purpose of an integrated GMA document (see WAC 197-11-235) is to ensure that studies conducted early in the planning and environmental analysis process are available and useful throughout the planning and analysis process (see WAC 197-11-230(2) and 197-11-235). Although early planning documents and environmental analyses such as documents on concepts or plan elements, may serve specific purposes and are not each required to be comprehensive in scope, they should explain their relationship to the overall GMA/SEPA process that is underway and identify how cumulative impacts are being considered.

### NEW SECTION

**WAC 197-11-230 Timing of an integrated GMA/SEPA process.** (1) A formal SEPA document (which may be a draft integrated GMA document under WAC 197-11-235):

(a) Shall be prepared and issued no later than the time that a proposed GMA action is issued for public and interagency review. For comprehensive plans and development regulations, the date of issue shall be at least sixty days prior to final adoption under RCW 36.70A.106;

(b) Shall be provided:

(i) To the legislative body that will consider issuing a GMA action; and

(ii) To any advisory body designated by the local legislative body or chief executive of the city or county to make a formal recommendation to the local legislative body on whether to propose a GMA action. The draft document shall also be circulated as otherwise required by WAC 197-11-455 or 197-11-340 as appropriate.

(2) The responsible official shall make a SEPA threshold determination:

(a) At any time, as long as it is early enough in the process so that the appropriate environmental document can accompany or be combined with a proposed GMA action;

(b) As soon as it can be determined under WAC 197-11-330 that a significant adverse environmental impact is likely to result from the implementation of the GMA action being developed.

(3) A threshold determination is not required when there has been a previous threshold determination or a notice of adoption or an addendum is prepared, except when a new threshold determination is required pursuant to WAC 197-11-600(3).

(4) If a formal SEPA document is issued concurrently with a proposed GMA action which has a public comment period, the public comment period on the formal SEPA document shall be the same as the comment period on the GMA action, provided the comment period is not less than otherwise required of a SEPA document. (See WAC 197-11-340 (2)(c) and 197-11-455(6)).

(5) When a draft integration GMA document includes a draft EIS, the final EIS and the adoption of the GMA document may occur together, notwithstanding the requirements of WAC 197-11-460(5).

#### NEW SECTION

**WAC 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.** (1) "Preliminary environmental analyses." GMA jurisdictions may prepare environmental analyses for use by decision makers and the public to assist in developing and reviewing preliminary drafts of GMA documents. Environmental analyses prepared for use in such preliminary GMA planning:

(a) Do not require a threshold determination;

(b) May be separate from, or woven into, issue papers or other agency planning materials or presentations;

(c) May use the format of SEPA documents, including a nonproject environmental checklist (Part D of WAC 197-11-960) or addendum (WAC 197-11-706, 197-11-625).

(d) May include evaluation of issues and concerns that are not required in SEPA documents, such as economic or other factors identified in GMA, SEPA, and WAC 197-11-448.

(2) "Expanded scoping."

(a) Timing and use. Expanded scoping may be used prior to a threshold determination to meet one or more of the purposes stated in WAC 197-11-030, 197-11-225, 197-11-230, 197-11-235 and 197-11-410(2). Expanded scoping may initiate or be combined with any early GMA planning activities such as "visioning," development of alternative

concepts or elements, or scoping of possible GMA actions. Scoping under WAC 197-11-408 may also be used for these purposes if a determination of significance has been issued.

(b) Notice. An expanded scoping notice may be issued separately from or without a threshold determination. If so the notice should explain that SEPA determinations and documents will occur later and that scoping is starting early to assist and involve the public, tribes and agencies in formulating a specific proposed GMA action and identifying useful environmental analyses.

(c) If expanded scoping is used as provided in this section, additional scoping will be optional if a determination of significance is subsequently issued.

#### NEW SECTION

**WAC 197-11-235 Documents.** (1) "Integrating documents." Formal SEPA documents may be prepared as companion documents to accompany proposed GMA actions or may be integrated into the documentation of GMA actions. This section clarifies how WAC 197-11-640 (all SEPA documents) and WAC 197-11-425 through 197-11-442 (EISs) apply to integrated SEPA/GMA documents. The overriding consideration is the quality of information and analysis at the appropriate scope and level of detail for the particular GMA document, and not the format, length or bulk of the document.

(2) "Document format."

(a) There is no standard format for an integrated GMA document. For example an integrated comprehensive plan may look more like a plan preceded by an environmental summary (see WAC 197-11-235(5)), in contrast to a format described in WAC 197-11-430. Any separately bound supporting documents shall be clearly identified in the integrated document.

(b) An integrated GMA document is not required to contain a separate section on affected environment, significant impacts, and mitigation measures under WAC 197-11-440(6), as long as this information is summarized as required by this section, and the basis for this information can be readily found in the document and the supporting record.

(3) "Integrated non-EIS documents."

(a) If a proposed GMA action is not likely to have a significant adverse environmental impact, an integrated GMA document shall be prepared that combines the formal SEPA document (such as an environmental checklist/DNS, a notice of adoption or addendum) with the GMA document. The provisions of WAC 197-11-235 (1) and (2) apply to these integrated documents.

(b) If an environmental checklist is used and a DNS issued, only Parts A (which serves as a fact sheet), C (responsible official's signature), and D (nonproject checklist) need be prepared, plus an environmental summary as specified in WAC 197-11-235(5). Part D and the summary may be combined.

(c) If an addendum is to accompany or be incorporated into an integrated GMA document, it shall contain the information specified in WAC 197-11-235(5) for an environmental summary.

(4) "Plan/EIS documents." Because these documents need to contain sufficient environmental analysis for GMA actions, the same documents that meet GMA planning needs

should constitute the SEPA documents for GMA actions and should provide a basis for future decisions on projects. An integrated document will constitute the necessary formal SEPA document, if accompanied by the following (as further specified by subsections (5) through (7) of this section):

- (a) Environmental summary and fact sheet;
  - (b) Concise analysis of alternatives;
  - (c) Comments and responses; and
  - (d) Appropriate technical and other materials.
- (5) "Environmental summary and fact sheet."

(a) The environmental summary includes the contents required in WAC 197-11-440(4). It should emphasize the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be made and the effectiveness of mitigation measures. The summary is not to be a summary of the GMA action.

(b) The summary should highlight from an environmental perspective the main options that would be preserved or foreclosed by the proposed GMA action. It should reflect SEPA's substantive policies and focus on any significant irreversible or irretrievable commitments of natural resources that would be likely to harm long-term environmental productivity, taking into account cumulative impacts. A summary of the principal environmental impacts may be presented in chart or matrix form, summarizing the relevant elements of the environment and impact assessment required by WAC 197-11-440 (6)(b) through (e). The summary may discuss nonenvironmental factors and should do so if relevant to resolving issues concerning the main environmental choices facing decision makers.

(c) The summary should be no longer than necessary (generally fifteen to thirty pages for a plan/EIS, less for other integrated documents) and include tables or graphics to assist readability.

(d) At a minimum the fact sheet shall contain the information required in WAC 197-11-440(2). The fact sheet shall precede the summary in the integrated GMA document.

- (6) "Concise analysis of alternatives."

(a) This analysis focuses on a comparative evaluation of the environmental consequences of the principal alternative courses of action that are or have been under consideration in the GMA planning process, as provided by WAC 197-11-440(5). The alternatives analysis shall evaluate the proposed GMA action compared to the principal alternative concepts and plan elements or regulatory options that were considered. This analysis allows decision makers, other agencies and the public to determine if the proposed GMA action can or should be revised before adoption to avoid or reduce environmental or other impacts. These alternatives may be:

- (i) Those which are actively being considered; or
- (ii) Those considered and screened earlier as part of a public GMA planning process.

(b) Descriptive material on the features of the alternatives (in contrast to comparing their impacts) should be kept to the minimum necessary to understand the comparative evaluation. If more description is necessary, it should be cited or located in the supporting record. Depending on the scope of the GMA action, the text of the alternatives analysis should be less than forty pages.

(7) "Comments and responses." The inclusion of comments and responses is not required for a draft integrated

GMA document. For a final integrated document, comments (or a summary of comments) shall be compiled and response prepared as provided in WAC 197-11-560(3). A jurisdiction may include comments (or a summary of comments) received during the scoping process or on preliminary documents, as well as general or specific responses to these comments if any have been prepared, with the integrated GMA document on a proposed GMA action. If this approach is not used, these preliminary comments shall be included in the supporting record.

- (8) "Supporting record, analyses, and materials."

(a) The integrated GMA document shall contain a list of the principal analytical documents and other materials (such as meeting minutes, maps, models, tapes or videos) that have been prepared, received, or used in developing the GMA action (see WAC 197-11-090). These materials shall be considered to be incorporated by reference under SEPA and part of the supporting record for SEPA compliance, and their contents need not be further described as required in WAC 197-11-635. Annotated lists are encouraged, but not required, to assist current and future reviewers.

(b) Materials in the supporting record should enable agencies and members of the public to identify and review the planning basis for the conclusions and analysis presented in the integrated GMA document as provided in the "procedural criteria" for preparing plan documents.

**AMENDATORY SECTION** (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

**WAC 197-11-305 Categorical exemptions.** (1) If a proposal fits within any of the provisions in Part Nine of these rules, the proposal shall be categorically exempt from threshold determination requirements (WAC 197-11-720) *except* as follows:

(a) The proposal is not exempt under WAC 197-11-908, (~~environmentally sensitive~~) critical areas.

(b) The proposal is a segment of a proposal that includes:

(i) A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not; or

(ii) A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency, unless the agencies with jurisdiction agree that another agency should be the lead agency. Agencies may petition the department of ecology to resolve disputes (WAC 197-11-946).

For such proposals, the agency or applicant may proceed with the exempt aspects of the proposals, prior to conducting environmental review, if the requirements of WAC 197-11-070 are met.

(2) An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

**AMENDATORY SECTION** (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

**WAC 197-11-340 Determination of nonsignificance (DNS).** (1) If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the lead agency shall prepare and issue a determination of nonsignificance (DNS) substantially in the form provided in WAC 197-11-970. If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (WAC 197-11-965) and the DNS shall be combined or attached to each other.

(2) When a DNS is issued for any of the proposals listed in (2)(a), the requirements in this subsection shall be met.

(a) An agency shall not act upon a proposal for fifteen days after the date of issuance of a DNS if the proposal involves:

- (i) Another agency with jurisdiction;
- (ii) Demolition of any structure or facility not exempted by WAC 197-11-800 (2)(f) or 197-11-880;
- (iii) Issuance of clearing or grading permits not exempted in Part Nine of these rules; ~~((¶))~~
- (iv) A DNS under WAC 197-11-350 (2), (3) or 197-11-360(4); or
- (v) A GMA action.

(b) The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the department of ecology, and affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under WAC 197-11-510.

(c) Any person, affected tribe, or agency may submit comments to the lead agency within fifteen days of the date of issuance of the DNS.

(d) The date of issue for the DNS is the date the DNS is sent to the department of ecology and agencies with jurisdiction and is made publicly available.

(e) An agency with jurisdiction may assume lead agency status only within this fifteen-day period (WAC 197-11-948).

(f) The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents. When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.

(3)(a) The lead agency shall withdraw a DNS if:

(i) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;

(ii) There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; or

(iii) The DNS was procured by misrepresentation or lack of material disclosure; if such DNS resulted from the actions of an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the lead agency or its consultant at the expense of the applicant.

(b) Subsection (3)(a)(ii) shall not apply when a nonexempt license has been issued on a private project.

(c) If the lead agency withdraws a DNS, the agency shall make a new threshold determination and notify other agencies with jurisdiction of the withdrawal and new threshold determination. If a DS is issued, each agency with jurisdiction shall commence action to suspend, modify, or revoke any approvals until the necessary environmental review has occurred (see also WAC 197-11-070).

**AMENDATORY SECTION** (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

**WAC 197-11-680 Appeals.** (1) **Introduction.** Appeals provisions in SEPA are found in RCW 43.21C.060, 43.21C.075 and 43.21C.080. These rules attempt to construe and interpret the statutory provisions. In the event a court determines that these rules are inconsistent with statutory provisions, or with the framework and policy of SEPA, the statute will control. Persons considering either administrative or judicial appeal of any decision which involves SEPA at all are advised to read the statutory sections cited above.

(2) **Appeal to local legislative body.** RCW 43.21C.060 allows an appeal to a local legislative body of any decision by a local nonelected official conditioning or denying a proposal under authority of SEPA. Agencies may establish procedures for such an appeal, or may eliminate such appeals altogether, by rule, ordinance or resolution.

(3) **Agency administrative appeal procedures.**

(a) Agencies may provide for an administrative appeal of determinations relating to SEPA in their agency SEPA procedures. If so, the procedures must comply with the following:

(i) The agency must specify by rule, ordinance, or resolution that the appeals procedure is available.

(ii) Appeal of the intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.

(iii) Appeals on SEPA procedures shall be limited to review of a final threshold determination and final EIS. The appeal of a final threshold determination may occur prior to an agency's final decision on a proposed action.

(iv) An agency shall provide for only one administrative appeal of a threshold determination or of the adequacy of an EIS; successive administrative appeals on these issues within the same agency are not allowed. This limitation does not apply to appeals to a local legislative body under RCW 43.21C.060 (or another state statute) or to administrative appeals before another agency.

(v) If the agency has made a decision on a proposed action, the appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA. For example, an appeal of the adequacy of an EIS must be consolidated with an appeal of the agency's decision on the proposed action, if both appeals are allowed in agency procedures.

(vi) Agencies shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(b) Agencies providing for administrative appeals shall provide for a record as required by RCW 43.21C.075 (3)(c).

(c) If an agency provides an administrative appeal procedure, that procedure must be used before anyone may

initiate judicial review of any SEPA issue that could have been reviewed under the agency procedures.

(4) Judicial appeals.

(a) SEPA authorizes judicial appeals of both procedural and substantive compliance with SEPA.

(b) When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do not (non-SEPA issues). RCW 43.21C.075 establishes time limits for raising SEPA issues, but says that existing statutes of limitations control the appeal of non-SEPA issues. The statute contemplates a single lawsuit, but allows for the SEPA and non-SEPA portions of that lawsuit to be filed at different times.

(c) If there is a time limit established by statute or ordinance for appealing the underlying governmental action, then appeals (or portions thereof) raising SEPA issues must be filed within thirty days after the agency gives official notice (see subsection (5) of this section for content of official notice).

(d) In any instance where subsection (c) of this subsection allows the SEPA portion of an appeal to be filed after the time limit established by statute or ordinance for appealing the underlying governmental action, some judicial action must be filed within the time set by statute or ordinance. That action may be later amended to raise SEPA issues within thirty days after the agency gives official notice (see subsection (5) of this section). In addition, where SEPA issues were first raised during an administrative appeal, any person desiring to raise SEPA issues by judicial appeal must submit a notice of intent to do so with the responsible official of the acting agency within the time limit set by statute or ordinance for appealing the underlying governmental action.

(e) The notice of action procedures of RCW 43.21C.080 may still be used. If this procedure is used, then the time limits for judicial appeal specified in RCW 43.21C.080 shall apply, unless there is a time limit established by statute or ordinance for appealing the underlying governmental action. If so, the time limit for appeal of SEPA issues shall be within thirty days after the agency gives official notice (see subsection (5) of this section). If the proposal requires more than one governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time to appeal the first governmental decision.

(f) If the time limit established by statute or ordinance for appealing the underlying governmental action is less than fifteen days, then the notice of action in RCW 43.21C.080(1) may be given by publishing once within that shorter time period, in a newspaper of general circulation in the area where the property that is the subject of the action is located, and meeting the other requirements of RCW 43.21C.080.

(g) If there is no time limit established by statute or ordinance for appeal, and the notice of action provisions are not used, then SEPA provides no time limit for judicial appeals. Appeal times may still be limited, however, by general statutes of limitation or the common law.

(h) For the purposes of this subsection, "a time limit established by statute or ordinance" does not include time

limits established by the general statutes of limitation in chapter 4.16 RCW.

~~((i) This subsection does not apply to petitions for judicial review of agency decisions in contested cases, or to petitions for a declaratory judgment on the validity of a rule, both of which are governed exclusively by the Administrative Procedure Act, chapter 34.04 RCW.))~~

(5) Official notice of the date and place for commencing an appeal.

(a) Official notice of the date and place for commencing an appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the underlying governmental action. The notice shall include:

(i) The time limit for commencing appeal of the underlying governmental action and the statute or ordinance establishing the time limit; and

(ii) The time for appealing SEPA issues (thirty days after notice); and

(iii) A statement that a notice of intent is required, if a notice is required under subsection (4)(d) of this section, and instructions on where to send the notice and by what date; and

(iv) Where an appeal may be filed.

(b) Notice is given by:

(i) Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and

(ii) Following the agency's normal methods of notice for the type of governmental action taken.

(c) Written notice containing the information required by subsection (5)(a) of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.

(d) Official notices required by this subparagraph shall not be given prior to final agency action.

**AMENDATORY SECTION** (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

**WAC 197-11-890 Petitioning DOE to change exemptions.** (1) Except for the preceding section, agencies may create additional exemptions in their procedures only after receiving approval from the department of ecology under this section.

(2) An agency may petition the department to adopt additional exemptions or to delete existing exemptions by amending these rules. The petition shall be made under RCW ~~((34.04.060))~~ 34.05.330. The petition shall state the language of the requested amendment, the petitioning agency's views on the environmental impacts of the activities covered by the proposed amendment, and the approximate number of actions of this type which have come before the petitioning agency over a particular period of time. The department shall consider and decide upon a petition within ~~((thirty))~~ sixty days of receipt. If the determination is favorable, the department shall begin rule making under chapter ~~((34.04))~~ 34.05 RCW. Any resulting amendments will apply either generally or to specified classes of agencies. Affected agencies shall amend their procedures accordingly.

(3) An agency may also petition the department for an immediate ruling upon any request to add, delete, or change

an exemption. If such a petition is granted, the department will notify the petitioning agency, which may immediately include the change approved by the department in its own procedures. The department may thereafter begin rule making proceedings to amend these rules. Until these rules are amended, any change granted under this subsection shall apply only to the petitioning agency or agencies.

(4) The department will provide public notice of any proposed amendments to these rules in the manner required by the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW. A copy of all approvals by the department under the preceding subsection shall be given to any person requesting the department for advance notice of rule making.

AMENDATORY SECTION (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

**WAC 197-11-904 Agency SEPA procedures.** (1) Each agency is required by the act and this section to adopt its own rules and procedures for implementing SEPA. (RCW 43.21C.120.) Agencies may revise or add to their SEPA procedures at any time. Agencies may adopt these rules (chapter 197-11 WAC) by reference, and shall meet the requirements of WAC 197-11-906 concerning the content of their procedures. State and local rules for carrying out SEPA procedures are called "agency SEPA procedures."

(2) State agencies shall adopt or amend their procedures within one hundred eighty days of the effective date of this chapter or subsequent revisions, or within one hundred eighty days of the establishment of an agency, whichever shall occur later. State agencies shall adopt their procedures by rule making under the state Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW. If a state agency does not have rule making authority under chapter ~~((34.04))~~ 34.05 RCW, the agency shall adopt procedures under whatever authority it has, and public notice and opportunity for public comment shall be provided. Adoption shall be deemed to have taken place at the time the transmittal of adopted rules is filed with the code reviser. ~~((Universities, colleges, and community colleges shall use the procedures of chapter 28B.19 RCW in adopting procedures.))~~

(3) Local agencies shall adopt or amend their procedures within one hundred eighty days of the effective date of this chapter or subsequent revisions, or within one hundred eighty days of the establishment of the local governmental entity, whichever shall occur later. Local agencies shall adopt their procedures by rule, ordinance, or resolution, whichever is appropriate, to ensure that the procedures have the full force and effect of law. Public notice and opportunity for public comment shall be provided as part of the agency's process for adopting its SEPA procedures.

(4) Any agency determining that all actions it is authorized to take are exempt under Part Nine of these rules may adopt a statement to the effect that it has reviewed its authorized activities and found them all to be exempt under this chapter. Adoption of such a statement under the procedures in subsections (2) and (3) shall be deemed to be in compliance with the requirement that the agency adopt procedures under this chapter.

(5) The adoption of agency procedures is procedural and shall be categorically exempt under this chapter (WAC 197-11-800(20)).

AMENDATORY SECTION (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

**WAC 197-11-908** ~~((Environmentally sensitive))~~ **Critical areas.** (1) ~~((Each county/city may at its option designate areas within its jurisdiction that are environmentally sensitive areas, and shall adopt such designation in its agency SEPA procedures (WAC 197-11-906). Environmentally sensitive areas shall be those within which the exemptions listed in the next subsection could have a significant adverse environmental impact, including but not limited to areas with unstable soils, steep slopes, unusual or unique plants or animals, wetlands, or areas which lie within floodplains. The location and extent of all environmentally sensitive areas shall be clearly indicated on a map that shall be adopted by reference as part of the SEPA procedures of the county/city; a copy shall be sent to the department of ecology.~~

~~((2))~~ Each county/city ~~((that designates and maps an environmentally sensitive area))~~ may select certain categorical exemptions that do not apply ~~((within the area))~~ in one or more critical areas designated in a critical areas ordinance adopted under GMA (RCW 36.70A.060). The selection of exemptions that will not apply may be made from the following subsections of WAC 197-11-800: (1), (2)(a) through (h), (3), (5), (6)(a), (14)(c), (24)(a) through (g), and (25)(d), (f), (h), (i).

The scope of environmental review of actions within these areas shall be limited to:

(a) Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and

(b) Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

All other categorical exemptions apply whether or not the proposal will be located within ~~((an environmentally sensitive))~~ a critical area. Exemptions selected by an agency ~~((that do not apply within the various environmentally sensitive areas))~~ under this section shall be listed ~~((within))~~ in the agency's SEPA procedures ~~((of any county/city adopting such areas; a copy shall be sent to the department of ecology))~~ (WAC 197-11-906).

~~((3))~~ (2) Proposals that will be located within ~~((environmentally sensitive))~~ critical areas are to be treated no differently than other proposals under this chapter, except as stated in the prior subsection. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in ~~((an environmentally sensitive))~~ a critical area.

~~((4))~~ ~~Certain categorical exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.)~~

AMENDATORY SECTION (Amending Order DE 83-39, filed 2/10/84, effective 4/4/84)

**WAC 197-11-938 Lead agencies for specific proposals.** Notwithstanding the lead agency designation criteria contained in WAC 197-11-926 through 197-11-936, the lead

agency for proposals within the areas listed below shall be as follows:

(1) For all governmental actions relating to energy facilities for which certification is required under chapter 80.50 RCW, the lead agency shall be the energy facility site evaluation council (EFSEC); however, for any public project requiring such certification and for which the study under RCW 80.50.175 will not be made, the lead agency shall be the agency initiating the project.

(2) For all private projects relating to the use of geothermal resources under chapter 79.76 RCW, the lead agency shall be the department of natural resources.

(3) For all private projects requiring a license or other approval from the oil and gas conservation committee under chapter 78.52 RCW, the lead agency shall be the department of natural resources; however, for projects under RCW 78.52.125, the EIS shall be prepared in accordance with that section.

(4) For ~~((aH))~~ private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.09 RCW, the lead agency shall be either the department of natural resources ~~((; however, for any proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the county/city requiring the license))~~ or the city/county where the project is located, as set forth below:

(a) The interagency agreements authorized by WAC 222-50-030 between the department of natural resources and other governmental agencies may be used to identify SEPA lead agency status for forest practice applications. If used, this agreement shall meet the requirements for a lead agency agreement in WAC 197-11-942.

(b) If no interagency agreement exists, the SEPA lead agency determination shall be based on information in the environmental checklist required as part of the forest practice application requiring SEPA review. The applicant shall, as part of the checklist, submit all information on future plans for conversion, and shall identify any known future license requirements.

(c) For any proposal involving forest practices (i) on lands platted after January 1, 1960, (ii) on lands being converted to another use, or (iii) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, the applicable county or city is the lead agency if the county or city will require a license for the proposal. Upon receipt of a forest practice application and environmental checklist, natural resources shall determine lead agency for the proposal. If insufficient information is available to identify necessary permits, natural resources shall ask the applicant for additional information. If a permit is not required from the city/county, natural resources shall be lead agency. If a city/county permit is required, natural resources shall send copies of the environmental checklist and forest practice application together with the determination of the lead agency to the city/county.

(d) Upon receipt and review of the environmental checklist and forest practice application, the city/county shall within ten business days:

(i) Agree that a city/county license is required, either now or at a future point, and proceed with environmental review as lead agency.

(ii) Determine that a license is not required from the city/county, and notify natural resources that the city/county is not lead agency; or

(iii) Determine there is insufficient information in the environmental checklist to identify the need for a license, and either:

(A) Assume lead agency status and conduct appropriate environmental analysis for the total proposal;

(B) Request additional information from the applicant;

or

(C) Notify natural resources of the specific additional information needed to determine permit requirements, who shall request the information from the applicant.

(5) For all private projects requiring a license or lease to use or affect state lands, the lead agency shall be the state agency managing the lands in question; however, this subsection shall not apply to the sale or lease of state-owned tidelands, harbor areas or beds of navigable waters, when such sale or lease is incidental to a larger project for which one or more licenses from other state or local agencies is required.

(6) For all proposals which are being processed under the Environmental Coordination Procedures Act of 1973 (ECPA), chapter 90.62 RCW, the lead agency shall be determined under the standards of these rules.

(7) For a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology, when a National Pollutant Discharge Elimination System (NPDES) permit is required under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).

(8) For proposals to construct a pipeline greater than six inches in diameter and fifty miles in length, used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under pressure not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(9) For proposals that will result in an impoundment of water with a water surface in excess of forty acres, the lead agency shall be the department of ecology.

(10) For proposals to construct facilities on a single site designed for, or capable of, storing a total of one million or more gallons of any liquid fuel not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

(11) For proposals to construct any new oil refinery, or an expansion of an existing refinery that shall increase capacity by ten thousand barrels per day or more not under the jurisdiction of EFSEC, the lead agency shall be the department of ecology.

~~((proposals to construct any new metallic mineral processing plant, or to expand any such existing plant by ten percent or more of design capacity))~~ proposed metal mining and milling operations regulated by chapter 78.56 RCW, except for uranium and thorium operations regulated under Title 70 RCW, the lead agency shall be the department of ecology.

(13) For proposals to construct, operate, or expand any uranium or thorium mill, any tailings areas generated by uranium or thorium milling or any low-level radioactive waste burial facilities, the lead agency shall be the department of social and health services.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 197-11-748 Environmentally sensitive area.

**WSR 95-07-042****PERMANENT RULES****WASHINGTON STATE UNIVERSITY**

[Filed March 8, 1995, 10:41 a.m.]

Date of Adoption: February 17, 1995.

Purpose: To regulate parking at the intercollegiate center for nursing education.

Citation of Existing Rules Affected by this Order: Amending WAC 504-18-110, 504-18-120, 504-18-140, 504-18-150, and 504-18-170.

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

Pursuant to notice filed as WSR 94-22-057 on November 1, 1994.

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

March 2, 1995

Lou Ann Pasquan  
Rules Coordinator

AMENDATORY SECTION (Amending Order 73-8, filed 10/5/73)

**WAC 504-18-110 Authorization.** Washington State University is the coordinating institution for Eastern Washington ((State College)) University, ((Fort Wright College,)) Whitworth College and Washington State University, the participating institutions in the intercollegiate center for nursing education (ICNE) in Spokane, and the participating institutions have delegated authority to Washington State University to act as their agent. The board of regents, Washington State University, is authorized by state law to establish parking regulations and to provide penalties for infractions of regulations (RCW 28B.10.560 and 28B.15.031).

AMENDATORY SECTION (Amending Order 73-8, filed 10/5/73)

**WAC 504-18-120 Definitions.** (1) The words "center" or "ICNE" for purposes of these regulations mean((s)) the center for nursing education in Spokane, also known as the intercollegiate center for nursing education.

(2) The words "motor vehicle" or "vehicle" include((s)) automobiles, trucks, motorcycles, motor scooters, and all other motor-driven conveyances licensed for use on public streets.

(3) The word "staff" as it appears herein((s)) refers to faculty and staff of the center and employees of noncenter organizations who work in center facilities.

(4) "Visitor" refers to those persons having no direct relationship with the center as do staff and students, but who do have official business with the center.

AMENDATORY SECTION (Amending Order 73-8, filed 10/5/73)

**WAC 504-18-140 Parking permits.** (1) General information

(a) Parking permits will be issued by the business office ((of the dean)) of the ((center for nursing education)) ICNE in Spokane, following application and the payment of the appropriate fee. Parking permits will be evidenced by flashers. By means of design, color, permit number, type and year, such flashers will identify each vehicle and designate the type of parking permitted. No permit shall be valid for longer than one year. Each permit shall terminate at the commencement of the next succeeding fall term of an academic year.

(b) All parking permits and flashers must be affixed in an approved location so that they are clearly visible and readable from the outside of the vehicle. ((Duplicate flashers and a)) Transferable ((card)) permits will be issued to multiple vehicle families or vehicle pool groups of either staff or students where only one vehicle at a time will be parked on center lots.

((c)) Parking permits and flashers must be affixed in the lower left corner (driver's side) of the rear window with the following exceptions:

((i)) On convertibles and trucks, they must be affixed in the lower left corner of the front windshield.

((ii)) On station wagons, they must be affixed on the rear of the left rear side window.

((iii)) On motoreycles, they must be affixed in a conspicuous place.

((iv)) Each vehicle in a pool group must display a pool flasher in the appropriate location as set forth above. In addition, the vehicle parked on a center lot must display the transferable card permit in the lower left corner (driver's side) of the windshield.

(2) Staff members

(a) A parking permit is required of any staff member who wishes to park a vehicle on ((a center)) an ICNE lot.

((a)) (b) Staff disability flashers are for a specified parking place upon certification by a physician that the health of the staff member requires a parking place close to ((his)) work. The permits may be issued for up to a year depending upon the nature of the disability.

((b)) Service flashers are for staff who must use their private vehicles for center business and authorize parking in loading zones for not more than 15 minutes. (A staff permit is also required and this applies only to center parking lots.)

(3) Students

A parking permit is required of any student who wishes to park a vehicle on ((center)) the ICNE lots.

(4) Visitor parking

(a) Vehicles of official visitors to the center with tax-exempt licenses will be allowed to park on center lots without permits.

(b) Visitor permits may be requested by those who are not employed by or enrolled at the Spokane center. These permits are issued free of charge by the business office ((of the dean)) of the ((center for nursing education)) ICNE in Spokane.

(5) Motorcycles

PERMANENT

Motorcycle permits may be purchased by either staff or students and are valid only in designated motorcycle areas. Pool flashers and transferable card permits are valid on motorcycles.

**AMENDATORY SECTION** (Amending Order 74-4, filed 12/4/74)

**WAC 504-18-150 Parking permit fees.** (1) Staff members

The fee for a staff parking permit at any time during the first ~~((term))~~ semester (fall) is ~~(((\$45.00))~~ \$73.44. The fee at any time during the second ~~((term (winter)))~~ semester (spring) is ~~(((\$30.00))~~ \$36.72. ~~((The fee at any time during the third term (spring) is \$15.00.))~~ Upon request, a refund of ~~(((\$30.00))~~ \$36.72 will be made to a staff member who leaves at the end of the first ~~((term. A \$15.00 refund will be made upon request from any staff member who leaves at the end of the second term))~~ semester. A request must be made before the end of the second week of the ~~((term in session))~~ second semester. There will be no refunds during the summer or for a partial period. Temporary staff permits may be purchased at the rate of \$.50 a day or 10 consecutive working days for ~~(((\$3.00))~~ \$5.40.

(2) Students

The fee for a student parking permit for the student lot is ~~(((\$9.00))~~ \$54.00 any time during the first ~~((term (fall)))~~ semester, ~~(((\$6.00))~~ and \$27.00 at any time during the second ~~((term (winter), and \$3.00 at any time during the third term (spring)))~~ semester. Upon request, a refund of ~~(((\$6.00))~~ \$27.00 will be made at the end of the first ~~((term, \$3.00 at the end of the second term))~~ semester to a student who withdraws from school or no longer needs a permit. A request must be made before the end of the second week of the ~~((term in session))~~ semester. No refund will be made for the summer or partial periods. Temporary student permits may be purchased at the rate of ~~(((\$2.25))~~ \$.50 a day or 10 consecutive school days for ~~(((\$1.00))~~ \$5.40.

(3) Motorcycles

Motorcycle permits may be purchased by either staff or students for ~~(((\$4.50))~~ \$17.28 any time during the first ~~((term (fall), \$3.00))~~ and \$8.64 any time during the second ~~((term (winter), and \$1.50 any time during the third term (spring)))~~ semester. A refund of ~~(((\$3.00))~~ \$8.64 will be made upon request if ~~((the))~~ a person leaves at the end of the first ~~((term, or no longer needs a permit, and \$1.50 refund at the end of the second term. There will be no refund for partial period or the summer))~~ semester. A request must be made before the end of the second week of the ~~((term in session))~~ second semester. Motorcycles must be parked in spaces so designated.

**AMENDATORY SECTION** (Amending Order 73-8, filed 10/5/73)

**WAC 504-18-170 Administration and enforcement.**

(1) The ~~((dean))~~ finance officer of the ~~((center for nursing education))~~ ICNE in Spokane is responsible for the administration and enforcement of the center parking regulations ~~((including the appointment of a center parking committee which shall consist of not more than 5 members and shall include representation of faculty, staff and students at the center)).~~

~~((2))~~ ~~((The center parking committee is responsible for the following:~~

~~((a))~~ ~~To make recommendations on regulations governing center parking facilities and control.~~

~~((b))~~ ~~To make recommendations for physical improvements in parking facilities.~~

~~((c))~~ ~~To review the administration and enforcement of these regulations.~~

~~((d))~~ ~~To hear appeals.~~

~~((3))~~ ~~Anyone observed in violation of parking regulations may be given a notice of violation.~~

~~((4))~~ ~~(3) The university reserves the right to impound any illegally parked vehicle at either or both the owner's or driver's expense.~~

~~((5))~~ ~~(4) Parking violations will be processed by the business office of the ((dean of the center for nursing education)) ICNE in Spokane and will be paid ((to a representative designated)) in that office. Parking violations may be appealed in writing within 10 days of the violation.~~

~~((6))~~ ~~(5) The fines for staff and students will be:~~

~~((a))~~ ~~(\$2.00 for absence of transferable pool card when required.~~

~~((b))~~ ~~\$5.00) \$10.00 for absence of parking permit when required, or improper parking, or parking in an area not allowed by permit.~~

~~((c))~~ ~~\$10.00) (b) \$20.00 for parking in a ((staff disability)) disabled parking space without a ((staff)) disability permit.~~

~~((d))~~ ~~\$25.00 for displaying a counterfeit permit or flasher or obtaining one under false pretenses.~~

~~((7))~~ ~~(6) Failure of a student or staff member to pay the fine assessed for any violation will result in the total amount of the fines being referred to the participating institution at which the staff member is employed or the student is registered for collection. The participating institution, including Washington State University, may, if other collection efforts fail, ((deduct outstanding fines from salaries of employees to secure payment of)) withhold outstanding fines from damage deposits or other funds held for students. Where collection efforts are unsuccessful, the participating institutions, including Washington State University, may refrain from issuing copies of student transcripts or withhold permission to reenroll for an ensuing term until outstanding fines are paid.~~

(7) Appeal procedure

This procedure serves two primary purposes: To assure an impartial evaluation of certain circumstances and situations relating to an appeal and to aid in the appraisal of parking problems. ~~((The appeal procedure may involve two steps:~~

~~((a))~~ ~~The initial appeal must be in writing. The forms for this purpose may be obtained at the business office ((of the dean)) of the ((center for nursing education)) ICNE in Spokane. ((After review by the center parking committee, the appellant and the appropriate administrative unit within the dean's office are notified by mail whether the appeal is granted or rejected.~~

~~((b))~~ ~~If the appeal is rejected, the appellant may request a hearing before the center parking committee to present his case in person, and if appellant so requests, a hearing shall be scheduled with [within] a reasonable time. Following the hearing, the appellant is notified by mail as to the decision~~

~~of the committee.))~~ Appeals are reviewed and acted on by the ICNE finance officer.

**WSR 95-07-043**  
**PERMANENT RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed March 8, 1995, 10:45 a.m.]

Date of Adoption: February 17, 1995.

Purpose: To regulate access and disclosure of education records. To implement federal law regarding education records.

Citation of Existing Rules Affected by this Order: Amending WAC 504-21-030, 504-21-040, 504-21-050, 504-21-070, 504-21-080, and 504-21-090.

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

Pursuant to notice filed as WSR 94-22-058 on November 1, 1994.

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

March 2, 1995

Lou Ann Pasquan  
 Rules Coordinator

AMENDATORY SECTION (Amending Order 77-1, filed 5/2/77)

**WAC 504-21-030 Education records—Student's right to inspect.** (1) A student has the right to inspect and review his or her education records. A list of the types of education records maintained by the university and the record locations may be obtained by the student at the office of student affairs (~~(, the office of university relations,))~~ or at the registrar's office.

(a) For purposes of this ~~((section))~~ chapter the term "education records" means those records, files, documents and other materials which contain information directly related to a student.

(b) The term "education records" does not include:

(i) Records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute or the maker's administrator.

(ii) Records of the university police department which are ~~((kept apart from those records described in subsection (i) of this section and which are))~~ maintained ~~((solely))~~ by the law enforcement unit of WSU that were created by the WSU law enforcement unit for the purposes of law enforcement ((purposes and are not made available to persons other than law enforcement officials of the same jurisdiction)).

(iii) Records made and maintained in the normal course of business which relate exclusively to the person's capacity as an employee and are not available for any other purposes. Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under this paragraph.

(iv) Records on a student which are created or maintained by a physician, psychiatrist, psychologist or other recognized professional or para-professional, acting in a

professional or para-professional 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 ~~((; provided, however, that))~~. Such records can be personally reviewed by a physician or other appropriate professional of the student's choice. In addition, health care information may be disclosed if authorized by state law.

(v) Records that contain information about an individual after he or she is no longer a student at that agency or institution.

~~((2))~~ ~~((a))~~ Recommendations, evaluations or comments concerning a student that are provided in confidence, either expressed or implied, as between the author and the recipient, shall be made available to the student, except as provided in ~~((paragraphs (b), (c) and (d) of this section))~~ this subsection.

~~((b))~~ (a) The student may specifically release his or her right to review where the information consists only of confidential letters and recommendations respecting:

(i) Admission to any educational institution, or

(ii) ~~((Applications for))~~ Employment application information and documents filed and maintained at the student's request at the university office of career services and placement.

(iii) Receipt of an honor or honorary recognition.

(iv) Faculty evaluations and other education records placed in departmental files where the department serves in a placement or referral capacity.

~~((e))~~ (b) A student's waiver of his or her right of access to confidential statements ~~((shall apply))~~ is valid only if:

(i) The student ~~((is))~~, upon request, shall be notified of the names of all persons making confidential statements concerning him ~~((;))~~; and

(ii) ~~((Such))~~ Confidential statements ~~((are))~~ shall be used solely for the purpose for which they were originally intended ~~((;))~~; and

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the university.

~~((d))~~ (iv) The waiver is made in writing and signed by the student, regardless of age.

(c) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release ~~((under (a) above))~~ to the student. Such records shall remain confidential and shall be released only with the consent of the author of the specific document. Such records shall be used by the institution only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to the requesting student.

(4) Students have the right to obtain copies of their education records. Charges for the copies shall not exceed the cost normally charged by a Washington State University copy center (except in cases where charges have previously been approved for certain specified services, such as transcripts and grade sheets).

(5) The registrar is the official custodian of academic records and therefore is the only official who may issue a transcript of the student's official academic record.

(6) Student education records may be destroyed in accordance with a department's routine retention schedule where the departmental procedure has been approved by the university records officer. In no case will any record which is requested by a student for review in accordance with these regulations be removed or destroyed prior to ~~((providing the student access))~~ final disposition of the record request.

AMENDATORY SECTION (Amending Order 77-1, filed 5/2/77)

**WAC 504-21-040 Requests and appeal procedures.**

(1) A request by a student for review of information shall be made in writing to the university employee or office having custody of the particular record.

(2) The person or office receiving a proper request for review of information must respond to a request for education records within a reasonable period of time, but in no case more than 45 days after the request has been made. A university employee or office which is unable to comply with a student's request within the above-stated time period shall inform the student of that fact and the reasons therefor in writing.

(3)(a) A student who ~~((feels that))~~ believes his or her request has not been properly answered by a particular person or office should ~~((contact))~~ consult the appropriate dean or director having supervisory responsibility for the office ~~((for mediation)).~~

(b) ~~((In cases where))~~ If a student remains dissatisfied after consulting with the appropriate dean or director, the student may then request a hearing ~~((by))~~ before the university's student records committee. Following the hearing, the university's student records committee shall render its decision within a reasonable period of time. The decision of the university's student records committee shall be final, except as ~~((allowed for))~~ provided in WAC 504-21-080.

(c) In no case shall any request for review by a student be considered by the university's student records ~~((committee))~~ officer which has not been filed with that ~~((body))~~ officer in writing within 90 days from the date of the initial request to the custodian of the record.

(d) The student records committee shall not review any matter regarding the appropriateness of official academic grades. (University ~~((Rule))~~ Academic Regulation 104, "academic complaint procedure" should be followed in all cases involving grading disputes.)

(e) Eligible students are hereby notified of their right to file a complaint with the Department of ~~((Health))~~ Educational ~~((and Welfare))~~ concerning any alleged failure of Washington State University to comply with the Family Educational Rights and Privacy Act of 1974, as amended.

AMENDATORY SECTION (Amending Order 77-1, filed 5/2/77)

**WAC 504-21-050 Release of personally-identifiable records.** (1) The university shall not permit access to or the release of education records or personally-identifiable information contained therein, other than "directory informa-

tion," without the written consent of the student to any party other than the following:

(a) University staff and faculty, including deans, department and program ~~((chairmen))~~ chairs and academic advisers, and faculty and students when officially appointed to a university senate or administrative committee, when the information is required for a legitimate educational interest within the performance of their responsibilities to the university, with the understanding that its use will be strictly limited to the performance of those responsibilities.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federally- or state-supported education program or in connection with the enforcement of ~~((the))~~ federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials, and such personally-identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Persons or organizations, other than parents or legal guardians, providing to the student financial aid, or determining financial aid decisions concerning eligibility, amount, condition, and enforcement of terms of said 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, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Education records may be used for legitimate academic research; provided that

(i) The procedures utilized and the reported findings do not violate the student's confidence~~((:));~~

(ii) Students' names will not be included in the study or in any way linked with the data~~((:));~~

(iii) Case histories and case records are sufficiently disguised to prevent identification of the individuals involved~~((:));~~ and

(iv) The student's written permission is obtained where individual identification occurs.

(f) Accrediting organizations in order to carry out their accrediting functions.

(g) Any person or entity designated by judicial order or lawfully-issued subpoena, upon condition that a ~~((serious))~~ reasonable attempt has been made to notify the student of all such orders or subpoenas in advance of the compliance therewith. Any university employee or office receiving a subpoena or judicial order for education records should immediately notify the WSU ~~((attorney general's))~~ division of the office of the attorney general.

(h) Parents or legal guardians of a student who have established that student's status as ~~((a))~~ their dependent according to Internal Revenue Code of 1954, Section 152.

(i) An alleged victim of any crime of violence as defined by 18 U.S.C. § 16 shall be informed of the results of any disciplinary proceeding conducted by WSU against

the alleged perpetrator of that crime with respect to that crime.

(i) To the office of the attorney general when disclosure is to comply with a judicial order or to provide legal advice.

(2) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

- (a) A specification of the records to be released,
- (b) The reasons for such release, and

(c) The names of the parties to whom such records will be released unless the nature of the activity is such that advance identification of recipients is not possible such as employment assistance provided by the university office of career services and placement, in which case an effort will be made to identify recipients of information as they become known.

(3) In cases where records are made available without student ~~((release))~~ consent as permitted by WAC 504-21-050 (1)(b), (c), (d), (e) ~~((and))~~, (f), (i) and (j) the university shall maintain a record which will indicate the parties which have requested or obtained access to a student's records maintained by the university and which will indicate the legitimate interest of the ~~((investigating))~~ requesting party. Releases in accordance with WAC 504-21-050 (1)(a) need not be recorded.

(4) Personally-identifiable education records released to third parties, with or without student consent, shall be accompanied by a printed statement indicating that the information cannot be subsequently released in a personally-identifiable form to any other parties without obtaining consent of the student.

(5) The term "directory information" used in WAC 504-21-050(1) is defined as student's name (including any former name), local and ~~((home address,))~~ permanent addresses and telephone numbers, major and minor fields of study, class (e.g., freshman, sophomore), participation in officially-recognized activities in sports, weight and height of members of athletic teams, dates of attendance including number of hours enrolled, degrees, certificates, and awards received including the president's ~~((list of))~~ honor roll, and the most recent previous educational ~~((agency or))~~ institution attended by the student. Students may request that the university not release directory information ~~((by so indicating on their registration form))~~ by filing a request with the registrar's office or the office of payroll services.

(6) Information from education records may be released 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 person(s).

AMENDATORY SECTION (Amending Order 77-1, filed 5/2/77)

**WAC 504-21-070 Student records ~~((committee))~~ officer.** The ~~((student records committee))~~ president's designee shall be responsible for reviewing unusual requests for information and for assisting in the interpretation of these rules. The ~~((committee))~~ designee shall also be responsible for hearing appeals as defined in WAC 504-21-040. ~~((The committee shall consist of the registrar, a graduate student, an undergraduate student, two faculty members, and a~~

~~representative from the office of student affairs. Members shall be appointed by the president of the university.))~~

AMENDATORY SECTION (Amending Order 77-1, filed 5/2/77)

**WAC 504-21-080 Right of student to register objections.** Any student who objects to the accuracy or truthfulness of any information contained in any university education record that is related to him or her may, after processing an unsuccessful appeal pursuant to WAC 504-21-040, submit a written view regarding his or her education records to the ~~((executive vice president))~~ provost, who shall review the appeal and take necessary action which may include reconsideration by the student records ~~((committee))~~ officer or inclusion of the written objection or summary thereof in such education records; provided, however, no student has any right to post objections to academic grades and have the same appear on the student's academic record.

AMENDATORY SECTION (Amending Order 77-1, filed 5/2/77)

**WAC 504-21-090 Notice of rights given under Family Educational Rights and Privacy Act of 1974.** In accordance with the requirements of the Family Education Rights and Privacy Act of 1974, the university will make its best efforts to notify all students of the rights under this act. Such notification shall be done through the Washington Administrative Code procedure ~~((provided for by the Higher Education Administrative Procedure Act))~~, notices to the campus newspaper and radio and television services, and such other publications and media that the university deems appropriate.

#### WSR 95-07-044

#### PERMANENT RULES

#### WASHINGTON STATE UNIVERSITY

[Filed March 8, 1995, 10:48 a.m.]

Date of Adoption: February 17, 1995.

Purpose: To outline Washington State University's freshman live-in rule, living group discipline jurisdiction and alcohol policies as they relate to living groups.

Citation of Existing Rules Affected by this Order: Repealing WAC 504-24-015; and amending WAC 504-24-030.

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

Pursuant to notice filed as WSR 94-22-059 on November 1, 1994.

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

March 2, 1995

Lou Ann Pasquan  
Rules Coordinator

#### Chapter 504-24 WAC POLICIES AND REGULATIONS ~~((APPLYING TO ALL STUDENTS))~~ FOR STUDENT LIVING GROUPS

AMENDATORY SECTION (Amending Order 87-1, filed 5/26/87)

**WAC 504-24-030** (~~(Housing regulations for)~~) Undergraduate(s) housing requirement. (1) University-recognized housing includes residence halls, fraternities, sororities, and co-op houses.

(2) Housing requirements for single undergraduate students. All single undergraduate freshmen under twenty years of age are required to live in organized living groups which are officially recognized by the university (residence halls, fraternities and sororities) for one academic year.

(a) Exemptions. Exemptions will be considered when a student demonstrates to the department of residence ~~((living))~~ life that either:

(i) The student has attended an institution of higher education as a regularly enrolled student for at least two regular semesters or three regular quarters (excluding summer sessions)~~((-))~~;

(ii) The student is living with immediate family in a family situation (mother and/or father; legal guardian; aunt or uncle; or ~~((grandparents-))~~ grandparent(s));

(iii) The student has secured a statement from a physician or psychologist stating that residence in recognized student housing would ~~((have detrimental effects on))~~ detrimentally affect the student's physical health or emotional well-being((-)); or

(iv) The student ~~((can))~~ demonstrates that living in recognized University housing would cause undue financial hardship.

(b) Process. Applications for permission to reside off campus are available from the Washington State University Department of Residence ~~((Living))~~ Life, Streit-Perham Office Suite, Pullman, WA 99164-1726. Applications are reviewed and a determination is made whether an exemption will be granted. Persons applying for such exemption will be informed of the decision in writing. Requests for reconsideration of the decision may be submitted to the vice-provost for student affairs. The ~~((office of the))~~ vice-provost ~~((for student affairs))~~ or his/her designee will evaluate the appeal and approve or deny the appeal.

~~((3))~~ Living group discipline jurisdiction.

(a) ~~Residence halls: Each university residence hall has a framework of rules, policies and traditions for the effective operation of its program. A student in signing a residence hall contract agrees to abide by the rules governing members of a university residence hall.~~

~~Standards boards in the residence halls working closely with their residence hall directors and the office of residence living are encouraged to act on such internal disciplinary problems as they feel competent to deal with effectively. Cases beyond their jurisdiction will be handled by the office of student affairs or the university conduct committee as the nature of the problem determines.~~

(b) ~~Fraternities sororities: Each of the Greek letter living groups has developed policies and regulations governing the conduct of members and the operation of the organizations. A student in joining one of these groups assumes certain responsibilities of the living group organization.~~

~~Student officers in fraternities and sororities working closely with their advisors and the office of residence living~~

~~are encouraged to act on such discipline problems involving their members as they feel competent to deal with effectively. Cases beyond their jurisdiction will be handled by the office of student affairs or the university conduct committee as the nature of the problem determines.~~

~~(e) Off campus students: Discipline cases involving students not living in organized living groups will be handled directly by the office of student affairs or the university conduct committee.)~~

NEW SECTION

**WAC 504-24-035 Alcohol policies.** (1) The use of alcohol by living groups is restricted as stated in WAC 504-25-050, residence hall contracts, and as stated in other annual agreements between the university and living groups.

(2) Specific living groups within the university community may choose to employ local regulations more restrictive than those imposed by the state or the university.

NEW SECTION

**WAC 504-24-040 Living group discipline jurisdiction.** (1) Residence halls.

(a) Residence hall contracts. Each university residence hall has a framework of rules, policies, and traditions for the effective operation of its program. A student signing a residence hall contract agrees to abide by the residence hall policies set forth in the residence hall contract.

(b) Residence hall conduct board.

(i) Residence hall conduct boards are empowered to hear cases of alleged violations of the residence hall contract and to issue sanctions when a board finds a resident or residents responsible for a violation of a residence hall contract. Residence hall conduct board hearings shall be conducted in accord with this chapter.

(ii) Student conduct code. Violations of a residence hall contract which also amount to a violation of university conduct regulations may also subject an accused student to the university conduct system, regardless of whether or not the violation is handled at the hall level.

(2) Fraternities and sororities.

(a) Governing regulations. Each of the fraternities and sororities has developed policies and regulations governing the conduct of members and the operation of the organizations. Annual agreements between the university and each fraternity and sorority also govern the behavior of members. In joining one of these groups a student assumes the responsibilities of the living group organization.

(b) Student conduct code. Violations of fraternity or sorority living group policies or regulations which also amount to a violation of the university conduct regulations or violations of fraternity or sorority living group agreements with the university may also subject the accused student or students to the university conduct system, regardless of whether or not the member's fraternity or sorority organization handles the violation at a living group level.

PERMANENT

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 504-24-015 Agreed resolutions in student discipline cases.

**WSR 95-07-045**  
**PERMANENT RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed March 8, 1995, 10:53 a.m.]

Date of Adoption: February 17, 1995.

Purpose: Sets forth violations of the conduct code, sanctions for violations, and the processes for imposing sanctions.

Citation of Existing Rules Affected by this Order: Amending WAC 504-25-010, 504-25-020, 504-25-025, 504-25-035, 504-25-050, 504-25-055, 504-25-060, 504-25-080, 504-25-100, 504-25-120, 504-25-138, 504-25-210, 504-25-215, 504-25-220, 504-25-225, 504-25-230, 504-25-235, 504-25-240, and 504-25-245.

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

Pursuant to notice filed as WSR 94-22-060 on November 1, 1994.

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

March 2, 1995

Lou Ann Pasquan  
 Rules Coordinator

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-010 Introduction.** When students enroll at Washington State University they assume an obligation to conduct themselves in a manner (~~(which)~~) that is compatible with the university's function as an educational institution. (~~(It is clear that)~~) In a community of learning, willful disruption of the educational process, dishonesty, violation of the laws of the state and interference with the rights of others cannot be tolerated. Washington State University retains the right and the power to maintain order within the university and to exclude those who are disruptive to the educational process. To that end, the university community has established the following rules, regulations, and policies which apply to all students and student organizations, including fraternities, sororities, and living groups.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-020 Discrimination.** Discrimination on the basis of race, national or ethnic origin, creed, age, sex, marital status, status as a Vietnam veteran, sexual orientation or (~~(handicap)~~) disability is prohibited. This rule will be interpreted in conformity with (~~(current)~~) federal and state laws on discrimination.

This antidiscrimination regulation explicitly incorporates and prohibits sexual or racial harassment by students. Sexual and racial harassment are defined as conduct which is sexually or racially motivated and has the purpose or

effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive environment.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-025 Sexual (~~(assault)~~) offenses.** (1) Sexual (~~(assault in any form)~~) offenses of any kind, including acquaintance rape, (~~(is)~~) indecent liberties and assault of a sexual nature are prohibited. University policy prohibiting sexual offenses is consistent with state law (~~(in defining and prohibiting rape, sexual assault, and other forced and/or nonconsensual sexual activity)~~).

(2) The definition of rape under state law includes sexual intercourse with a person who clearly expressed lack of consent by his or her words or conduct. Washington law further defines consent to sexual activity as actual words or conduct indicating freely given agreement to have sexual intercourse.

(3) The definition of indecent liberties under state law includes knowingly causing sexual contact with a person by forcible compulsion or when the person is incapable of consent by reason of mental defect, mental incapacitation, or physical helplessness. Pursuant to Washington law, sexual contact means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party.

(4) The university also prohibits sexual contact when such contact amounts to assault under Washington law. Assault includes harmful and offensive contact with another. Lack of opportunity to consent to the contact may be evidence of assault.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-035 Hazing.** Hazing is prohibited. Hazing is defined as any action required of or imposed on current or potential members of a group which, regardless of location of the incident or consent of the participant(s):

(1) Produces, or is reasonably likely to produce bodily harm (~~(or danger)~~), mental or physical discomfort, (~~(embarrassment)~~) harassment, fright, humiliation, (~~(or)~~) ridicule, substantial interference with academic efforts, or significant impairment or endangerment of physical well-being or;

(2) Compels an individual to participate in any activity which is illegal, perverse or publicly indecent or contrary to university rules, regulations, or policies or which is known by the (~~(compelling)~~) person(s) compelling the activity to be contrary to the individual's moral or religious beliefs (~~(or~~ (3) ~~Impairs an individual's academic efforts)~~).

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-050 Alcohol.** (1) Illegal use, possession, or sale of intoxicating beverages is prohibited. University policy is consistent with state laws on the sale, possession, and consumption of alcoholic beverages.

(2) Consumption or possession of alcohol by students in public areas of any university-owned or controlled property is prohibited except (~~(as stipulated in subsection (4) of this~~

section)) for students of legal age at university-approved events.

(3) Unless specifically approved for those of legal age, consumption or possession of alcohol at or in line for university-sponsored or supervised events is prohibited.

~~((4) Students who are twenty-one years old or older may consume or possess alcoholic beverages at a sponsored event for which there is an alcohol license or banquet permit.))~~

AMENDATORY SECTION (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-055 Drugs.** Illegal use, possession, manufacture, sale, or distribution of any narcotic or dangerous drug is prohibited. University policy is consistent with state and federal laws which regulate controlled substances.

AMENDATORY SECTION (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-060 Firearms and dangerous weapons.**

(1) Illegal possession, carrying or discharge of any explosive, firearm, or other weapon (including ~~((shot guns))~~ shotguns, rifles, pistols, air guns, and pellet guns) is prohibited. No student may possess any firearm, explosive, dangerous chemical, or dangerous weapon while on the campus or on other university-controlled or approved property, including university residence halls, apartments, and approved housing except in transit to or from approved storage or to leave campus.

(2) Any student who wants access to any firearm or weapon while on campus must immediately place the firearm(s) or weapon(s) in the university-provided storage facility while the firearm(s) or weapon(s) is on campus. The storage facility is located at the Washington State University police department and is accessible on a twenty-four-hour basis.

AMENDATORY SECTION (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-080 Forgery and misrepresentation.** Falsifying information to university officials including ~~((falsifying information submitted or))~~ issuing false identification within the university community; failing to reveal relevant information on any university form or federal financial aid form((:)); offering any false information in any university disciplinary proceeding, academic exercise or hearing, employment situation, or in any other university situation; or maliciously altering or misusing university documents, records, permits, or identification is prohibited.

AMENDATORY SECTION (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-100 Public indecency and obscenity.** Indecent or obscene conduct is prohibited. Indecent or obscene conduct is conduct which is public and offensive to university community standards.

AMENDATORY SECTION (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-120 Failure to comply with a proper order.** ~~((Willful refusal or failure,))~~ While on university-owned or controlled property or on the premises of university-approved housing, willful refusal or failure to comply with a proper order or request of a university official, campus security officer or law enforcement officer, acting in performance of their duties is prohibited.

NEW SECTION

**WAC 504-25-138 Misuse of student identification.** Misuse of student identification is prohibited. Misuse of student identification includes, but is not limited to, alteration of validly issued identification in any manner; use of, or allowing use of, identification by a person other than the one for whom the identification was issued; or use of counterfeit student identification.

AMENDATORY SECTION (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-210 Disciplinary procedures.** (1) Any student, faculty member, staff member, or the university may file a complaint against a student or student organization for any violation of the standards of conduct.

(2) Once a complaint has been initiated, the following procedures are followed:

(a) The accused student or the ~~((president))~~ presiding officer of the accused student organization is contacted ~~((and))~~ to be interviewed by the university judicial officer. During that interview the student is informed of the charge(s) and asked to make a written statement about the incident. The student is also informed of the individual's or organization's rights and responsibilities in the disciplinary process. The investigation may include interviews of other people involved. The judicial officer may discontinue any investigation when the allegation(s) is/are deemed to be without basis or there is insufficient basis for the allegation(s).

(b) In the event ~~((that))~~ the judicial officer finds ~~((that))~~ there is any basis to the allegation(s), the student or student organization may be officially charged with violation(s) of the standards of conduct. The student or student organization will be assigned to either an administrative hearing or a university conduct board hearing. Any student accused of an offense which could result in suspension or expulsion will be sent to a full university conduct board hearing, unless the student requests and is granted an administrative hearing.

(c) ~~((When))~~ Any student or student organization ~~((is))~~ charged with violation(s) of the standards of conduct ~~((they))~~ must be notified at least seven calendar days in advance of the hearing. The notice must be in writing and include:

(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; and

(iii) The time and place of the hearing.

(3) If a student has withdrawn or withdraws after the filing of any charge of a violation of the standards of conduct, either:

(a) A "registration hold" will be placed on the student's academic record and the student will be notified that disciplinary action may be initiated upon the student's reentry or application for readmission; or

(b) The university may proceed with the disciplinary action.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-215 Judicial officer ((and)), hearing boards and appeal boards.** Generally, the first contact with any student or student organization involved in the discipline process is made by the university judicial officer. The judicial officer is an assistant in the office of student affairs and serves as the chief investigator and prosecutor. The judicial officer prepares the case and the ((materials)) evidence. The judicial officer serves as the secretary of the university conduct board and may be the administrative hearing officer.

((The)) Administrative hearing officers are appointed by the vice-provost for student affairs and are generally members of the faculty in student affairs. ((The)) An administrative hearing officer is responsible for hearing cases where the student or student organization has been offered a less formal hearing. The administrative hearing officer determines both the responsibility of the accused student or student organization and the sanction(s).

The university conduct board is a presidential standing committee, whose members are recommended by the vice-provost for student affairs and appointed by the president. The university conduct board is ((made up)) composed of faculty members and graduate and undergraduate student members. ((Members of each conduct board are drawn from this pool of trained members.—On)) Each ((conduct)) hearing board ((there are)) consists of five members drawn from the conduct board: Two faculty members, two students, and the chairperson. The chairperson is ((the assistant to)) appointed by the vice-provost for student affairs.

The university appeals board is composed of three university administrators, appointed by the president, one of whom is the vice-provost for student affairs.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-220 Students charged with violations of the standards of conduct.** (1) Any student or student organization charged with any violation(s) of the university standards of conduct ((have)) has the following rights in disciplinary procedures:

(a) The right to notice of the charge(s) ((against them)) and the basis for the charge(s).

(b) The right to remain silent when charged with any act which may be a violation of criminal law to avoid self incrimination.

(c) The right to seven calendar days' notice before the disciplinary hearing.

(d) The right to present written information to the hearing officer or member(s) of the hearing board prior to

the hearing, including signed statements from witnesses and arguments.

(e) The right to a hearing.

(f) The right to consult an adviser.

(g) The right of one appeal.

(2) Any student or student organization brought before the university conduct board((s)) has these additional rights:

(a) The right to view ((the)) in advance of the hearing written material to be presented ((against them in advance of the hearing)) to the board.

(b) The right to have an adviser present at the hearing; however, the student or student organization may have only one adviser present. The adviser may be allowed to give the student or student organization advice during the hearing, but is not permitted to ((speak to)) address the hearing board or conduct examinations of witnesses ((and)). The adviser is not permitted to disrupt the proceeding and may be asked to leave if he or she disrupts the proceeding.

(c) The right to hear the testimony of all witnesses.

(d) The right to present questions to be asked of all witnesses.

(e) The right to have a record made of the hearing.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-225 The hearing.** (1) The following guidelines apply to both administrative hearings and hearings before the university conduct board:

(a) All hearing officers and board members must be impartial (i.e., not personally involved in the alleged act(s) with which the student is charged).

(b) The hearings are closed to the public.

(c) The university bears the burden of proving the charge(s) by a preponderance of evidence.

(d) The hearing officer or presiding officer of each board will exercise control over the hearing. A hearing officer or board is not bound by the rules of evidence observed by courts and may exclude unduly repetitious or irrelevant evidence.

(e) Any person, including the charged student or any member of the charged student organization, who disrupts a hearing may be excluded from the proceedings.

(f) The decision of responsibility on the charge(s) will be based on evidence and testimony presented at the hearing. However, the complete record of the student's, or student organization's, prior conduct and academic performance may be taken into account by the hearing officer or board in imposing any sanction(s).

(g) Deliberations on the hearing are closed to everyone but the hearing officer, or member(s) of the board, and assistant attorney(s) general advising the board.

(h) The accused student or student organization president will be sent notification of the decision, the reasons for the decision and the sanction(s), if any, in writing within ten calendar days of the hearing.

(i) Only the hearing officer or board member(s), the accused student or student organization, and the person(s) bringing the allegation(s) will be notified of the results of the hearing.

(j) If a student or student organization fails to appear at a hearing after proper notice, the hearing may proceed on the

charge(s) and in such a case the hearing officer or member(s) of the hearing board will decide on responsibility and, if appropriate, the sanction(s).

(2) The following guideline applies only to hearings before the university conduct board: The university and the charged student or student organization will have the opportunity to call witnesses, present evidence, and question witnesses.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-230 Sanctions.** (1) Any of the following sanctions or any combination of the sanctions may be imposed for violation(s) of the standards of conduct:

(a) Disciplinary probation: This may include the imposition of ~~((a set of))~~ conditions for any student or student organization ~~((defined))~~ for a specific period of time. If any condition of the probation is violated, this will constitute a new violation.

(b) Community service: Assignment of labor or responsibilities to any student or student organization within the university or local community may be imposed up to a maximum of eighty hours per student or per member of an organization.

(c) Restitution: This ~~((will))~~ may include reimbursement for damaged or stolen property and medical expenses resulting from the violation(s).

(d) Fines: Monetary fines up to five thousand dollars for any student organization or two hundred fifty dollars for any student may be imposed.

(e) No contact order: Prohibition of direct or indirect physical and/or verbal contact with another individual or group may be imposed.

(f) Assessment: Referral for drug/alcohol or psychological assessment may be required. Results of the assessment may be shared with the conduct administrator and conduct ~~((committee))~~ board. If the assessment by ~~((any university))~~ the counselor or physician recommends any condition(s), those recommendations may become conditions of the sanction. If the assessment indicates that the student is not capable of functioning within the university community, the student will be suspended until further assessment recommends that the student is capable of reentering the university.

(g) Loss of privileges or exclusion from activities including: Loss of the right to reside in a specific housing unit or in university-owned or approved housing may be imposed~~((-))~~; exclusion from participation in designated privileges and extracurricular activities for specific periods of time may also be imposed.

(h) Loss of recognition or charter: A student organization may have its recognition or charter withdrawn, either permanently or for a specific period of time. Loss of recognition can include loss of a fraternity's or sorority's eligibility to provide approved freshman housing.

(i) Censure: This is a written reprimand for any violation of university policy or campus regulation, including explicit notice to the student or student organization that continued or repeated violation of any policy or regulation may be cause for further disciplinary proceedings.

(j) Hold on transcript and/or registration: This is a temporary measure restricting release of a student's transcript or access to registration. Upon satisfactory completion of conditions of the sanction, the hold shall be released.

(k) Negative notation on transcript: Entry of violation on the student's academic record may be made for suspension or expulsion.

(l) Suspension: This is termination of student status for a given period of time. Upon satisfactory completion of stated conditions, reinstatement shall be granted.

(m) Expulsion: This is termination of student status for an indefinite period.

(2) Any student who has been suspended or expelled may be excluded from specific areas of campus when there is a reasonable cause to believe that ~~((their))~~ the student's presence there will lead to physical abuse, threats of violence, or conduct which threatens the health and safety of any person on university-owned or controlled property, in university-approved housing, or at an official event, or other conduct which interferes with the orderly functioning of the university.

(3) Special sanctions for hazing. Pursuant to RCW 28B.10.901, additional sanctions will be imposed in cases where there is a finding of responsibility for hazing when the hazing amounts to 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 person attending Washington State University. The additional sanctions that will be imposed upon such a finding will be as follows:

(a) A person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the administrative hearing officer or the university conduct board.

(b) Any organization, association, or student living group that knowingly permits hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by a public institution of higher education.

**AMENDATORY SECTION** (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-235 Appeals.** (1) Any student, or student organization, charged with any violation(s) of the standards of conduct and found responsible for any violation(s) by a hearing board or administrative hearing officer is entitled to one administrative appeal. ~~((The routes for these appeals are as follows:))~~

(a) ~~((University))~~ Appeals from decisions of an administrative hearing ~~((appeals go to))~~ officer are heard by the vice-provost for student affairs.

(b) Appeals from decisions of the university conduct board ~~((appeals go to))~~ are heard by the university appeals board.

(2) An appeal must be in writing and must be filed with the vice-provost for student affairs within twenty-one calendar days of the student receiving or the ~~((president))~~ presiding officer of the student organization receiving the

decision. ~~((All requests to review a decision must be to the vice provost for student affairs for appeals of decisions of the university administrative hearing officer or the university conduct board and should be in writing.))~~ The letter of appeal must state the grounds for the appeal. The following ~~((are))~~ shall be the grounds for appeal:

- (a) A procedural error which materially affected the decision;
  - (b) New evidence not previously available which would have materially affected the decision;
  - (c) The decision was not supported by substantial evidence; or
  - (d) The severity or appropriateness of the sanction(s).
- (3) ~~((During the))~~ On appeal ~~((process, the burden of proof shifts from the university to))~~, the student or student organization bears the burden of proof. The appeal ~~((process))~~ is a review of the record of the hearing plus the letter of appeal, including any written argument(s) submitted by the student or student organization, and new evidence if that is the ground for the appeal. The judicial officer may also submit written arguments on behalf of the university. It is not a new hearing; however, the appeal board or officer can request an appearance of the accused student, the alleged victim, or any of the witnesses appearing in the hearing.

AMENDATORY SECTION (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-240 Other interventions.** (1) In most instances a student ~~((who))~~ or student organization ~~((which is))~~ allegedly involved in ~~((alleged))~~ misconduct goes through the full disciplinary process before any disciplinary action is ~~((taken))~~ imposed by the university. However, in situations where there is cause to believe that the student or student organization poses an imminent threat to himself ~~((or))~~, herself, or itself to others, or to property, or is incapable of continuing as a student for medical~~((al))~~ or psychological reasons, interim actions may be taken immediately without prior notice or hearing. These actions, taken by the vice-provost for student affairs or one of the associate vice-provosts, may include:

- (a) Interim restrictions, including but not limited to assignment to alternate university housing or removal from university housing, limitation ~~((of))~~ on access to university facilities, or restriction of communication with specific individuals or groups;
  - (b) Interim suspension, including temporary total removal from the university or restriction of access to campus;
  - (c) Mandatory medical/psychological assessment, including referral to ~~((a panel of))~~ one or more university physicians/psychologists for assessment of the student's capability of remaining in the university.
- (2) If interim action is required and taken, the student or student organization is entitled to an administrative hearing as soon as is reasonably possible, but no later than ten days after the action is taken.

AMENDATORY SECTION (Amending Order 89-1, Resolution No. 3-31-89-16, filed 5/18/89, effective 7/1/89)

**WAC 504-25-245 Records.** ~~((These))~~ (1) Disciplinary proceedings against individuals and related records, but not those against student groups or living groups, and records are confidential. The office of the vice-provost for student affairs will maintain disciplinary records for a minimum of seven years. Disciplinary records will be made available to hearing boards and university personnel, as needed.

(2) Any student may review his/her own disciplinary records by contacting the office of the vice-provost for student affairs.

(3) Any alleged victim may be informed of the result of any disciplinary proceeding involving a crime of violence.

(4) Except as outlined in these procedures, the university will not communicate a student's disciplinary record to any person or agency outside the university without the prior written consent of the student, except as required by law. ~~((If the student is a minor,))~~ The student's parents or legal guardians may review these records if the student is a minor or a dependent as defined by the Federal Educational Rights and Privacy Act.

WSR 95-07-046

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed March 8, 1995, 10:57 a.m.]

Date of Adoption: February 17, 1995.

Purpose: States process for recognizing student organizations and policies to be followed when scheduling events and conducting financial projects.

Citation of Existing Rules Affected by this Order: Repealing WAC 504-28-060; and amending WAC 504-28-010, 504-28-020, 504-28-030, and 504-28-050.

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

Pursuant to notice filed as WSR 94-22-062 [94-22-061] on November 1, 1994.

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

March 2, 1995

Lou Ann Pasquan  
Rules Coordinator

AMENDATORY SECTION (Amending Order 87-1, filed 5/26/87)

**WAC 504-28-010 Student organizations.** (1) Recognition process.

(a) Recognition. The university recognizes a wide variety of student groups to facilitate diverse interests of the student body. Attendant to recognition, groups are granted certain privileges and assume certain responsibilities as set forth in these rules. Recognition in no way implies that the university plans, organizes, or sanctions any particular activity or policy of a student group.

(b) Union board. The ~~((student activities))~~ union board ~~((is the student senate committee which))~~ recommends and reviews policies pertaining to all student organizations ~~((and assists with the planning of their activities)).~~ Based on those policies the associate director, activities and recreational

sports, determines whether or not it is appropriate that the university recognize a particular organization. The board ~~((also))~~ serves as an appeal body.

(2) Membership in organizations.

(a) Full membership in student organizations will be restricted to enrolled graduate and undergraduate students at Washington State University.

(b) Faculty and others may participate as honorary or associate members (at the option of the group) as specified in the group's constitution.

(c) Only full members may be eligible to vote on matters of business or hold elective office in the organization.

(3) Obtaining recognition for organizations.

(a) To become an approved student organization, recognition must be granted ~~((from))~~ by the associate director, activities and recreational sports, or the ~~((student activities))~~ union board. Contact the activities/~~((recreation))~~ recreational sports office, CUB 337.

(b) Before requesting recognition, the group ~~((must))~~ should hold a meeting of interested persons to ~~((plan a program))~~ draft a constitution, elect officers, and select an advisor. Constitutions normally include:

(i) Name of the organization.

(ii) Purpose and objectives.

(iii) Qualifications for membership.

(iv) Sources of financial support (e.g., dues, initiation fees, local and national aid, and financial projects).

(v) Description of offices including qualifications, duties and method of election.

(vi) National-local affiliations and any financial obligation (to an affiliate) resulting therefrom.

(vii) Parliamentary authority and method of amending the constitution.

(viii) Adoption and amendment procedures.

(ix) A description of the organization's safety program.

(x) Responsibilities of the advisor.

(c) Washington State University will not recognize any student organization which denies membership to any student because of race, religion, sex, color, national or ethnic origin, age, marital status, sexual orientation, veteran status or ~~((handicap))~~ disability except that the permissibility of a single-sex organization will be evaluated in accord with Title IX guidelines. Recognized student organizations must insure that additional policies and procedures do not create de facto differentiation.

(d) Students who feel they have been denied membership in violation of ~~((regulation (3))~~(c) ~~((above))~~ of this subsection may appeal to the ~~((student activities))~~ union board.

(e) Washington State University shall not recognize a student group if recognition would violate local, state, or federal law.

(4) Requirements and responsibilities of recognized organizations.

(a) Officers of organizations are responsible for seeing that the organization abides by university rules and regulations, concerning scheduling, financial projects, advertising, and other policies of the ~~((student activities))~~ union board.

(b) Recognized organizations must have an advisor (see WAC 504-28-020 Advisors).

(c) Funds must be deposited into a faculty, student, and alumni account in the controller's office, which acts as a free banking service.

(d) The following records must be kept current in the activities/~~((recreation))~~ recreational sports office:

(i) Constitution and bylaws.

(ii) Officer roster card.

(iii) ~~((Annual))~~ Student organization report (forms available in the activities/~~((recreation))~~ recreational sports office); including activities, accomplishments, and financial status.

(iv) ~~((Registration of))~~ Special event forms.

~~((e) Recognized organizations must have a safety program unless its activity has absolutely no risk to members or others.)~~

(5) Privileges of recognized organizations.

(a) Recognized organizations have the right to sponsor on-campus activities.

(b) Recognized student organizations may use university facilities and services through appropriate scheduling offices.

(c) The activities/~~((recreation))~~ recreational sports office staff is available to serve approved organizations in all areas of concern.

(d) Free banking service is provided to approved organizations through faculty student alumni accounts.

AMENDATORY SECTION (Amending Order 87-1, filed 5/26/87)

**WAC 504-28-020 Advisors to recognized student organizations.** (1) Advisors are members of the Washington State University faculty or staff or graduate students whom the student members choose and whose interest in the group indicates that they would judiciously advise the organization concerning its goals, purposes and procedures. Advisors guide the group in accordance with the purposes and ideals of the university and the organization. They do not directly control the group's programs and activities.

(2) Advisors assist the ~~((student activities))~~ union board to implement the policies for student organizations ~~((as set forth in the student activities board policies))~~.

(3) Responsibilities may include the following:

(a) Attending the organization's meetings.

(b) Assisting in planning the program.

(c) Supervising the handling of funds and approving all expenditures and contracts.

(d) Assisting in arranging for university facilities and equipment.

AMENDATORY SECTION (Amending Order 87-1, filed 5/26/87)

**WAC 504-28-030 Scheduling of events.** (1) ~~((Events. The activities/recreation office assists with the scheduling of events and programs by maintaining the master calendar and by publishing the fall and spring activities calendar.~~

~~((a) Master calendar—the master calendar is a continually updated calendar of campus events. Its use by all students, campus groups, faculty and staff can prevent program duplication and scheduling conflicts.~~

~~((2))~~ Facilities. Recognized student groups schedule facilities by contacting the appropriate campus departments.

The activities/~~((recreation))~~ recreational sports office will assist groups in determining whom to contact.

(a) To schedule rooms in the Wilson Compton Union (CUB), contact ~~((the first floor administrative offices))~~ CUB scheduling. That office will determine if a special events form needs to be completed. Forms are available in the activities/recreational sports office, CUB 337.

(b) For scheduling of departmental, faculty and student events for conferences and conventions involving people from off-campus, contact the office of university relations.

(c) To schedule classrooms on campus, contact the registrar's office (French Administration Building).

(d) To schedule use of the coliseum, contact performing arts coliseum, coliseum director's office.

(e) To schedule gym facilities for use from 8:00 a.m. to 5:00 p.m. Monday through Friday, contact ~~((physical education))~~ kinesiology, leisure studies department. Scheduling of gym facilities for use after 5:00 p.m. and on weekends is handled through the activities/~~((recreation))~~ recreational sports office in CUB 337.

(f) To schedule Bryan Auditorium, contact the registrar's office.

(g) To schedule R.R. Jones Theatre and Daggy Little Theatre, contact Daggy Hall, Room 251.

(h) For use of special services, contact physical plant. For use of lecterns, lighting, P.A. set-ups and janitorial services, fill out the form "Request for services for special events," available at the physical plant and activities/~~((recreation))~~ recreational sports office. This form must be authorized at the activities/~~((recreation))~~ recreational sports office before turning it into physical plant.

(i) For scheduling of the Terrell Mall or library plaza, see WAC 504-32-010.

(3) Individuals and nonuniversity groups must first contact the ~~((facilities use committee))~~ director of the CUB to schedule ~~((university buildings and))~~ rooms in the CUB, the Terrell Mall, and the Library Plaza. Any other use by individuals and nonuniversity groups must be approved by the facilities use committee.

(4) Time scheduling recommendations. Most buildings and facilities on campus close by midnight. Groups wishing their events to extend past this time should make arrangements with the appropriate scheduling office.

(5) Special scheduling information.

(a) The activities/~~((recreation))~~ recreational sports office ~~((should be notified of speakers so that information will be included on the master calendar. The office))~~ staff is ~~((also))~~ available to advise on appropriate forms, arrangements, publicity, etc.

(b) Any recognized student organization may sponsor political speakers on campus. All such groups should follow the normal procedure in scheduling.

(c) ASWSU may run concerts on a speculative basis. All other recognized student organizations may have concerts only if they have sufficient funds to back all concert expenses 100%. The activities/~~((recreation))~~ recreational sports office staff is available to advise on concert arrangements and contract negotiations.

(d) Committee meetings and social activities should be scheduled in facilities which are accessible to ~~((handicapped))~~ disabled individuals.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 87-1, filed 5/26/87)

**WAC 504-28-050 Financial projects.** (1) Definition.

(a) A financial project is any approved activity of a student organization which is undertaken to raise funds and/or to defray expense. Projects may be for the benefit of organizations themselves or for charity groups.

(2) Approval.

(a) The ~~((student activities))~~ union board and/or its designated representative has been given the responsibility of approving all financial projects so that the following services can be provided:

(i) Planning advice.

(ii) Advertising and publicity assistance.

(iii) Facility and equipment arrangements.

(iv) Consumer protection.

(b) The financial projects requested and the proposed budget must be completed, approved, and filed with the activities/~~((recreation))~~ recreational sports office in advance of the proposed date using the special events form. Forms are available in the activities/~~((recreation))~~ recreational sports office. ~~((A report showing actual income and expenses of the financial project must be submitted to the activities/recreation office within two weeks after the event. The report must be certified by the personal signature of the president and advisor of the organization.))~~

(c) For approval, the organization must have funds on hand to cover 100% of the estimated expenses of a proposed financial project.

(d) Projects involving films are subject to additional ~~((student activities))~~ union board policies. Copies of the policies are available in CUB scheduling and the activities/~~((recreation))~~ recreational sports office.

(e) Scholarship fund projects must be administered in accordance with university policy governing such funds. Sponsoring organizations may reserve the right to select recipients and to establish the amount of grants in accordance with policies of the student financial aids office.

(f) Financial projects involving tables in the west entrance of the CUB ~~((and))~~ on the mall, or on the library plaza must be approved using the special events form. The forms ~~((for these))~~ may be picked up in the activities/~~((recreation))~~ recreational sports office. After approval the table requests are taken to ~~((the CUB administrative office))~~ scheduling to reserve a table. There shall be only one table per organization, available on a first-come, first-served basis.

(g) Raffles are subject to state law. Contact the activities/~~((recreation))~~ recreational sports office for current regulations.

(h) Retailing of student classroom books, supplies, and equipment by university departments, personnel, or students on the campus is prohibited.

(3) Additional requirements.

(a) All advertising and publicity for each project must include:

(i) The name of the sponsoring organization.

(ii) The product or service being sold.

~~((iii) The purpose for which profits will be used.))~~

(b) Any distributing, soliciting or selling must be done without individuals hawking or shouting.

(c) An organization seeking approval to sell a product or service must provide proof of ownership prior to approval.

(d) Individual students wishing to sell goods on campus must contact the director of (~~safety~~, Safety) the Compton Union Building.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 504-28-060 Advertising policies.

#### WSR 95-07-047

##### PERMANENT RULES

#### WASHINGTON STATE UNIVERSITY

[Filed March 8, 1995, 11:00 a.m.]

Date of Adoption: February 17, 1995.

Purpose: To establish policies governing advertising on campus.

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

Pursuant to notice filed as WSR 94-22-062 on November 1, 1994.

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

March 2, 1995

Lou Ann Pasquan

Rules Coordinator

#### NEW SECTION

**WAC 504-34-140 Advertising policies.** The following policies apply to all advertising done on campus.

(1) Signs and posters.

(a) All advertising in the CUB must have approval from the activities/recreational sports office.

(b) All advertising announcements to be posted in other campus buildings should be confined to general bulletin boards. For use of other bulletin boards contact the appropriate department or residence hall for approval.

(c) No advertising should be taped to walls or other interior surfaces.

(d) All outdoor advertising is restricted to bulletin boards, the kiosks, and the west entrance of the CUB. Signs put up at the west entrance of the CUB should be approved in the activities/recreational sports office. The size is limited to twelve square feet.

(e) University-related banners may be displayed on the overhead walkways after securing permission from the activities/recreational sports office. They must be constructed of fabric, with air vents, and attached to the structure with rope or twine—tape and wire are not permitted.

(f) Free-standing signs may be placed on campus grounds and the mall with the approval of the director of physical plant.

(g) No signs, handbills, or stickers are to be placed on trees or buildings other than the two places mentioned above. Paint or chalk must not be used on sidewalks or buildings.

(h) Before exhibits or displays are placed on the mall, notification must be made to the disabled student services office.

(i) It is the responsibility of the group to remove advertising within twenty-four hours after the event.

(2) Literature, handbills and notices.

(a) Literature, handbills and notices may be distributed at any reasonable outdoor area on campus consistent with the orderly conduct of university affairs, the maintenance of university property, and the free flow of traffic and persons. Efforts must be made to avoid litter. Individuals or groups distributing are responsible for leaving the area clean, including all discarded handbills. Distribution by means of accosting individuals or by hawking is prohibited.

(3) Public address system.

(a) Requests for public address systems require the signature of the faculty advisor.

(b) Systems are available through the instructional media services.

(c) Use of systems:

(i) Time of use: Monday through Thursday, 5:00 p.m. to 7:00 p.m.; and on Saturday 12:00 noon to 7:00 p.m. (Exceptions may be made by the union board.)

(ii) Discreet and considerate use of public address systems in the vicinity of the hospital is expected.

(iii) Public address systems on moving vehicles must have a police permit.

(4) Athletic events. All advertising at athletic events must be cleared through the office of intercollegiate athletics.

(5) Advertising for student government. Advertising for student government elections shall be according to the rules established by the ASWSU election board.

(6) Advertising at registration must be approved by the registrar.

#### WSR 95-07-050

##### PERMANENT RULES

#### LOTTERY COMMISSION

[Filed March 8, 1995, 11:38 a.m.]

Date of Adoption: March 3, 1995.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 140 ("Joker's Wild") and 141 ("Go Bananas").

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 94-03-100 [95-03-100] on January 18, 1995.

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

March 7, 1995

Evelyn P. Yenson

Director

#### NEW SECTION

**WAC 315-11A-140 Instant Game Number 140 ("Joker's Wild").** (1) **Definitions for Instant Game Number 140.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known

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as the playfield. One of the five play spots shall be labeled "winning card."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 140, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	SVN
	EGT
	NIN
	TEN
	JCK
	QUE
	KNG
	JKR

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$6.00," "\$12.00," "\$20.00," "\$40.00," and "\$8,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning card."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 140, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 6.00	SIX DOL
\$ 12.00	TLV DOL
\$ 20.00	TWY DOL
\$ 40.00	\$FORTY\$
\$ 8,000	EGTTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 140 constitute the "pack number" which starts at 14000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify

instant winners of \$600.00 or less. For Instant Game Number 140, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
THR	\$ 3.00 (\$1, \$1 AND \$1; \$2 AND \$1)
FIV	\$ 5.00 (\$2, \$1, \$1 AND \$1; \$2, \$2 AND \$1)
TLV	\$ 12.00 (\$3, \$3, \$3 AND \$3; \$4, \$4 AND \$4)
TTF	\$ 24.00 (\$6, \$6, \$6 AND \$6; \$12 AND \$12)
ETY	\$ 80.00 (\$20, \$20, \$20 AND \$20; \$40 AND \$40)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 140.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning card," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 140, the play symbol with the caption "JKR" shall always be a winning play symbol, and the bearer of a ticket which has a play symbol with the caption "JKR" shall be entitled to the prize shown below the play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 140 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 140; and/or

(ii) Vary the number of tickets sold in Instant Game Number 140 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 140.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 140 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning card" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-141 Instant Game Number 141 ("Go Bananas"). (1) Definitions for Instant Game Number 141.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the seven play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the seven play spots shall be labeled "winning numbers."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 141, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO
3	THR
4	FOR
5	FIV

6	SIX
7	SVN
8	EGT
9	NIN
	BNP

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$6.00," "\$10.00," "\$18.00," "\$20.00," and "\$4,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning numbers."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 141, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 6.00	SIX DOL
\$ 10.00	TEN DOL
\$ 18.00	EGN DOL
\$ 20.00	TWY DOL
\$ 4,000	FORTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14100001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 141 constitute the "pack number" which starts at 14100001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 141, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2 AND \$2)
TEN	\$ 10.00 (\$2, \$2, \$2, \$2 AND \$2; \$4, \$2, \$2 AND \$2)

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FTN	\$ 15.00	(\$3, \$3, \$3, \$3 AND \$3)
TRY	\$ 30.00	(\$6, \$6, \$6, \$6 AND \$6; \$10, \$10 AND \$10)
NTY	\$ 90.00	(\$18, \$18, \$18, \$18 AND \$18; \$20, \$20, \$20, \$20 AND \$10)

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 141.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbols labeled "winning numbers," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 141, the "BNP" play symbol with the caption "BNP" shall always be a winning play symbol, and the bearer of a ticket which has a "BNP" play symbol with the caption "BNP" shall be entitled to the prize shown below the "BNP" play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 141 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 141; and/or

(ii) Vary the number of tickets sold in Instant Game Number 141 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 141.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 141 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the seven play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning numbers" play symbol captions, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**WSR 95-07-058**

**PERMANENT RULES**

**DEPARTMENT OF ECOLOGY**

[Order 94-45—Filed March 9, 1995, 4:04 p.m.]

Date of Adoption: March 8, 1995.

Purpose: Enable the director of ecology to formally delegate his/her legal authorities to officials within the department.

Citation of Existing Rules Affected by this Order: Repealing WAC 173-06-010, 173-06-020, 173-06-030 and 173-06-040; and amending chapter 173-06 WAC.

Statutory Authority for Adoption: RCW 43.21A.090.

Pursuant to notice filed as WSR 95-03-081 on January 17, 1995.

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

March 8, 1995

Mary Riveland

Director

**NEW SECTION**

**WAC 173-06-100 Introduction.** Under the provisions of RCW 43.21A.090, the director of ecology may delegate the performance of his or her powers, duties, and functions, other than those relating to the adoption, amendment or rescission of rules and regulations, to employees of the department whenever that appears desirable to fulfill the purposes of the laws implemented by the department.

**NEW SECTION**

**WAC 173-06-110 Definitions.** As used in this chapter:

(1) "Department" shall mean the department of ecology;

(2) "Director" shall mean the person bearing such title created pursuant to RCW 43.21A.050. "Deputy director" shall mean the person bearing such title created pursuant to RCW 43.21A.100.

NEW SECTION

**WAC 173-06-120 Delegation.** (1) The authority delegated hereby includes the authority to:

(a) Act on behalf of the department in the administration of programs and all other duties assigned the department; and

(b) Approve or deny engineering reports, plans and specifications, or amendments thereto, required to be submitted to the department.

Delegated powers include, but are not limited to, the authority to issue orders, directives or decisions reviewable before appropriate administrative or judicial bodies. The delegation established by this rule shall be effective when the person to whom delegation is made has been issued a letter from the director authorizing him or her to act for the department with respect to the specifics set forth in such letter.

(2) Whenever an individual is delegated the authority to approve or deny engineering reports, plans and specifications, or amendments thereto, such approval or denial must be based on engineering services provided by a registered professional engineer in accordance with current state law.

(3) Any person who has been properly designated to serve in a temporary or acting capacity for an employee who has been delegated authority under this rule shall have the same delegated authority as the individual permanently holding the position.

(4) In the absence of a person who has been delegated authority by the director, managers senior to that person may perform the delegated functions in accordance with their letters of authorization.

(5) In addition to the delegation provided for in the preceding subsections, the director may, under special circumstances, delegate in writing specific signature authority to any department employee.

(6) The authority delegated in this rule is limited to the power to act for the department in carrying out functions within the power of the department, and shall not be construed to authorize acts which are contrary to law or beyond the authority of the department.

NEW SECTION

**WAC 173-06-130 Director's powers.** The director may perform all powers, duties and functions within the authority of the department. The delegations authorized by this chapter shall not preclude the director from exercising any of the powers, duties and functions delegated. In the director's absence, the deputy director may act as director.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-06-010	Introduction.
WAC 173-06-020	Definitions.
WAC 173-06-030	Delegation.
WAC 173-06-040	Director's powers.

**WSR 95-07-061**  
**PERMANENT RULES**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed March 13, 1995, 11:35 a.m.]

Date of Adoption: March 10, 1995.

Purpose: Establish and set parameters for an environmental interpretation program within state parks.

Citation of Existing Rules Affected by this Order: Repealing WAC 352-32-036; and amending WAC 352-32-010, 352-32-037, and 352-32-250.

Statutory Authority for Adoption: RCW 43.51.060, 43.51.395.

Pursuant to notice filed as WSR 95-04-091 on January 31, 1995.

Effective Date of Rule: Thirty-one days after filing.  
 March 10, 1995  
 Bruce Hilyer  
 Chair

AMENDATORY SECTION (Amending WSR 94-23-024, filed 11/7/94, effective 1/1/95)

**WAC 352-32-010 Definitions.** Whenever used in this chapter the following terms shall be defined as herein indicated:

"Boat launch" shall mean any facility located in a state park area designated for the purpose of placing or retrieving any vehicle-born or trailer-born watercraft into or out of the water.

"Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

"Camping unit" shall mean a group of people (one or more persons) that is organized, equipped and capable of sustaining its own camping activity.

"Commission" shall mean the Washington state parks and recreation commission.

"Day area parking space" shall mean any designated parking space within any state park area designated for daytime vehicle parking.

"Director" shall mean the director of the Washington state parks and recreation commission.

"Emergency area" is an area in the park separate from the designated overnight camping area, which may be used for camping between the hours of 9 p.m. and 8 a.m. when no alternative camping facilities are available within reasonable driving distances.

"Environmental interpretation" shall mean the provision of services, materials, publications and/or facilities, including environmental learning centers (ELC), for other than basic access to parks and individual camping, picnicking, and boating in parks, that enhance public understanding, appreciation and enjoyment of the state's natural and cultural heritage through agency directed or self-learning activities.

"Environmental learning centers (ELC)" shall mean those ((designated)) specialized facilities (((formerly called resident group camps))), designated by the director, designed to promote outdoor ((camping)) recreation experiences and environmental education ((by groups in a residential setting). A group can be a formalized group or an organized collection of families wishing to camp or use the ELC. ELCs are

~~located at Camp Wooten, Columbia County; Brooks Memorial State Park, Klickitat County; Sun Lakes State Park, Grant County; Deception Pass State Park, Island and Skagit Counties; Fort Flagler State Park, Jefferson County; Millersylvania State Park, Thurston County; Moran State Park, San Juan County; Fields' Spring State Park, Asotin County; and Sequim Bay State Park, Clallam County)) in a range of state park settings.~~

"Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for the use of organized groups. Facilities and extent of development vary from park to park.

"Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped.

"Multiple campsite" shall mean a designated and posted camping facility encompassing two or more individual standard, utility or primitive campsites.

"Paraglider" shall mean an unpowered ultralight vehicle capable of flight, consisting of a fabric, rectangular or elliptical canopy or wing connected to the pilot by suspension lines and straps, made entirely of nonrigid materials except for the pilot's harness and fasteners. The term "paraglider" shall not include hanggliders or parachutes.

"Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

"Popular destination park" shall mean any state park designated by the director as a popular destination park because, it is typically occupied to capacity by Thursday or Friday night during the high use season and the typical park user plans to stay more than one night.

"Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

"Public assembly" shall mean a meeting, rally, gathering, demonstration, vigil, picketing, speechmaking, march, parade, religious service, or other congregation of persons for the purpose of public expression of views of a political or religious nature for which there is a reasonable expectation that more than one hundred persons will attend based on information provided by the applicant. Public assemblies must be open to all members of the public, and are generally the subject of attendance solicitations circulated prior to the event, such as media advertising, flyers, brochures, word-of-mouth notification, or other form of prior encouragement to attend.

Alternatively, the agency director may declare an event to be a public assembly in the following cases: Where evidentiary circumstances and supporting material suggest that more than one hundred persons will attend, even where the applicant does not indicate such an expectation; or where there is reason to expect a need for special preparations by the agency or the applicant, due to the nature or location of the event.

"Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 43.51.170, and shall include the park manager in charge of any state park area.

"Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus, or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

"Residence" shall mean the long-term habitation of facilities at a given state park for purposes whose primary character is not recreational. "Residence" is characterized by one or both of the following patterns:

Camping at a given park for more than twenty days within a thirty-day time period May 1 through September 30; or thirty days within a sixty-day time period October 1 through April 30. As provided in WAC 352-32-030(7), continuous occupancy of facilities by the same camping unit shall be limited to ten consecutive nights May 1 through September 30 and fifteen consecutive nights October 1 through April 30 in one park, after which the camping unit must vacate the overnight park facilities for three consecutive nights. The time period shall begin on the date for which the first night's fee is paid.

The designation of the park facility as a permanent or temporary address on official documents or applications submitted to public or private agencies or institutions.

"Special recreation event" shall mean a group recreation activity in a state park sponsored or organized by an individual or organization that requires reserving park areas, planning, facilities, staffing, or other services beyond the level normally provided at the state park to ensure public welfare and safety and facility and/or environmental protection.

"Standard campsite" shall mean a designated camping site which is served by nearby domestic water, sink waste, garbage disposal and flush comfort station. Each campsite includes a camp stove and picnic table.

"State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020. State park areas do not include the seashore conservation area as defined in RCW 43.51.655 and as regulated under chapter 352-36 WAC.

"Trailer dump station" shall mean any state park sewage disposal facility designated for the disposal of sewage waste from any recreation vehicle, other than as may be provided in a utility campsite.

"Upland" shall mean all lands lying above mean high water.

"Utility campsite" shall mean a standard campsite with the addition of electricity and which may have domestic water and/or sewer.

"Water trail advisory committee" shall mean the twelve-member committee constituted by RCW 43.51.456.

"Water trail camping sites" shall mean those specially designated group camp areas identified with signs, that are near water ways, and that have varying facilities and extent of development.

AMENDATORY SECTION (Amending Resolution No. 67, filed 4/15/83)

**WAC 352-32-037 ((Reservations for)) Environmental learning centers.** (1) All ~~((reservations for))~~ ELCs ~~((use))~~ are ~~((to be made through the ELC Reservation Office,))~~ reservable by contacting Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, WA 98504~~((, except for reservations for schools and school districts for weekdays, excepting legal holidays, during the period the day after Labor Day until the day before Memorial Day. In the latter case, reservations are to be made and coordinated through the office of the superintendent of public instruction. Applications for all other reservations shall be in writing indicating dates and ELC desired on a form provided by the ELC reservation office))~~ and paying the appropriate fees and deposits. Use of ELCs shall be on a first-come-first-served basis if the facility is not reserved.

(2) Applications for overnight use of an ELC by any user group, for a maximum of seven consecutive days, during the period from Memorial Day to Labor Day, inclusive (summer season), ~~((should))~~ shall be filed with the ELC reservation office by September ~~((1st))~~ 8th of the year next preceding the summer season for which the reservation application is made. ~~((Applications submitted prior to September 1 will not be accepted for other than the upcoming summer season.))~~ As many applications as are desired may be filed~~((, so long as in the aggregate they do not constitute a request by any one group to use a given ELC for longer than seven consecutive days. The seven consecutive day limitation shall apply in all cases, except where prior existing contract with the state specifies otherwise or after filling initial requests for up to seven days from all groups requesting reservations, space remains available)).~~ Applications thus submitted by September ~~((+))~~ 8th will be confirmed (and a permit issued) or denied ~~((by the following October 31st. The ELC reservation office may schedule and conduct meetings during the period September 1 to October 31st for those requesting at the various ELCs to coordinate scheduling and confirm reservations using (b) through (d) below, in order, to set confirmation priorities)).~~

In the event of more than one application for the same dates and ELC, the following priorities, in order, shall be observed:

(a) The group which does not already have a confirmed reservation for the ELC.

(b) The group which has utilized the ELC for the greatest number of consecutive preceding years immediately prior to the year presently being scheduled.

(c) The group which has utilized the ELC the greatest number of previous years.

(d) The group which has utilized the ELC the greatest number of times (during the summer months).

Applications received after September ~~((+))~~ 8th will be considered on a space available basis ~~((using the prioritization process)).~~

(3) ~~((Applications for overnight use of an ELC on holidays and weekends during other than the summer season may be made at any time up to 12 months in advance of the dates requested, and will be confirmed on a first-come-first-served basis.~~

~~((4) Applications for day use of an ELC during the summer season, or on holidays and weekends during other than the summer season, may be submitted at any time, but will not be confirmed any sooner than two weeks prior to the requested dates. Assignments will be made on a first-come first served basis.~~

~~((5) A deposit of \$25, up to a maximum of \$150, for each day of requested ELC use is required to be submitted with the reservation application form. Deposits must be made by check or money order, made payable to the Washington state treasurer, and should indicate on their face the name of the user group and requested ELC. Deposits will be applied toward final camp fees incurred, or will be returned if no confirmation is made.~~

~~((6) Cancellation by user of any confirmed reservation must reach the ELC reservation office 60 days prior to the scheduled arrival date as stated on the application or permit, or the deposit will be forfeited.))~~ A facility use fee schedule is available by contacting the ELC Reservation Office, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650.

AMENDATORY SECTION (Amending WSR 94-23-024, filed 11/7/94, effective 1/1/95)

**WAC 352-32-250 Standard fees charged.** The following fees shall be charged in all parks operated by the Washington state parks and recreation commission: *Provided, however,* That the director has the authority to discount fees to a maximum of 50% below the fee amounts listed or referenced in this section in order to take advantage of marketing opportunities to encourage use and increase revenues. Any such discounts shall be effective for a limited period of time less than one year in duration. The director may consider the following factors in discounting fees:

Prevailing rates for comparable facilities;

Day of the week;

Season of the year;

Amenities of the park area and site;

Demand for facilities; and

Such other considerations as the director deems appropriate.

(1) Overnight camping - standard campsite: \$10.00 per night;

(2) Overnight camping - utility campsite: \$15.00 per night. Payment for utility campsite will be collected whether utility hookups are actually used or not, except when otherwise specified by a ranger. The electrical hookup surcharge reference in WAC 352-32-252(3) shall be \$3.00 per night;

(3) Overnight camping - primitive campsite: \$5.00 per night for nonmotorized vehicle and \$7.00 per night for motorized vehicle;

(4) Reservation fee: As specified in WAC 352-32-035;

(5) Overnight camping - multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee. The multiple campsite fee will be calculated by multiplying the standard utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite;

(6) Group camping area - certain parks: \$1.00 per person for groups of 20 or more per day and/or night; nonrefundable reservation/registration fee - \$25.00. Camping units must pay the primitive campsite fee or other appropriate fee based on facilities available;

(7) Environmental (~~learning center overnight camping:~~ \$6.00 per camper per night;

~~(a) Camp Wooten environmental learning center during the season the swimming pool is operational: \$7.25 per camper per night;~~

~~(b) Environmental learning center day use only: \$2.00 multiplied by the minimum capacity established for each environmental learning center or \$2.00 for each member of the group whichever is higher;~~

~~(c) A late check in fee of \$50.00 shall be charged if arrival is more than one hour after the scheduled check in time, unless the group contacts the park ranger prior to scheduled check in time in order to reschedule the check in) interpretation.~~

(a) Service fees will be established by the director in order to recover, to the maximum extent practicable, all direct and indirect costs of environmental interpretation services on a program-wide basis based on anticipated attendance.

(b) Material and publication fees will be established by the director. All material and publication fees will be deposited in the parks improvement account to be used for purposes specified in RCW 43.51.052.

(c) Facility use, including environmental learning center fees, will be established by the commission. A facility use fee schedule is available by contacting Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650;

(8) Hot showers: \$.25 for a maximum of six minutes shower time;

(9) Electric stoves: \$.25 for thirty minutes cooking time;

(10) Adirondacks - not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(11) Extra vehicle overnight parking fee: \$5.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: *Provided*, An extra vehicle overnight parking fee shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(12) Marine park moorage facilities - see WAC 352-12-020 and 352-12-030;

(13) Overnight camping - emergency camp area: The fee shall be the standard campsite fee.

(14) Unattended vehicle overnight parking permit: \$5.00 per night per vehicle. Unoccupied vehicles parked overnight in designated areas must register and pay the nightly permit fee. The permit must be prominently displayed in the vehicle;

(15) Boat launch permit fee - \$4.00 per day per watercraft for use of all designated boat launches with hard surface ramps, maintained bathrooms, parking areas, and

docking facilities. \$3.00 per day per watercraft for use of all other designated boat launches with hard surface ramps. Boat launch permit shall not be required for:

(a) Vehicles registered for camping or overnight mooring in the park containing the boat launch area;

(b) Vehicles of persons using any recreational housing or conference facilities at Fort Worden State Park;

(c) Vehicles of persons holding limited-income senior citizen, disability or disabled veteran passes;

(d) Vehicles displaying a valid annual boat launch permit;

(16) Annual boat launch permit fee - \$40.00 per boat launching vehicle per calendar year. Valid January 1 - December 31 at any launch designated by the commission. Permit must be displayed as instructed on permit backing;

(17) Trailer dump station fee - \$3.00 per use: Fee shall not be required for registered camping vehicles in the park containing the dump station;

(18) Popular destination park fee - \$1.00 surcharge for use of standard or utility campsite located in a popular destination park during the period of April 1 through September 30;

(19) Water trail site permits -

(a) Unlimited use within the calendar year, annual fee to be set by the director after consultation with the water trail advisory committee, based on a cumulative charge of \$1.00 per site available for public use at the start of the calendar year;

(b) One day/night use within the calendar year, annual fee to be set by the director after consultation with the water trail advisory committee, based on a cumulative charge of \$.35 per site available for public use at the start of the calendar year;

(c) For children under 13 years of age the permits shall be issued at no cost;

(d) Water trail permits issued to persons by another state or Canadian province will be honored provided that a similar reciprocal provision for Washington water trail permit holders is issued by that state or province;

(e) Water trail permits will be issued to holders of Washington state parks passes (WAC 352-32-251) for the applicable discounts;

(20) A surcharge of \$5.00 per collection shall be assessed for any staff collected fee at a self-registration overnight facility;

(21) Group day use facilities - a minimum daily permit fee of fifty dollars for groups of 20 to 50 persons, plus additional fifty dollar increments as the group increases by increments of 50 people;

(22) Group facilities deposit - for groups of 20 to 50 persons, this deposit shall be \$50. For groups of 51 to 100 persons, this deposit shall be \$100. For groups of 101 to 500 persons, this deposit shall be \$250. For groups in excess of 500, this deposit shall be \$500;

(23) Fort Worden recreational and conference center - see WAC 352-32-25001 and 352-32-25002;

(24) Filming within state parks - see chapter 352-74 WAC.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 352-32-036 Environmental learning centers.

**WSR 95-07-067**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed March 14, 1995, 11:40 a.m.]

Date of Adoption: March 14, 1995.

Purpose: This rule making repeals chapter 458-08 WAC, Uniform procedural rules for the conducting of contested cases, which is obsolete and replaced by WAC 458-20-10001 and 458-20-10002. The twenty-seven rules of this chapter are replaced by the two aforesaid rules.

Citation of Existing Rules Affected by this Order: Repealing chapter 458-08 WAC.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 95-04-051 on January 25, 1995.

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

March 14, 1995

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**WSR 95-07-068**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed March 14, 1995, 11:42 a.m.]

Date of Adoption: March 14, 1995.

Purpose: This rule adopts the adjudicative process and procedure of WAC 458-20-10001 for wholesale and retail cigarette vendor license revocations and suspensions under the Administrative Procedure Act.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-18601.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 95-04-053 on January 25, 1995.

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

March 14, 1995

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**AMENDATORY SECTION** (Amending WSR 92-06-081, filed 3/4/92, effective 4/4/92)

**WAC 458-20-18601 Wholesale and retail cigarette vendor licenses.** (1) Definitions. For purposes of this section, the following terms mean:

(a) "Wholesaler" is any person who purchases, sells, or distributes cigarettes to retailers for the purpose of resale only.

(b) "Retailer" is any person, other than a wholesaler, who purchases, sells, offers for sale or distributes cigarettes

at retail and all persons operating under a retailer's registration certificate.

(c) "Place of business" is any location where business is transacted with, or sales are made to, customers. The term also includes any vehicle, truck, vessel, or the like at which sales are made.

(d) "Department" is the department of revenue.

(2) Wholesale license. Prior to the sale or distribution of cigarettes at wholesale, each wholesaler must first be issued a wholesale cigarette license from the department of licensing.

(a) Applications for license or renewal of license shall be made on forms supplied by the department of licensing and shall be accompanied by the annual license fee of \$650. A wholesale cigarette license shall be valid for one year from the date of issuance.

(b) If the wholesaler sells, or intends to sell, cigarettes at more than one place of business, whether temporary or established, a separate license with a license fee of \$115 shall be required for each additional place of business. Each license shall be exhibited in the place of business for which it is issued.

(c) Each licensed wholesaler shall file a bond with the department in an amount determined by the department, which amount shall not be less than \$5,000. The bond shall be executed by the wholesaler as principal, and by a corporation approved by the department of licensing and authorized to engage in business as a surety company in this state, as surety. The bond shall run concurrently with the wholesaler's license.

(3) Retail license. Prior to the retail sale or distribution of cigarettes, each retailer must first be issued a retail cigarette license from the department of licensing.

(a) Applications for license or renewal of license shall be made on forms supplied by the department of licensing and shall be accompanied by the annual license fee of \$10. A retail cigarette license shall be valid for one year from the date of issuance.

(b) Retailers operating cigarette vending machines are required to pay an additional fee of \$1 for each such vending machine.

(4) Persons acting as wholesalers and retailers. Persons may sell cigarettes both as retailers and wholesalers only if appropriate licenses are first secured for sales in both capacities. The sale of cigarettes by any person who does not possess a valid license authorizing such sale shall be considered a violation of this section.

(5) Revocation or suspension of license. The department shall revoke or suspend the license of any wholesale or retail cigarette dealer found to have violated the provisions of chapter 82.24 RCW, WAC 458-20-186, or this section. Upon a finding by the department of a failure to comply with the provisions of chapter 82.24 RCW, WAC 458-20-186, or this section, it shall:

(a) For the first offense, suspend the license or licenses of the offender for a period of not less than thirty consecutive business days;

(b) In the case of a second or multiple offense, suspend the license or licenses of the offender for not less than ninety consecutive business days nor more than twelve months;

(c) In the case of a finding that the offender is guilty of willful and persistent violations, revoke the offender's license or licenses.

(6) Revocation or suspension hearing.

(a) If the department determines that a license holder has violated the provisions of chapter 82.24 RCW, WAC 458-20-186, or this section, a hearing will be scheduled to consider the license revocation or suspension of such license holder. ~~(In the event of such a determination, the department shall so notify the license holder in writing of its intent to revoke or suspend the license. Such notice shall inform the license holder of the date scheduled for hearing and shall also contain the information specified in RCW 34.05.434.)~~

(b) ~~(Revocation or suspension hearings shall be held before the assistant director of the miscellaneous tax division or his or her designee in the department's offices in Olympia unless a different location is specified in the notice of hearing. The department shall schedule the hearing no earlier than twenty days from the date of mailing of notice of the hearing.)~~

(c) ~~The hearing will be conducted in accordance with the provisions of chapter 34.05 RCW (Administrative Procedure Act). Following the hearing the department shall issue a written order revoking or suspending the license or finding in favor of the license holder. The order of the department shall represent the final decision of the department and shall be binding unless the license holder files a timely petition for review with the department's interpretation and appeal division. (See WAC 458-20-100 for appeal procedures.)~~

(d) ~~The license holder may seek review of any order revoking or suspending a license by filing a petition for review with the department's interpretation and appeals division within thirty days from the date of the order of revocation or suspension. The decision of the interpretation and appeals division shall represent the final position of the department and shall be binding unless timely appealed.~~

(e) ~~Appeals from orders of the department revoking or suspending a license may be appealed to the superior court of Thurston County.)~~ The provisions of WAC 458-20-10001, Adjudicative proceedings—Brief adjudicative proceedings—Wholesale and retail cigarette license revocation or suspension—Certificate of registration (tax registration endorsement) revocation, applies to a revocation or suspension hearing.

(7) Reinstatement of license.

(a) Any person whose license or licenses have been revoked may apply to the department at the expiration of one year for a reinstatement of the license or licenses. The license or licenses may be reinstated by the department if it appears to the satisfaction of the department that the license holder will comply with the provisions of chapter 82.24 RCW, WAC 458-20-186, and this section.

(b) Application for reinstatement is to be made to the ~~(miscellaneous tax)~~ special programs division of the department. Upon receipt of an application for reinstatement of license, the department shall schedule a hearing for consideration of the application ~~(and shall notify the applicant of the date and time of the hearing. Such notice shall be sent at least twenty days prior to the date set for the hearing.)~~

~~(e) Hearings for consideration of reinstatement of a license shall be conducted as provided in subsection (6) of this section. Any applicant whose petition for reinstatement is denied may file a petition for review as provided in subsection (6)(d) of this section or appeal the denial to the superior court of Thurston County.)~~ Such hearing shall be held pursuant to WAC 458-20-10001.

**WSR 95-07-069**

**PERMANENT RULES**

**DEPARTMENT OF REVENUE**

[Filed March 14, 1995, 11:44 a.m.]

Date of Adoption: March 14, 1995.

Purpose: This rule explains the adjudicative process and procedure for formal adjudications conducted by the Department of Revenue under the Administrative Procedure Act. This rule adopts the process and procedure of chapter 10-08 WAC for the conducting of formal adjudications.

Citation of Existing Rules Affected by this Order: New section WAC 458-20-10002.

Statutory Authority for Adoption: RCW 82.32.300, 34.05.410.

Pursuant to notice filed as WSR 95-04-052 on January 25, 1995.

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

March 14, 1995

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

NEW SECTION

**WAC 458-20-10002 Adjudicative proceedings—Formal adjudicative proceedings—Log export enforcement actions pursuant to chapter 240-15 WAC—Orders to county officials issued pursuant to RCW 84.08.120 and 84.41.120—Converted brief adjudicative proceedings.**

(1) **Introduction.** The department conducts adjudicative proceedings pursuant to chapter 34.05 RCW, the Administrative Procedure Act (APA). This section explains the procedure and process for formal adjudicative proceedings conducted by the department. These formal proceedings include, but are not limited to, log export enforcement actions pursuant to chapter 240-15 WAC, orders to county officials issued pursuant to RCW 84.08.120 and 84.41.120, and converted brief adjudicative proceedings. This section does not apply to wholesale and retail cigarette license revocation/suspension of RCW 82.24.550, certificate of registration (tax registration endorsement) revocation of RCW 82.32.215, or other proceedings which are brief adjudicative proceedings and are explained in WAC 458-20-10001. This section also does not apply to the nonadjudicative proceedings as provided in RCW 82.32.160, 82.32.170 and WAC 458-20-100.

(2) **Formal adjudicative proceedings - procedure and process.** RCW 34.05.413 through 34.05.479 and chapter 10-08 WAC shall apply to formal adjudicative proceedings conducted by the department of revenue.

(a) **Presiding officer - final order - review.** The presiding officer of a formal adjudicative proceeding shall be

the director, department of revenue, or such person as the director shall designate. The presiding officer, whether the director of the department of revenue, or such person as the director shall have designated, shall make the final decision and shall enter a final order as provided in RCW 34.05.461 (1)(b). No further administrative review is available from a decision of the presiding officer.

(b) **Petitions for reconsideration.** RCW 34.05.470 provides that petitions for reconsideration shall be filed within ten days of the final order. A petition for reconsideration shall be filed with the presiding officer at the address of the presiding officer provided in the notice of the proceedings, or at such other address as may be provided in the final order, and shall be in the form of other pleadings in the matter. As with all other pleadings, a copy of the petition shall be served upon all other parties to the proceeding.

**WSR 95-07-070**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed March 14, 1995, 11:50 a.m.]

Date of Adoption: March 14, 1995.

Purpose: This rule adopts and explains the brief adjudicative process and procedure for wholesale and retail cigarette license revocation or suspension and certificate of registration (tax registration endorsement) revocations under the Administrative Procedure Act, chapter 34.05 RCW.

Citation of Existing Rules Affected by this Order: New section WAC 458-20-10001.

Statutory Authority for Adoption: RCW 82.32.300, 34.05.410.

Pursuant to notice filed as WSR 95-04-054 on January 25, 1995.

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

March 14, 1995

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**NEW SECTION**

**WAC 458-20-10001 Adjudicative proceedings—Brief adjudicative proceedings—Wholesale and retail cigarette license revocation or suspension—Certificate of registration (tax registration endorsement) revocation.** (1) **Introduction.** The department conducts adjudicative proceedings pursuant to chapter 34.05 RCW, the Administrative Procedure Act (APA). These adjudicative proceedings include, but are not limited to, wholesale and retail cigarette license revocation or suspension of RCW 82.24.550, certificate of registration (tax registration endorsement) revocation of RCW 82.32.215. The department adopts in this section the brief adjudicative procedures as provided in the APA for wholesale and retail cigarette license revocation or suspension of RCW 82.24.550, and certificate of registration (tax registration endorsement) revocation of RCW 82.32.215. This section explains the procedure and process pertaining to the adopted brief adjudicative proceedings. This section does not apply to log export enforcement actions pursuant to chapter 240-15 WAC, orders to county

officials issued pursuant to RCW 84.08.120 and 84.41.120, brief adjudicative proceedings converted to formal adjudicative proceeding under subsection (5) of this section, and other formal adjudicative proceedings which are explained in WAC 458-20-10002. This section also does not apply to the nonadjudicative proceedings as provided in RCW 82.32.160, 82.32.170 and WAC 458-20-100.

(2) **Adoption of brief adjudicative proceedings.** As provided in RCW 34.05.482 (1)(c), this section adopts RCW 34.05.482 through 34.05.494 and the brief adjudicative procedure for APA adjudicative proceedings which the department of revenue conducts for wholesale and retail cigarette license revocation or suspension of RCW 82.24.550, and certificate of registration (tax registration endorsement) revocation of RCW 82.32.215.

(3) **Brief adjudicative proceedings - procedure.** The following procedure shall apply to the department's brief adjudicative proceeding.

(a) **Notice of hearing.** The department shall set the time and place of the hearing. The date of the hearing may not be not less than seven days after written notice is served upon the person(s) to whom the proceedings apply. With the concurrence of the presiding officer and all persons involved in the proceedings, the hearing may be conducted by telephone and the recorded conversation shall be made a part of the record of the hearing. The notice shall include:

(i) The names and addresses of each person to whom the proceedings apply and, if known, the names and addresses of their representative(s);

(ii) The mailing address and the telephone number of the person or office designated to represent the department in the proceeding;

(iii) The official file or other reference number and the name of the proceeding;

(iv) The name, official title, mailing address and telephone number of the presiding officer, if known;

(v) A statement of the time, place and nature of the proceeding;

(vi) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(vii) A reference to the particular sections of the statutes and/or rules involved;

(viii) A short and plain statement of the matters asserted by the department; and

(ix) A statement that if a person to whom the proceedings apply fails to attend or participate in a hearing, the hearing may/will proceed and that adverse action may be taken against such person.

(x) When the department is notified or otherwise made aware that a limited-English-speaking person is a person to whom the proceedings apply, all notices, including the notice of hearing, continuance and dismissal, shall either be in the primary language of such person or shall include a notice in the primary language of the person which describes the significance of the notice and how the person may receive assistance in understanding and responding to the notice. In addition, the notice shall state that if a limited-English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter will be appointed at no cost to the person to whom the proceedings apply or witness. The notice shall include a form to be returned to the department for a person to whom the proceedings apply to indicate

whether such person, or a witness, needs an interpreter and to identify the primary language or hearing impaired status of the person.

**(b) Presiding officer.**

(i) When the proceeding is a certificate of registration (tax registration endorsement) revocation pursuant to RCW 82.32.215, the presiding officer shall be the assistant director of the department's compliance division or designee, or such other person as the director of the department of revenue may designate.

(ii) When the proceeding is a wholesale and retail cigarette license revocation or suspension pursuant to RCW 82.24.550, the presiding officer shall be the assistant director of the department's special program's division or designee, or such other person as the director of the department of revenue may designate.

(iii) The presiding officer conducts the hearing and before taking action, the presiding officer shall give each person to whom the proceedings apply an opportunity to be informed of the department's view of the matter, and to explain the person's view of the matter.

(iv) The presiding officer shall have the authority granted by chapter 34.05 RCW including but not limited to:

(A) Determine the order of the hearing including the presentation of evidence; administer oaths and affirmations; issue subpoenas;

(B) Rule on procedural matters, objections and motions; rule on offers of proof and receive relevant evidence;

(C) Ask questions of the person to whom the proceedings apply or the person representing the department, or of the witnesses called by either, in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(D) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by both the person to whom the proceedings apply and the department;

(E) Take any appropriate action to maintain order during the hearing; permit or require oral argument, briefs, or discovery and determine the time limits for their submission;

(F) Take any other action necessary and authorized by applicable statute or rule;

(G) Waive any requirement of this section not specifically required by law unless either the person to whom the proceedings apply or the department shows that it would be prejudiced by such a waiver;

(H) Convert the proceedings, at any time in the proceeding, from a brief adjudicative proceeding to a formal proceeding pursuant to RCW 34.05.413 through 34.05.479 and WAC 458-20-10002.

**(c) Appearance and practice at a brief adjudicative proceeding.**

(i) The right to practice before the department in a brief adjudicative proceeding is limited to:

(A) Persons who are natural persons representing themselves;

(B) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;

(C) Attorneys at law entitled to practice before the highest court of record of any other state, if attorneys licensed in Washington are permitted to appear before the

courts of such other state in a representative capacity, and if not otherwise prohibited by state law;

(D) Public officials in their official capacity;

(E) Certified public accountants entitled to practice in the state of Washington;

(F) A duly authorized director, officer, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership or corporation;

(G) Partners, joint venturers or trustees representing their respective partnerships, joint ventures, or trusts; and

(H) Other persons designated by a person to whom the proceedings apply with the approval of the presiding officer.

(ii) In the event a proceeding is converted from a brief adjudicative proceeding to a formal proceeding, representation is limited to the provisions of law and RCW 34.05.428.

**(d) Rules of evidence - discovery - record of the proceeding - filing and service of papers.**

(i) All testimony of a person to whom the proceedings apply, the department and witnesses shall be made under oath or affirmation. Every interpreter shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the presiding officer in the English language, to the best of the interpreter's skill and judgment.

(ii) Evidence, including hearsay, is admissible if in the judgment of the presiding officer, it is the kind of evidence on which reasonably prudent persons are accustomed to rely in conduct of their affairs. The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious and shall be guided in evidentiary rulings, where not inconsistent with this section, by RCW 34.05.452, WAC 10-08-140, and by the Washington Rules of Evidence.

(iii) Discovery (depositions, interrogatories, etc.) may be conducted only by order of the presiding officer and if ordered, RCW 34.05.446 applies to the proceeding.

(iv) All hearings shall be recorded by manual, electronic, or other type of recording device. The agency record shall consist of the documents regarding the matter that were considered or prepared by the presiding officer, or by the reviewing officer in any review, and the recording of the hearing. These records shall be maintained by the department as its official record.

(v) All notices and other pleadings or papers filed with the presiding officer or reviewing officer shall be served on each person to whom the proceeding apply, the department or their representatives/agents of record. Service shall be made personally; by first-class, registered or certified mail; by telegraph; or electronic telefacsimile (FAX) and same-day mailing of copies; or by commercial parcel delivery company. Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by telegraph shall be regarded as completed when deposited with a telegraph company with the charges prepaid. Service by electronic telefacsimile

(FAX) shall be regarded as completed upon the production by the telefacsimile device of confirmation of transmission. Service by commercial parcel delivery shall be regarded as being completed upon delivery to the parcel delivery company charges prepaid. Service to a person to whom the proceedings apply and/or representative/agent, and, the department and/or presiding officer shall be to the address shown on the notice of subsection (2)(a) of this section. Service to the reviewing officer shall be to interpretation and appeals division at the address shown in subsection (4) of this section. Where proof of service is required, the proofs of service include:

(A) An acknowledgment of service;

(B) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all or one or more of the parties of record in the proceeding by delivering a copy in person to (names).

(C) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all or one or more of parties of record by a method of service as provided in this subsection (d)(v) of this section.

(e) **Impaired persons - interpreters.** When an impaired person is a person to whom the proceedings apply, or a witness, the presiding officer shall, in absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceeding.

(i) An "impaired person" is any person involved in an adjudicative proceeding who is a hearing impaired person or a limited-English-speaking person.

(ii) A "hearing impaired person" is a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, or hard of hearing.

(iii) A "limited-English-speaking person" is a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(iv) A "qualified interpreter" is one who is readily able to interpret spoken and translate written English to and for impaired persons into spoken English and who meets the requirements of (e)(ix) of this subsection: *Provided*, That for hearing impaired persons a qualified interpreter must be certified by the registry of interpreters for the deaf with a specialist certificate-legal, master's comprehensive skills certificate, or comprehensive skills certificate.

(v) An "intermediary interpreter" is one who is readily able to interpret spoken and translate written English and who meets the requirements of (e)(ix) of this subsection, and who is able to assist in providing an accurate interpretation between spoken and sign language or between variants of sign language by acting as an intermediary between a hearing impaired person and a qualified interpreter for the hearing impaired.

(vi) When an impaired person is a person to whom the proceedings apply, or a witness in such adjudicative proceeding, the presiding officer shall, in the absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceedings. The right to a qualified interpreter may not be waived except when:

(A) The impaired person requests a waiver through the use of a qualified interpreter;

(B) The representative, if any, of the impaired person consents; and

(C) The presiding officer determines that the waiver has been made knowingly, voluntarily, and intelligently.

(vii) Waiver of a qualified interpreter shall not preclude the impaired person from claiming his or her right to a qualified interpreter at a later time during the proceeding.

(viii) Relatives of any participant in a proceeding and employees of the department shall not be appointed as interpreters in the proceeding without the consent of the presiding officer and the person(s) to whom the proceedings apply, in the case of an employee of the department, or the department in the case of a relative of the person(s) to whom the proceedings apply or of a witness for such person(s).

(ix) The presiding officer shall make a preliminary determination that an interpreter is able in the particular proceeding to interpret accurately all communication to and from the impaired person. This determination shall be based upon the testimony or stated needs of the impaired person, the interpreter's education, certifications, and experience, the interpreter's understanding of the basic vocabulary and procedure involved in the proceeding, and the interpreter's impartiality. A person to whom the proceedings apply or their representative(s), or the department may question the interpreter as to his or her qualifications or impartiality.

(x) If at any time during the proceeding, in the opinion of the impaired person, the presiding officer or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person, the presiding officer shall appoint another qualified interpreter.

(xi) If the communication mode or language or a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the presiding officer who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

(xii) Mode of interpretation.

(A) Interpreters for limited-English-speaking persons shall use simultaneous mode of interpretation where the presiding officer and interpreter agree that simultaneous interpretation will advance fairness and efficiency; otherwise, the consecutive mode of foreign language interpretation shall be used.

(B) Interpreters for hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode that the qualified interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(C) When an impaired person is the person to whom the proceedings apply, the interpreter shall translate all statements made by other hearing participants. The presiding officer shall ensure that sufficient extra time is provided to permit translation and the presiding officer shall ensure that the interpreter translates the entire proceeding to the person to whom the proceedings apply to the extent that the person has the same opportunity to understand all statements made during the proceedings as a nonimpaired party listening to uninterpreted statements would have.

(xiii) A qualified interpreter shall not, without the written consent of the parties to the communication, be

examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law. A qualified interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

(xiv) The presiding officer shall explain to the impaired party that a written decision or order will be issued in English, and that the party may contact the interpreter for a translation of the decision at no cost to the party. The presiding officer shall orally inform the party during the hearing of the right and of the time limits to request review.

(xv) At the hearing, the interpreter for a limited-English-speaking party shall provide to the presiding officer the interpreter's telephone number written in the primary language of the impaired party. A copy of such telephone number shall be attached to the decision or order mailed to the impaired party. A copy of the decision or order shall also be mailed to the interpreter for use in translation.

(xvi) In any proceeding involving a hearing impaired person, the presiding officer may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(xvii) A qualified interpreter appointed under this section is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The department shall pay such interpreter fee and expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services.

(xviii) This subsection (e) shall apply to a review of the decision under subsection (4) of this section.

**(f) Informal settlements.**

(i) The department encourages informal settlement of issues which have resulted in a proceeding being commenced. At any time in the proceeding the person(s) to whom the proceeding applies and the department are encouraged to reach agreement. Settlement of a proceeding shall be concluded by:

(A) Stipulation of the person(s) to whom the proceedings apply and the department signed by each or their representative(s), and/or recited into the record of the proceedings. In the event the stipulation provides for a payment agreement, the order of the presiding officer may be a continuance of these proceedings and dismissal when all payments have been made, but in no case, may the order provide for the reconvening of the proceedings if the payment agreement is breached unless seven days notice of the reconvening is provided. Except as provided in this section, the presiding officer shall enter an order in conformity with the terms of the stipulation; or

(B) Withdrawal by the department in which case the presiding officer shall enter an order dismissing the proceedings.

(ii) In the case of revocation of certificate of registration (tax registration endorsement) under RCW 82.32.215, the

presiding officer, or the reviewing officer, shall not hear or rule upon (other than the entry of an order as provided in (f)(i)(A) and (B) of this subsection) arguments, or motions, etc., for the settlement of the matter. Settlement of the controversy is totally between the person(s) to whom the proceedings apply and the department through its representative at the proceeding. Nothing in this section shall prevent a presiding officer or a reviewing officer from granting a continuance of a hearing, or such other motion as the presiding officer or reviewing officer deems appropriate for the purpose of settlement of the matter between the parties.

**(g) Entry of orders.**

(i) At the time any unfavorable action is taken, the presiding officer shall serve upon each person to whom the proceeding apply and the department a brief statement of the reasons for the decision. Within ten days of a decision, the presiding officer shall serve upon each person to whom the proceedings apply and the department a brief written statement of the reasons for the decision and the availability of the departmental review procedure as provided in this section.

(ii) The brief written statement provided the parties, which may include an order where a person to whom the proceedings apply fails to attend or participate in the hearing or other stage of the proceeding, is an initial order and if no review is requested as provided in subsection (4) of this section, the initial order shall become a final order.

**(4) Review of initial orders from brief adjudicative proceeding.** If a person to whom the proceedings apply wishes a review of the initial order, the brief written statement of the decision as provided in subsection (3)(g)(i) of this section, the person may request a review by the department by the filing of a petition for review, or the making of an oral request for review, with the department's interpretation and appeals division, within twenty-one days after the service of the initial order on the person to whom the proceedings apply. A request for review should state the reasons the review is sought. The address and telephone number of the interpretation and appeals division is:

Interpretation and Appeals Division  
Department of Revenue  
P.O. Box 47460  
Olympia, Washington 98504-7460  
Telephone Number - (360) 753-2310  
FAX - (360) 664-2729

(a) The interpretation and appeals division shall appoint a reviewing officer who shall make such determination as may appear to be just and lawful. The reviewing officer shall give each person to whom the proceedings apply and the department an opportunity to explain each person's view of the matter and shall make any inquiries necessary to ascertain whether the proceeding should be converted to a formal adjudicative proceeding. The review by the interpretation and appeals division shall be governed by the brief adjudicative procedures of chapter 34.05 RCW and this section; or subsection (5) of this section in the event a brief adjudicative hearing is converted to a formal adjudicative proceeding, and not by the processes and procedures of WAC 458-20-100.

(b) The agency record need not constitute the exclusive basis for the reviewing officer's decision. The reviewing

officer shall have the authority of a presiding officer as provided in this section.

(c) The order of the reviewing officer shall be in writing and shall include a brief statement of the reasons for the decision and must be entered within twenty days of the initial order or the petition for review, whichever is later. The order shall include a description of any further administrative review available, or if none, a notice that judicial review may be available.

(d) Unless otherwise provided in the order of the reviewing officer, the order of the reviewing officer represents the final position of the department. A reconsideration of the order of a reviewing officer may be sought only if the right to a reconsideration is contained in the final order.

(5) **Conversion of a brief adjudicative proceeding to a formal proceeding.** The presiding officer, or reviewing officer, may at any time, on motion of a person to whom the proceedings apply, or the department, or his/her own motion, convert the brief adjudicative proceeding to a formal proceeding.

(a) The presiding/reviewing officer shall convert the proceeding when it is found that the use of the brief adjudicative proceeding violates any provision of law, when the protection of the public interest requires the agency to give notice to and an opportunity to participate to persons other than the parties, and when the issues and interests involved warrant the use of the procedures of RCW 34.05.413 through 34.05.479.

(b) When a proceeding is converted from a brief adjudication to a formal proceeding, the director of the department of revenue, upon notice to the person(s) to whom the proceedings apply and the department, may become the presiding officer, or may designate a replacement presiding officer to conduct the formal proceedings.

(c) In the conduct of the formal proceedings, WAC 458-20-10002 shall apply to the proceedings. The converted proceeding is itself the independent administrative review by the department of revenue as provided in RCW 82.32A-.020(6).

(6) **Court appeal.** Court appeal from the final order of the department is available under Part V, chapter 34.05 RCW. However, court appeal may be available only if a review of the initial decision has been requested under subsection (4) of this section and all other administrative remedies have been exhausted. See RCW 34.05.534.

(7) **Posting of a final order of revoking a certificate of registration (tax registration endorsement) - revocation not a substitute for other collection methods or processes available to the department.** When an order revoking a certificate of registration (tax registration endorsement) is a final order of the department, the department shall post a copy of the order in a conspicuous place at the main entrance to the taxpayer's place of business and it shall remain posted until such time as the warrant amount has been paid.

(a) It is unlawful to engage in business after the revocation of a certificate of registration (tax registration endorsement). A person engaging in the business after a revocation may be subject to criminal sanctions as provided in RCW 82.32.290. RCW 82.32.290(2) provides that a person violating the prohibition against such engaging in

business is guilty of a Class C felony in accordance with chapter 9A.20 RCW.

(b) Any certificate of registration (tax registration endorsement) revoked shall not be reinstated, nor a new certificate of registration issued until:

(i) The amount due on the warrant has been paid, or provisions for payment satisfactory to the department of revenue have been entered; and

(ii) The taxpayer has deposited with the department of revenue as security for taxes, increases and penalties due or which may become due under such terms and conditions as the department of revenue may require, but the amount of the security may not be greater than one-half the estimated average annual liability of the taxpayer.

(c) The revocation of a certificate of registration (tax registration endorsement), including any time during the revocation process, shall not be a substitute for, or in any way curtail, other collection methods or processes available to the department.

(8) **Computation of time.** In computing any period of time prescribed by this regulation or by the presiding officer, the day of the act or event after which the designated period is to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

#### WSR 95-07-074

#### PERMANENT RULES

#### PERSONNEL APPEALS BOARD

[Filed March 15, 1995, 9:42 a.m.]

Date of Adoption: March 6, 1995.

Purpose: Efficient, fair and timely resolution of personnel appeals.

Citation of Existing Rules Affected by this Order: Amending WAC 358-20-010, 358-20-020, 358-20-030, 358-20-040, 358-30-010, 358-30-020, 358-30-030, 358-30-060, 358-30-070, 358-30-080, 358-30-090, 358-30-110, 358-30-170, 358-30-190, and 358-30-220.

Statutory Authority for Adoption: RCW 41.64.060, 34.05.220 [(1)](a).

Pursuant to notice filed as WSR 95-03-054 on January 12, 1995.

Changes Other than Editing from Proposed to Adopted Version: WAC 358-20-032, add a new subsection (subsection (2)) to provide that an employee in a nonexempt classification may appeal the failure to exempt the position; WAC 358-30-026, strike subsection (1)(f) and replace it with "Whether or when motions may be brought" to clarify the case management aspects of prehearing conferences; WAC 358-30-028, strike second sentence of proposed rule, deleting requirement that all parties must appear by use of the same medium, such as by telephone; WAC 358-30-030, in subsection (4), after the word "order", add: "in compliance with the required timelines for motions pursuant to WAC 358-30-042(1)" to clarify the timelines for filing affidavits before scheduled board hearings; and WAC 358-30-070, in

subsection (2), after the word "notice", add "or within 30 days of filing the notice" to allow more time to identify the specific part of the record after the filing of a notice of exceptions to a decision.

Effective Date of Rule: Thirty-one days after filing.  
March 15, 1995  
Kenneth J. Latsch  
Executive Secretary

#### NEW SECTION

**WAC 358-01-042 Personnel appeals board—Regular meetings.** (1) Regular meetings of the personnel appeals board will be held at 10:00 a.m. every Monday, except holidays, in which case the meeting will be cancelled.

(2) Allowance for public comment on the operational procedures of the personnel appeals board will be included on the agenda of the regular board meeting on the second Monday of every month. The board may invite testimony as to operational procedures from specific organizations or individuals at these meetings.

#### NEW SECTION

**WAC 358-01-044 Personnel appeals board—Motions calendar, oral and written argument.** (1) The board's normal time and place for considering motions, other than motions heard in conjunction with and at the time of hearings, shall be Mondays, except holidays, at 1:30 p.m., in Olympia, Washington. In addition, the board may periodically announce a supplemental calendar of dates and times for considering motions in other locations throughout the state. Except when presented at hearings, all motions shall be submitted in writing. The party making the motion shall note the motion on the board's motions calendar, regardless of whether or not oral argument is requested.

(2) At the request of either party, oral argument shall be allowed for dispositive motions, such as motions to dismiss or motions for summary judgment. Oral argument may be presented by telephone or other electronic media pursuant to WAC 358-30-028. Nondispositive motions shall be considered upon written argument and affidavit only unless the board specifically authorizes oral argument.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

**WAC 358-20-010 Appeal from dismissal, demotion, suspension, reduction, dismissal for abandonment or disability separation.** Any permanent employee subject to the statutory jurisdiction of the personnel appeals board who is dismissed, demoted, suspended, reduced in pay, dismissed for abandonment or given a disability separation may appeal to the personnel appeals board.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

**WAC 358-20-020 Appeal from violation of law or rules.** An employee who is adversely affected by a violation of the state civil service law (chapter 41.06 RCW) or of the ((merit system rules (Title 356 WAC))) rules promulgated thereunder (Titles 251, 356 and 359 WAC), including rules

regarding a layoff or reduction in force, may appeal to the personnel appeals board.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

**WAC 358-20-030 Appeal of allocation or reallocation.** An employee incumbent in a position at the time of its allocation or reallocation or the agency/institution of higher education or related board utilizing the position may appeal by filing exceptions to the determination of the director of personnel or designee ((issued pursuant to WAC 356-10-060(5))).

#### NEW SECTION

**WAC 358-20-032 Appeal from exemption of position.** (1) An employee whose position has been exempted after July 1, 1993, may appeal the exemption to the personnel appeals board.

(2) When otherwise authorized, an employee in a nonexempt classification may appeal the failure to exempt the position to the personnel appeals board.

AMENDATORY SECTION (Amending Order 87-1, filed 9/30/87)

**WAC 358-20-040 Filing appeals.** (1) An appeal must be received in writing at the principal office of the personnel appeals board within 30 days after: (a) The effective date of the disciplinary or dismissal for abandonment action (WAC 358-20-010); (b) notification of disability separation (WAC 358-20-010); (c) notification of the allocation determination of the director of personnel or director's designee made pursuant to WAC 356-10-060(5), 251-06-060, or their successor rule or rules (WAC 358-20-030); ((or)) (d) the effective date of the exemption of a position (WAC 358-20-032); or (e) the employee could reasonably be expected to have knowledge of the action giving rise to a law or rule violation claim under WAC 358-20-020 or the stated effective date of the action, whichever is later.

(2) The appeal shall include the name and address of the appellant, the name of the ((employing)) agency, ((and)) or institution of higher education and any relevant department that took the action which is being appealed, a telephone number at which the appellant can be reached, the job classification or position of the employee at the time of the action which is being appealed, a short statement of the grounds or reasons for the appeal, a short statement of the relief or remedy sought by the appellant, and a brief explanation if the appellant does not believe this case would be appropriate for mediation. The appeal should also include a listing of any related or companion cases filed, if known, and an indication of whether the parties have met to attempt to resolve the issue prior to filing the appeal. The appellant is responsible for notifying the board of any change in address or telephone number. Appellants who are represented shall include the name, address and telephone number of their representative.

(3) An appeal of a violation of the state civil service law or of the ((merit system)) rules promulgated thereunder must cite the law(s) or rule(s) which the appellant claims has been violated, the particular circumstances of the alleged

violation, and how the employee is adversely affected by the alleged violation (~~(, and the remedy requested)~~).

(4) An appeal of a disciplinary action, disability separation, or layoff or reduction in force shall include the effective date of the action and the employee's appointment status at the time of the action. An appeal of a disciplinary action shall include a short statement of the nature of the disciplinary action which is being appealed or a copy of the disciplinary letter from the agency or institution of higher education.

(5) An appeal of an allocation determination should include a copy of the determination of the director or designee of the department of personnel.

(6) Forms which may be used in filing appeals shall be available from the executive secretary of the board. ~~((The forms shall contain appropriate spaces for the information required by subsections (2) and (3) of this rule.))~~ In the alternative, appellants may prepare and use their own appeal documents. However, such documents must contain all of the information required by subsections (2) ~~((and (3)))~~ through (5) of this ~~((rule))~~ section, as appropriate.

~~((5))~~ (7)(a) Upon receipt of an appeal, the executive secretary ~~((may))~~ or his/her designee will review the document(s) filed to determine whether the information required by ~~((subsections (2) and (3) of))~~ this ~~((rule))~~ section has been provided.

(b) If any of the required information is not ~~((contained on))~~ provided with the appeal ~~((documents))~~, the ~~((executive secretary shall direct the))~~ appellant will be directed, with notification to all affected parties, to provide such information.

(c) The appellant must provide the missing information ~~((to the executive secretary))~~ as requested within ~~((fifteen))~~ twenty-one calendar days of the date ~~((the executive secretary mails))~~ the notification is mailed.

(d) Upon receipt of the requested information, the executive secretary ~~((of the personnel appeals board shall))~~ or his/her designee will send a copy to the other affected parties.

~~((6))~~ (8) If an appellant fails to provide required information within the time limits set forth in subsection ~~((5))~~ (7) of this ~~((rule))~~ section, the executive secretary or his/her designee shall note the matter for a dismissal ~~((hearing before))~~ or other nonmonetary sanctions by the board. ~~((At the dismissal hearing.))~~ The executive secretary or his/her designee shall provide notice to the parties that the matter will be considered for dismissal by the board. The board's order will be based on the information available at the time the matter is considered for dismissal. The appellant shall have the burden of demonstrating compliance with ~~((subsections (2) and (3) of))~~ this ~~((rule))~~ section. The respondent(s) may ~~((appear and present))~~ submit written argument ~~((at the dismissal hearing))~~ prior to the date set for the board's dismissal of the appeal. Oral argument shall be allowed at the request of either party and may be presented by telephone or other electronic media pursuant to WAC 358-30-028.

~~((7))~~ (9) Failure of an appellant to comply with the requirements of this ~~((rule))~~ section may result in dismissal for failure to state grounds for an appeal.

## NEW SECTION

**WAC 358-30-005 Waiver of rules to prevent manifest injustice to parties not represented by legal counsel.** Under exceptional circumstances, the board may waive any of these procedural rules, other than a rule relating to jurisdiction, for any party not represented by legal counsel where necessary to avoid manifest injustice.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-010 Acknowledgment of appeal, setting of hearing.** (1) Upon receipt of an appeal, the executive secretary of the personnel appeals board or designee will acknowledge receipt of the appeal ~~((and))~~, send a copy to the other affected parties, and, when applicable, request a copy of the action letter and supporting documentation from the appropriate party.

(2) The executive secretary or his/her designee will review all appeal(s) for compliance with the timeliness requirements of RCW 41.06.170 and WAC 358-20-040. If an appeal appears to be untimely filed, the executive secretary or his/her designee shall direct the parties to submit affidavits and/or written argument in support of or in opposition to dismissal of the appeal. In addition, a motion to dismiss for untimeliness may be submitted by any party to an appeal at any time during the appeal process.

(3) A hearing before the personnel appeals board or hearings examiner shall be ~~((arranged after consultation with the parties for a time mutually convenient but never less than 15 days notice of such hearing))~~ scheduled with written notice, specifying the time and place of the hearing provided to all parties of record to an appeal. Notice of hearing shall be mailed not less than thirty days prior to the date of the hearing, unless all parties agree to ~~((waive such notice))~~ a shorter notice period. Hearings may be scheduled for primary and/or secondary settings.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-020 Hearings examiners.** The personnel appeals board may appoint one or more hearings examiners to conduct mediation, preside at prehearing conferences, and/or preside ~~((over))~~ at hearings and make recommended decisions in accordance with rules established by the personnel appeals board in all cases of employee appeals to the board. Hearings examiners ~~((shall))~~ may be retained with a personal services contract and compensated ~~((for each hearing))~~ in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto. Hearings examiners shall conduct hearings in the same manner and shall have the same authority as the personnel appeals board when conducting hearings. The executive secretary may act as a hearings examiner for the purpose of conducting mediation, presiding at prehearing conferences and making prehearing orders.

PERMANENT

NEW SECTION

**WAC 358-30-022 Hearings on appeals of allocation determinations.** (1) Following a review by the director of the department of personnel or designee and within thirty calendar days of the date of service of the director's determination, either party may appeal an allocation or reallocation determination to the board. The appeal shall be in writing and shall detail the specific items of the director's determination to which exception is taken.

(2) The hearing shall be limited to the exceptions set forth in the notice of appeal unless otherwise determined by the board. Either party may petition the board for good cause shown to conduct the hearing on a de novo basis.

NEW SECTION

**WAC 358-30-024 Mediation.** (1) **Purpose.** The board finds that a mediation process, in which the parties, through an independent mediator, seek a settlement of their disputes in good faith, offers an opportunity early in the appeals process to settle disputes with less cost and time, and to the satisfaction of all parties. Such a process also offers the board the opportunity to concentrate its limited resources on timely resolution of those appeals which the parties have been unable to resolve.

(2) **Process.** After an appeal including all of the required documentation is received, the executive secretary or his/her designee shall:

(a) Review the file to determine whether the matter in dispute is amenable to a mediation process;

(b) Notify the parties that their appeal has been designated for mediation, if the executive secretary or designee determines that mediation would be appropriate or if the parties have jointly requested mediation;

(c) Assign the case to a hearings examiner for mediation. The executive secretary may act as a hearings examiner for this purpose. Nothing in this section prevents the parties from selecting their own mediator. However, if a mediator other than the one designated by the board is selected, the parties shall pay the cost of the mediator.

(3) **Mediation.** After selection of a mediator, the parties shall meet at least once and engage in a good faith attempt to negotiate a resolution of the appeal. Such a conference shall take place within thirty days after the parties are notified that their case has been designated for mediation. The conference may be held by telephone with the consent of the parties. The appellant and at least one designee of the employing agency or institution of higher education shall personally attend the mediation conference, unless excused by the mediator. If the designee of the agency or institution of higher education does not have authority to act on behalf of the agency or institution of higher education, a person with the requisite authority shall be available by telephone. The parties may also have representatives of their choosing at the conference.

(4) **Mediation and settlement conferences privileged.** The proceedings of any mediation or settlement conference shall not be reported or recorded in any manner, except for agreements that may be reached by the parties during the course of the conference. Statements made by or to the mediator, or by or to any party or other participant in the conference, may not later be introduced as evidence, may not

be made known to the board or hearings examiner at a hearing, or may not be construed for any purpose as an admission against interest, unless they are independently admissible. No party shall be bound by anything done or said at the conference unless a settlement is reached. If a settlement is reached, the agreement shall be reduced to writing and shall be binding upon all parties to that agreement and the appellant shall sign a request to withdraw the appeal. Any settlement reached shall not violate civil service laws or the rules promulgated thereunder or any collective bargaining agreement affecting the parties then in force.

(5) **Exemption from mediation.** A party for good cause shown, or the parties by agreement, may decline to engage in the mediation process.

(6) **Mediation available.** If an appeal is not initially selected by the executive secretary or designee as appropriate for mediation, or if at any time prior to the appeal hearing a party or parties desire to engage in the mediation process, application may be made to the executive secretary for appointment of a mediator in the manner provided in subsection (2)(c) of this section.

(7) **Post-mediation process.** If the parties have been unable to resolve their dispute through mediation, the hearings examiner conducting the mediation may direct the parties to proceed to a prehearing conference either immediately or at a later date. The hearings examiner shall also ask the parties to identify acceptable dates for a hearing and shall attempt to schedule the hearing in consultation with the board.

The hearings examiner shall notify the executive secretary of the failure to reach settlement. If not already scheduled, the executive secretary or designee shall then begin the process of scheduling the appeal for hearing, including setting a prehearing conference when appropriate.

NEW SECTION

**WAC 358-30-026 Prehearing conference.** (1) The board, the executive secretary, or the hearings examiner may direct the parties or their representatives to engage in a prehearing conference or conferences to consider the following:

- (a) Simplification or limitation of issues;
- (b) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;
- (c) Discovery, discovery methods and discovery deadlines;
- (d) The number of witnesses expected to be called and their names when possible;
- (e) The approximate time necessary for presentation of the evidence of the respective parties;
- (f) Whether or when motions may be brought;
- (g) Exhibits;
- (h) Affidavits; and
- (i) Such other matters as may aid in the prompt disposition of the appeal.

(2) A prehearing conference may be conducted by the executive secretary, a hearings examiner, or one or more board members. It may be held in conjunction with a mediation conference.

(3) The results of the prehearing conference shall be stated on the record of the proceeding, if any, or in a subsequent written order. The statement or order shall include, where applicable, agreements or rulings concerning issues, admissions, stipulations, witnesses, discovery, length of hearing, motions, exhibits, affidavits, and other matters that may expedite the appeal hearing. The statement or order resulting from the prehearing conference shall control the subsequent course of the appeal, subject to modification upon a filing of exceptions to the statement or order.

(4) Prehearing conferences may be held by telephone with the consent of the parties or in person at a time and place specified by the board, the executive secretary, or the hearings examiner. Refusal by a party to participate in a prehearing conference may result in dismissal of the appeal, or other appropriate sanctions.

(5) During a hearing, the board or the hearings examiner may recess the hearing for the purpose of carrying out the provisions of subsection (1) of this section.

(6) The parties are encouraged where possible to resolve their disputes by agreement. To facilitate such resolution, the presiding officer, at the prehearing conference, may recess the conference at any time to give the parties time to discuss settlement of their dispute. In the event settlement is reached, the fact of settlement shall be stated on the record, if any, of the prehearing conference or in a written order, the parties shall indicate their concurrence on the record, and the appellant shall sign a request to withdraw the appeal. If no settlement is reached at a prehearing conference, the presiding officer shall ask the parties to identify acceptable dates for a hearing and shall attempt to schedule the hearing in consultation with the board.

#### NEW SECTION

**WAC 358-30-028 Hearings and conferences by telephone.** Mediation conferences, settlement conferences, hearings on motions, and full hearings may be conducted by telephone or other electronic media with the consent of the parties.

AMENDATORY SECTION (Amending Order 85-2, filed 9/19/85)

**WAC 358-30-030 Hearings.** (1) Hearings on all appeals shall be open to the public unless the personnel appeals board or hearings examiner determines there is substantial reason for not having an open hearing, or the employee so requests.

(2) The hearing shall be informal. Technical rules of evidence shall not apply to the proceedings, except for the rules of privilege recognized by law.

(3) All parties may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the personnel appeals board or hearings examiner.

(4) All testimony shall be on oath administered by a member of the personnel appeals board or hearings examiner. Testimony by affidavit shall not be admitted at a hearing except for good cause shown, or as otherwise permitted in these rules, as provided in a prehearing conference statement or order in compliance with the required timelines for

motions pursuant to WAC 358-30-042(1), or by stipulation of the parties.

(5) One member of the personnel appeals board may hold a hearing and take testimony to be reported for action by the board. Any such hearing shall be done only at the direction of the chairperson of the board or as provided in these rules.

(6) The personnel appeals board or hearings examiner shall prepare an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits.

(7) The personnel appeals board or hearings examiner shall not be required to transcribe such record unless requested by the parties. A transcript can be obtained:

(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, a transcript can be ordered from the court reporter.

(b) If the proceedings were recorded mechanically, a copy of transcript or copies of cassettes can be ordered from the board for ~~(\$2.50 a page. Copies of cassettes may be obtained for \$5.00 for the first tape and \$3.00 for each additional tape))~~ a reasonable charge.

#### NEW SECTION

##### **WAC 358-30-042 Motions, generally—Time lines.**

(1) The moving party shall schedule motions by noting them on the board's motions calendar pursuant to WAC 358-01-044 or by scheduling them with the hearings examiner if one has been assigned. Except as otherwise provided in a prehearing conference statement or order or as otherwise specifically provided in these rules, written motions and any supporting affidavits shall be filed and served not less than five days before the date on which the motion has been noted for consideration by the board or scheduled by the hearings examiner; responses to the motion and any opposing affidavits shall be filed and served not less than one day before the date on which the motion has been noted for consideration by the board or scheduled by the hearings examiner.

(2) Except as otherwise provided in a prehearing conference statement or order, dispositive or summary motions shall be filed and served pursuant to WAC 358-30-060.

(3) Additional time requirements for motions may be found in WAC 358-30-015 for motions for a more definite statement and in WAC 358-30-040 for motions for continuance.

(4) Any party submitting documents in support of or opposition to a motion will provide the original and three copies to the board, and one copy to each opposing party.

#### NEW SECTION

**WAC 358-30-045 Filing of prehearing statements, briefs, and written argument.** (1) Any party to a hearing before the board who desires to submit, or when the board or designee requests all parties to submit, a prehearing statement, prehearing brief, or written argument shall provide such documents to the board and to each opposing party no later than three days prior to the scheduled hearing date or at such time as set at the prehearing conference. Any response shall be served no later than one day prior to the

scheduled hearing date or at such time as set at the prehearing conference.

(2) Any party submitting such documents will provide the original and three copies to the board, and one copy to each opposing party.

(3) Submission of documents will be accomplished when the document is received in the principal office of the board in Olympia, Washington. The board or designee may refuse to consider documents that are untimely filed.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-060 Dispositive and summary motions.**

(1) The personnel appeals board, or a hearings examiner, may decide all, or any part, of an appeal by motion, after ~~((a hearing and))~~ notice to all parties, if the documents on file, depositions and affidavits, if any, show there is no genuine issue as to any material fact and the appeal should be decided or dismissed as a matter of law.

(2) Dispositive or summary motions may be made ~~((at any time))~~ by any party. The motion shall be in writing which sets forth the basis for the motion and shall be filed with the executive secretary of the personnel appeals board. The moving party shall note the motion on the board's motions calendar or schedule it with the hearings examiner and shall serve the motion, any memoranda or affidavits, and the notice of date scheduled for consideration of the motion on all parties at least twenty-one days before the date scheduled. The moving party should make a good faith effort to consult the opposing party as to scheduling the motion prior to noting it on the board's motions calendar. The board or hearings examiner shall allow oral argument on the motion at the request of either party. The party requesting oral argument shall notify the board or hearings examiner and all parties of the request.

(3) ~~((If motions are made prior to the hearing date, or if no hearing date has been assigned, the motion may be heard by the board as provided in WAC 358-30-030, or by the hearings examiner. Any such motion shall be in writing which sets forth the basis for the motion and shall be filed with the executive secretary of the personnel appeals board and served on all parties. After receipt of the motion, the parties will be notified by the executive secretary or hearings examiner, at least ten days in advance, of the time and place of the hearing on the motion.))~~ The motion may be decided based on written argument and affidavits only unless a party or the board or hearings examiner requests oral argument. Oral argument may be presented by telephone or other electronic media pursuant to WAC 358-30-028.

(4) Any affidavits to be filed in support of a motion shall be served with the motion at least twenty-one days prior to the date scheduled for consideration of the motion. Responses to the motion and any opposing affidavits shall be filed and served at least ~~((three))~~ ten days prior to the ~~((hearing))~~ date scheduled. Any reply and any counter affidavits by the moving party shall be filed and served at least ~~((one day))~~ three days prior to the ~~((hearing))~~ date scheduled.

(5) When an appeal is dismissed or decided on motion, an order, or recommended order shall be issued as in other cases of appeal to the personnel appeals board.

(6) Deadlines in this rule may be altered as otherwise provided in a prehearing conference statement or order.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-070 Recommended decisions of hearings examiners—Exceptions.** (1) A hearings examiner shall serve his/her recommended decision, including findings of act, conclusions of law, and order, upon the personnel appeals board and upon each party and representative as soon as possible after conclusion of the hearing. Service to the employing agency or institution of higher education and to the employee or the employee's designated representative shall be made by certified mail, a return receipt requested.

(2) ~~Within ~~((30))~~ thirty~~ days after service of the recommended decision, any party adversely affected thereby may take exception to the personnel appeals board by filing a written notice of exceptions at the principal office of the personnel appeals board. The notice shall set forth specific exceptions to the recommended decision including each finding of fact and conclusion of law to which exception is taken and any additional errors the parties contend were made by the hearings examiner. If a party contends a finding of fact is incorrect, or that the examiner has made any other error which requires a review of the record, the party shall identify in the notice or within thirty days of filing the notice the specific portion or portions of the record which it contends supports each claimed error.

(3) If no exceptions are filed, the recommended decision shall become final within ~~((40))~~ forty days after service thereof, unless the personnel appeals board notifies each party within that ~~((40))~~ forty-day period that a hearing will be scheduled to consider the recommended decision.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-080 Hearing on exceptions—Orders of board.** (1) The hearing by the personnel appeals board on exceptions from a recommended decision of a hearings examiner shall be limited to the contentions set forth in the notice of exceptions unless the board itself chooses to review other matters.

(2) The personnel appeals board will issue its decision within 30 days after the conclusion of the hearing.

(3) When the construction of a rule, regulation or statute is in question the board will issue findings of fact, conclusions of law and its order.

(4) The decision and order of the personnel appeals board shall be final in cases filed pursuant to RCW 41.06.-170 (3) or (4). In cases filed pursuant to RCW 41.06.170(2) the order and decision of the personnel appeals board shall be final subject to action by the court on appeal.

NEW SECTION

**WAC 358-30-082 Default at hearings.** If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the board may serve upon all parties a default or dismissal order which shall include a statement of the grounds for the order. Within seven days after service of a default or dismissal order for failure to attend or partici-

pate, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon.

#### NEW SECTION

**WAC 358-30-084 Dismissal by board.** (1) In all appeals filed with the personnel appeals board:

(a) Where the parties have indicated that the case has been settled and ready for dismissal and where there has been no action by the parties during the preceding thirty days; or

(b) When the board deems it appropriate for lack of timeliness or any other jurisdictional matter where there is no question of fact; or

(c) When a party refuses to participate in a prehearing conference pursuant to WAC 358-30-026(4); or

(d) When the board is unable to contact the appellant at the last address and telephone number provided by the appellant, the executive secretary or his/her designee may mail notice to the appellant or the appellant's representative and to the respondent or the respondent's representative that the appeal will be dismissed by the board unless within fifteen days following the date of service of the notice a written request is made to the board and good cause is shown why the appeal should be continued as a pending case.

(2) If no request is made, the matter will be brought before the board for dismissal.

**AMENDATORY SECTION** (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-090 Exhibits at hearings.** At any hearing before the personnel appeals board or hearings examiner when exhibits are offered, copies shall be furnished to the opposing party, to each board member or hearings examiner and for the official file. The parties should interchange copies of exhibits before or at the commencement of the hearing. The number, scope and timing of exhibits may be limited pursuant to the prehearing conference.

**AMENDATORY SECTION** (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-110 Filing papers with the personnel appeals board.** (1) **Filing generally.** Papers which must be filed with the personnel appeals board shall not be deemed filed until actual receipt of the papers in the principal office of the personnel appeals board in Olympia, Washington during customary office hours. The executive secretary or designee shall issue a receipt and an acknowledgment stating the date filed.

(2) **Filing by telephone facsimile.**

(a) The filing of a written communication with the board by telephone facsimile is perfected when a legible copy of the written communication is reproduced on the board's telephone facsimile equipment in Olympia. The hours of operation of the board's telephone facsimile equipment are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. If a transmission of a written communication commences after these hours of

operation the written communication shall be deemed filed on the next succeeding business day.

(b) Any written communication filed with the board by telephone facsimile should be preceded by a cover page identifying the party making the transmission, listing the address, telephone and telephone facsimile number of such party, referencing the appeal to which the written communication relates, and indicating the date of, and the total number of pages included in, such transmission.

(c) No written communication filed by telephone facsimile should exceed fifteen pages in length, exclusive of the cover page required by this rule.

(d) The party attempting to file the written communication by telephone facsimile bears the risk that the written communication will not be timely received or legibly printed on the board's telephone facsimile equipment due to error in the operation or failure of the equipment being utilized by either the party or the board or to the line being busy. If the telephone facsimile is not received in legible form, it will be considered as if it had never been sent.

(e) The original of any document filed by telephone facsimile should be mailed to the board within twenty-four hours of the time that the telephone facsimile was sent.

**AMENDATORY SECTION** (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-170 Burden of proof.** At any hearing on appeal from a layoff or reduction in force, dismissal, suspension, demotion, reduction in pay, dismissal for abandonment or disability separation the appointing authority shall have the burden of supporting the charges upon which the action was initiated. At any other hearing, the party filing the action shall have the burden of proof.

**AMENDATORY SECTION** (Amending Order 81-4, filed 12/16/81)

**WAC 358-30-190 Service.** (1) All notices, documents and other papers (~~required under the personnel appeals board rules to be filed or served, shall be~~) filed with the board (~~and~~), after the initial filing of the appeal, shall be served upon each of the parties and the hearings examiner to whom the appeal is assigned, if any, all within the time stated. Service shall be made personally, or, except as provided in WAC 358-30-070(1), by first class mail.

(2) Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail three days after deposit in the United States mail properly stamped and addressed.

**AMENDATORY SECTION** (Amending Order 85-2, filed 9/19/85)

**WAC 358-30-220 Record for the court—Transcripts on appeal.** (1) By stipulation the parties may agree to shorten the record to be filed with the court. The appellant shall contact counsel for the respondent to discuss stipulating to a shortened record. Either party unreasonably refusing to stipulate to such a limitation may be ordered by the court to pay the additional costs involved.

(2) Within 10 days after filing the notice of appeal, the appellant will notify the board in writing of the portion of the record to be filed.

(3) The transcript certified to the court will be paid for by the board.

(4) The parties may obtain a copy of a transcript to be used on appeal:

(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, a copy of the transcript can be ordered from the court reporter.

(b) If the proceedings were recorded mechanically, a copy can be ordered from the board for ~~((35 cents))~~ a reasonable charge per page.

~~((4))~~ (5) The board shall transmit to the court a certified transcript of the hearing with exhibits.

**WSR 95-07-082**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**VETERANS AFFAIRS**

[Filed March 16, 1995, 10:35 a.m.]

Date of Adoption: February 15, 1995.

Purpose: To define how residents of the two state veterans homes utilize their income/resources.

Citation of Existing Rules Affected by this Order: Amending WAC 484-20-065.

Statutory Authority for Adoption: RCW 43.60A.070, chapter 72.36 RCW.

Pursuant to notice filed as WSR 95-02-072 on January 4, 1995.

PERMANENT

## Changes Other than Editing from Proposed to Adopted Version:

The following highlighted changes were made due to either written comments or verbal testimony received at public hearings. Changes were made for either technical reasons (to distinguish between DSHS and DVA responsibilities as related to Medicaid) or to clarify agency's intent.

(1) Added: "This payment shall be known as the resident contribution as defined in WAC 484-20-010(5)(c)." Also rearranged sentences. Technical change to clarify which agency (DVA or DSHS) determines the amount of monthly resident contribution. The definition in 484-20-010(5)(c) outlines agency responsibilities.

(2) & (3) Reversed these two sections. Improves the flow and clarity of the WAC 484-20-065.

(2)(a) Added: "(i) For residents who are Medicaid recipients, the personal needs allowance authorized by the appropriate department of social and health services community service office.

(ii) For resident who are not Medicaid recipients to"..... Technical change to clarify that DSHS determines the amount of the Personal Needs Allowance for Medicaid recipients.

(2)(b) Added: "(i) For residents who are Medicaid recipients, the personal needs allowance authorized by the appropriate department of social and health services community service office; or

(ii) For residents who are not Medicaid recipients, to..... Technical change to clarify the DSHS determines the amount of the Personal Needs Allowance for married Medicaid recipients.

(3) Added: "(Note: Subsection (3) only applies to residents who are not Medicaid recipients. The department of social and health services makes these types of determinations for residents who are Medicaid recipients in accordance with Medicaid rules.)" Technical change to clarify DSHS makes determinations related to exempt income/resources for residents who are Medicaid recipients.

(5) Added: ....the contribution "is determined by the appropriate department of social and health service community service office in accordance with applicable Medicaid rules." Technical change to clarify that DSHS determined the spousal contribution for residents who are Medicaid recipients.

Added: A reference to chapter 388-513 WAC to clarify the source of community property rules applied when the facility determines the spousal contribution for residents who are not Medicaid recipients.

(6) **Added:** "(a) and (b) to clarify that only subsections (4) (a) and (b) apply to Colony residents at the Washington Soldiers Home.

(7) **Changed** language to **clarify:**

1. (a) -- Resource limits for Medicaid recipients are set by DSHS in accordance with Medicaid rules (chapter 388-513 WAC).
2. (b) -- Resource limits for residents who are not Medicaid recipients are set using the Medicaid resource limit for a single or married individual; whichever is applicable.
3. (c) -- DSHS not DVA determines continuing eligibility for Medicaid if a Medicaid recipient receives or accumulates resources in excess of the limit and how excess resources are handled if DSHS determines that a resident is no longer eligible to receive Medicaid.
4. (d) -- Resident who have receive or accumulate excess resources and who are not Medicaid recipients shall pay the private rate to reduce resources.
5. (e) -- Allow exceptions to resource limits for residents who are not Medicaid recipients and who have written discharge plans to return to the community.

(8) (a) **Added** language to **clarify:**

1. That the purpose of new award letters (from DSHS) make any appropriate adjustment to the resident contribution.
2. That the resident contribution will not be collected for any months during which the Resident received Medicaid benefits.
3. That the resident pays at the private rate if his/her resources still exceed limits after payment of any retroactive resident contribution due.

(9) **Added** language to **clarify** that:

1. Recovery for Medicaid recipients is in accordance with WAC 388-527-2710 and for non-Medicaid recipients is in accordance with a written agreement made at the time of admission; and
2. The State Veterans Home shall periodically inform residents of any unpaid cost of care.

Effective Date of Rule: Thirty-one days after filing.  
 March 16, 1995  
 Beau Bergeron  
 Director

AMENDATORY SECTION (Amending WSR 94-04-001, filed 1/20/94, effective 2/20/94)

**WAC 484-20-065 Use of residents' income and resources.** (1) Monthly payments. Each month residents shall pay ~~((on a monthly basis, within time limits established by department policy,))~~ to the state veterans home all income in excess of the established personal needs allowance ~~((to the state veterans' home except as outlined in subsections (2) and (5) of this section)).~~ This payment shall be known as the resident contribution as defined in WAC 484-20-010 (5)(c). Department policy establishes the payment due date. The amount paid shall not exceed the ~~((total cost of care))~~ private rate for the program/service area in which the resident resides. Subsections (3) and (5) of this section list exceptions.

(2) Personal needs allowance.

(a) Single residents. If the resident's monthly income equals or exceeds the established personal needs allowance, he/she may retain the established personal needs allowance. If the individual's monthly income is less than the established personal needs allowance, his/her personal needs allowance shall be limited to:

(i) For residents who are Medicaid recipients, the personal needs allowance authorized by the appropriate department of social and health services community service office; or

(ii) For residents who are not Medicaid recipients to the income which he/she receives.

(b) Married residents, both residing in the state veterans home. If each individual's income equals or exceeds the established personal needs allowance, each may retain the established personal needs allowance. If one of the individual's monthly income is less than the established personal needs allowance, his/her personal needs allowance shall be limited to:

(i) For residents who are Medicaid recipients, the personal needs allowance authorized by the appropriate department of social and health services community service office; or

(ii) For residents who are not Medicaid recipients, to the income to which he/she has an individual right.

(3) Exceptions to monthly payments. (Note: This subsection (3) only applies to residents who are not Medicaid recipients. The department of social and health services makes these types of determinations for residents who are Medicaid recipients in accordance with applicable Medicaid rules.) Residents may ~~((also))~~ be authorized to retain (in addition to their personal needs allowance) the following:

(a) ~~((Income of individuals on approved rehabilitation furlough who are attempting to reestablish residency within the community;~~

~~((Earnings of residents in an approved vocational rehabilitation program which has reemployment in the community as a primary rehabilitation goal; and))~~ If a resident is on approved rehabilitation leave, monthly income

which he/she would be entitled to receive if living in the community.

(b) If a resident is participating in an approved vocational rehabilitation program, the monthly vocational rehabilitation program earnings.

(c) ~~((Earnings of))~~ If a resident((s)) is participating in a therapeutic employment program((s-as)) and it is documented in ((their)) his/her plan of care, monthly therapeutic employment earnings; except for Medicaid recipients the amount retained shall not exceed limits established under medical assistance eligibility rules (chapter 388-95 WAC).

~~((3))~~ Couples residing in a state veterans' home shall each be allowed the established personal needs allowance as long as each individual's income equals or exceeds the established personal needs allowance. Should one of the individual's income fall below the established personal needs allowance, his/her personal needs allowance shall be limited to the income to which (s)he has an individual right.)

(4) Application for benefits/entitlements.

(a) Residents ((shall be)) are required to apply for any and all entitlements or benefits as soon as they become eligible. ((Facility staff are available to assist with))

(b) Agency veterans benefit staff shall assist residents to make application((s)) for entitlements and benefits.

(c) Residents who apply for Medicaid and meet medical need requirements but are over the resource limit, shall be advised to seek the necessary assistance (to include legal advice) to reduce their resources. Residents shall be billed at the private rate until Medicaid resource limits are met.

(5) ~~((A resident may contribute toward the necessary support of a nonresident spouse, dependent children or a dependent parent. For residents in a Medicaid funded program, the contribution will not exceed limits established under medical assistance eligibility rules (chapter 388-95 WAC). For residents in non-Medicaid funded programs, the contribution shall be calculated by applying community property rules to all income except any nonservice connected paid by the federal Department of Veterans Affairs which is paid specifically to the veteran due to his/her residency in a state veterans home. Any spousal/dependent benefit included in the resident's federal Department of Veterans Affairs nonservice connected benefits shall be included in the spousal/dependent contribution. The spouse's/dependent's personal income shall not be considered as an available resource when calculating the resident's contribution toward cost of care. An additional contribution from the resident's personal needs allowance may be considered.))~~ Support of a nonresident spouse.

(a) If a resident is a Medicaid recipient and has a community spouse, the provisions of chapter 388-513 WAC; except where preempted by federal law; shall apply to income and resources.

(b) If a resident is not a Medicaid recipient and has a community spouse, the provisions of chapter 388-513 WAC; except where preempted by federal law; shall be used to determine:

(i) Available and exempt income and resources with regard to eligibility and resident participation;

(ii) Ownership of income and resources; and

(iii) Participation by the community spouse.

(6) Only subsection (4)(a) and (b) of this section applies to residents of the colony at the Washington soldiers(2))

home. ~~((The remaining subsections of this section do not apply to residents of the colony at the soldiers' home.))~~

(7) ~~((A resident who receives or accumulates funds equal to or greater than:~~

(a) ~~The established Medicaid resource limit— For Medicaid eligible residents;~~

(b) ~~The federal Department of Veterans Affairs resource limit— For any resident who has a fiduciary/representative payee assigned by the federal Department of Veterans Affairs; and~~

(c) ~~Three months cost of care— For non-Medicaid residents without a federally assigned fiduciary/representative payee will be billed at the facility's private rate until such time as accumulated funds are reduced to established limits or request voluntary discharge.))~~ **Resource limits.**

(a) For residents who are Medicaid recipients, resource limits are in accordance with Medicaid rules found at chapter 388-513 WAC.

(b) For residents who are not Medicaid recipients, resource limits shall be established by the facility using the Medicaid resource limit for a single or a married individual; whichever is applicable.

(c) If a resident who is a Medicaid recipient receives or accumulates funds in excess of resource limits in (a) of this subsection, the case shall be referred to the appropriate department of social and health services community service office to adjust the resident contribution and/or determine continuing Medicaid eligibility. If the community service office determines the resident is no longer eligible to receive Medicaid benefits, the resident shall pay at the private rate until Medicaid eligibility is reestablished.

(d) If a resident who is not a Medicaid recipient receives or accumulates funds in excess of resource limits in (b) of this subsection, the resident shall pay at the private rate until accumulated funds are reduced to the resource limit.

(e) Exceptions to the resource limits in (b) of this subsection may be granted on a case-by-case basis if a resident has an approved discharge plan which includes a goal to reestablish independent community living through either an approved rehabilitation leave or participation in an approved vocational rehabilitation program.

(8) ~~((Provisions of this subsection shall apply to all residents of the two state veterans' homes thirty days after final rule adoption.~~

(9) ~~Residents whose resource level exceeds established limits shall receive the necessary assistance; to include a recommendation to seek legal advice; to reduce their resources below established limits. Assistance shall occur concurrent with the rule adoption process and the resource reduction process shall be completed within the thirty day period following final rule adoption.~~

(a) For Medicaid eligible residents, Medicaid rules for disposal of excess resources shall apply.

(b) For residents with a federal Department of Veterans Affairs fiduciary assigned, federal Department of Veterans Affairs guidelines shall apply.

(c) For non-Medicaid residents without a federally assigned fiduciary, subsection (7)(c) of this section shall apply.

(d) Staff shall assist residents as requested with the resource reduction process.

(e) Any resident with excess resources at the end of a thirty day period shall be billed at the private rate until the applicable resource level is reached.

(10) ~~In the event funds received are a retroactive or lump sum back award of benefits; despite the source:))~~ **Retroactive, lump sum benefits.**

(a) ((Medicaid eligible residents)) If a Medicaid recipient receives a retroactive, lump sum award of benefits, he/she shall be required to report the ((retroactive or lump sum back)) award to the appropriate department of social and health services community service office ((and have)). If the resident continues to be eligible for Medicaid, the community service office will issue a new Medicaid award letter ((issued)) which adjusts the resident contribution if appropriate. If the community service office determines the resident is no longer Medicaid eligible, the award shall be counted as income for the month(s) in which moneys would have been received and the resident shall pay retroactively the resident contribution due from date of admission to date of receipt of the retroactive lump sum award; except the resident contribution will not be collected for those months during which the resident received Medicaid benefits. If the resident's resources still exceed Medicaid resource limits, the resident shall pay at the private rate until Medicaid eligibility is reestablished.

(b) ~~((Non-Medicaid program residents shall have the funds counted as available resources and subsection (9)(b) through (c) of this section shall apply.~~

(11) If a resident who is not a Medicaid recipient receives a retroactive lump sum award, the award shall be counted as income for the month(s) in which moneys would have been received and the resident shall pay retroactively the resident contribution due from date of admission to date of receipt of the retroactive lump sum award.

(9) The estate of any individual who is a resident at the time of death will be charged for the balance of any cost of care which the resident did not pay during his/her residency in the state veterans home. ((Reasonable allowances will be made for funeral costs.)) The state veterans home shall periodically inform the resident of the total amount of any past due cost of care. For residents who are Medicaid recipients, recovery shall be in accordance with WAC 388-527-2710. For any resident who is not a Medicaid recipient, recovery shall be in accordance with a written agreement made at the time of admission.

((12)) (10) Residents and their spouses are required to disclose to the department all income and assets. For ((residents in)) Medicaid ((funded programs)) recipients, disclosure will be accomplished following medical assistance rules. For all other residents ((in non-Medicaid funded programs and the)), including colony residents at the Washington soldiers' home, disclosure will be done at least annually ((or when there is a)) when scheduled by the state veterans home, more frequently as requested by the state veterans home to verify continuing eligibility, or within fourteen days of any change in income and/or assets((using forms provided by the facility)).

((13) The resident's contribution for cost of care shall be applied first as payment)) (11) For any partial months of residency the resident's contribution shall apply first.

**WSR 95-07-087**  
**PERMANENT RULES**  
**HIGHER EDUCATION**  
**COORDINATING BOARD**

[Order 95-02—Filed March 16, 1995, 4:04 p.m.]

Date of Adoption: March 15, 1995.

Purpose: This statement is written in compliance with section 2, chapter 186, Laws of 1980, and to accompany the notice of intent to adopt, amend, or repeal rules by the Higher Education Coordinating Board.

Citation of Existing Rules Affected by this Order: Amending WAC 250-44-050, 250-44-110, and 250-44-130.

Statutory Authority for Adoption: RCW 28B.10.806.

Other Authority: Chapter 28B.04 RCW, as amended.

Pursuant to notice filed as WSR 95-02-067 on January 3, 1995.

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

March 16, 1995

Elson S. Floyd

Executive Director

**AMENDATORY SECTION** (Amending Resolution No. 93-8, filed 3/17/93, effective 4/17/93)

**WAC 250-44-050 Utilization of available contract funds.** (1) Each biennium the executive director shall issue contract application guidelines which shall establish criteria for specific utilization of available contract funds. The guidelines shall set forth:

(a) The maximum contract amount for a multipurpose service center to be provided depending on available funds under the act during the ~~((1993-1995))~~ upcoming biennium ~~((shall not exceed \$4,708.33 per month)).~~

(b) The maximum contract amount for a contract for a program or programs of service depending on available funds under the act during the ~~((1993-1995))~~ upcoming biennium ~~((shall not exceed \$3,292 per month)).~~

(c) A reservation of funds for contracts to provide state-wide outreach and information services and/or training for service providers.

(2) At least two multipurpose service centers, each located in a highly populated area, will be supported under the displaced homemaker program, provided adequate funds have been appropriated.

(3) Remaining funds will be used for contracts selected to provide geographic dispersion of displaced homemaker multipurpose service centers and programs of service.

**AMENDATORY SECTION** (Amending Resolution No. 93-8, filed 3/17/93, effective 4/17/93)

**WAC 250-44-110 Length of contract periods.** Contract periods for contracts awarded under the act shall be in accordance with each application proposal, subject to contract application guidelines issued by the executive director, but shall not begin before the starting date or extend beyond the end date of the upcoming biennium.

~~(((1) Contracts for operation of multipurpose service centers during the 1993-1995 biennium may cover operations beginning as early as July 1, 1993, and ending June 30, 1995.~~

~~((2) Contracts for operation of programs of services during the 1993-1995 biennium may cover operations beginning as early as July 1, 1993, and ending June 30, 1995.))~~

**AMENDATORY SECTION** (Amending Resolution No. 93-8, filed 3/17/93, effective 4/17/93)

**WAC 250-44-130 Calendar and closing dates for letters of intent, applications and awards.** (1) ~~((Sponsoring))~~ Organizations wishing to apply for contracts to operate multipurpose service centers, shall submit to the executive director a letter of intent, accompanied by appropriate documentation of public or nonprofit status ~~((in the case of nonpublic applicants, by Friday, February 19, 1993)),~~ as specified in the contract application guidelines.

(2) The executive director or the director's designee will screen the letters of intent for multipurpose service centers, prepare a list of all eligible ~~((sponsoring))~~ organizations which filed letters of intent and distribute the list to all ~~((organizations on the list, by Tuesday, March 2, 1993, or))~~ applicants within seven days from the filing date for letters of intent as specified in the contract application guidelines.

(3) Applications for contracts for multipurpose service centers may be submitted by ~~((sponsoring))~~ organizations on the list pursuant to subsection (2) of this section. ~~((The closing dates for such))~~ Applications ~~((by Friday, March 19, 1993.))~~ must be submitted by the date as specified in the contract application guidelines.

(4) ~~((Sponsoring))~~ Organizations wishing to apply for contracts to operate programs of service shall submit to the executive director a letter of intent, accompanied by appropriate documentation of public or nonprofit status ~~((in the case of nonpublic applicants, by Friday, February 19, 1993))~~ by the date specified in the guidelines.

(5) The executive director or the director's designee will screen the letters of intent for programs of service ~~((and a state-wide outreach and information services program)),~~ prepare a list of all eligible ~~((sponsoring))~~ organizations which filed letters of intent, and distribute the list to all organizations on the list, ~~((by Tuesday, March 2, 1993, or))~~ within seven days from the filing date for letters of intent as specified in the contract application guidelines.

(6) Applications for contracts for programs of service ~~((and a state-wide outreach and information services program))~~ may be submitted by ~~((sponsoring))~~ organizations on the list pursuant to subsection (5) of this section by ~~((Friday, March 19, 1993, as))~~ the date specified in the contract application guidelines.

(7) The executive director of the board will approve awards of contracts, provided qualifying applications were received by the closing dates specified in this section and in the guidelines.

(8) In the event that available funds for contracts under the act are not fully utilized after approval of contracts the executive director may either establish a new calendar for further consideration of applications and award of contracts or award supplemental funds to existing centers and programs by amendment of contracts in effect.

WSR 95-07-088  
PERMANENT RULES  
DEPARTMENT OF REVENUE  
[Filed March 17, 1995, 1:24 p.m.]

Date of Adoption: March 17, 1995.

Purpose: To provide information on Washington's gross receipts tax relief for small businesses.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-104.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 95-04-018 on January 19, 1995.

Changes Other than Editing from Proposed to Adopted Version: Language referring the reader to WAC 458-20-22801 Tax reporting frequency—Forms, for an explanation of the thresholds used by the department when assigning tax reporting frequencies was added, subsection (5).

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

March 17, 1995

Russell W. Brubaker  
Assistant Director

AMENDATORY SECTION (Amending Order ET 83-17, filed 3/15/83)

WAC 458-20-104 ((Exemptions—)) Small business tax relief based on volume of business.

((Business and Occupation Tax

~~Persons subject to the business and occupation tax are exempt from the payment of this tax for any reporting period in which the taxable amount reported under the combined total of all business and occupation tax classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons, according to the following schedule.~~

Monthly reporting basis . . . . .	\$1,000 per month
Quarterly reporting basis . . . . .	\$3,000 per quarter
Annual reporting basis . . . . .	\$12,000 per annum

~~When the taxable amount for a reporting period equals or exceeds the minimum taxable amount, tax must be paid on the full taxable amount and no deduction or offset is allowed for the amount of the minimum. The deduction for minimum taxable amounts is applicable to taxable amounts for the entire reporting period, regardless of the fact that the business may not have been operated during the entire period.~~

Retail Sales Tax

~~No exemption from tax is allowed under the retail sales tax to any person engaged in the business of making taxable retail sales by reason of the volume of such sales.~~

Public Utility Tax

~~Persons subject to the public utility tax are exempt from the payment of this tax for any reporting period in which the taxable amount reported under the combined total of all public utility tax classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons, according to the following schedule.~~

Monthly reporting basis . . . . .	\$500 per month
Quarterly reporting basis . . . . .	\$1,500 per quarter
Annual reporting basis . . . . .	\$6,000 per annum

~~(See subhead business and occupation tax, above, for limitations which apply equally to public utility tax.)) (1)~~

Introduction. The law provides a business and occupation (B&O) tax credit for small businesses under certain conditions. Chapter 2, Laws of 1994, sp. sess., changed the method for computing the volume of business exemption for B&O taxes from a minimum tax reporting threshold exemption to a B&O tax credit system. This change became effective July 1, 1994. This section explains the tax credit system for B&O tax, and the minimum tax reporting threshold exemption for the public utility tax. All persons required to obtain, or having obtained, a tax registration endorsement with the department of revenue must complete and file an excise tax return with the department to claim either a B&O small business tax credit, or a public utility income exemption. (See also WAC 458-20-101 on tax registration.)

(2) Business and occupation tax. Persons subject to the B&O tax may be eligible to claim a small business tax credit against the amount of B&O tax otherwise due. The B&O tax credit operates completely independent of the volume exemption which applies to the public utility tax. This tax credit should be computed after claiming any other B&O tax credits available under chapter 82.04 RCW, but prior to any credits provided under other chapters of Title 82 RCW. The maximum amount of small business tax credit available to a person is thirty-five dollars multiplied by the number of months in the reporting period assigned by the department of revenue under the provisions of RCW 82.32.045. The small business tax credit applies to the entire reporting period, even though the business may not have been operating during the entire period.

If the amount of B&O tax due from all activities engaged in by the taxpayer is equal to or less than the maximum credit, a small business tax credit equal to the amount of the B&O tax liability will be allowed. If the amount of B&O tax due from all activities is greater than the maximum credit, a reduced credit may be available. This reduced credit will be equal to twice the maximum credit minus the B&O tax otherwise due. RCW 82.04.4451.

(3) Retail sales tax. Persons making retail sales must collect and remit all applicable retail sales taxes. There is no retail sales tax exemption or tax credit system based upon the volume of sales.

(4) Public utility tax. Persons subject to the public utility tax are exempt from the payment of this tax for any reporting period in which the taxable amount reported under the combined total of all public utility tax classifications does not equal or exceed the minimum tax reporting threshold for the assigned reporting period. RCW 82.16.040. The minimum tax reporting thresholds for the public utility tax are:

Monthly reporting basis . . . . .	\$500 per month
Quarterly reporting basis . . . . .	\$1,500 per quarter
Annual reporting basis . . . . .	\$6,000 per annum

If the taxable amount for a reporting period equals or exceeds the minimum tax reporting threshold, tax must be

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remitted on the full taxable amount. The public utility tax reporting thresholds apply to the entire reporting period, even though the business may not have operated during the entire period.

(5) **Tax reporting frequencies.** Persons interested in knowing the thresholds used by the department when assigning tax reporting frequencies should refer to WAC 458-20-22801 (Tax reporting frequency—forms).

(6) **Examples.** The following examples illustrate how the small business B&O tax credit and public utility income exemption systems apply to typical situations. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(a) **JD Inc.** has been assigned a quarterly reporting period by the department of revenue. JD Inc.'s B&O tax liability from all business activities for the third quarter is ninety dollars. This B&O tax liability is less than the one hundred five-dollar maximum small business B&O tax credit available for a quarterly reporting period (three times the monthly credit amount of thirty-five dollars). JD Inc. may claim a small business B&O tax credit for the entire ninety-dollar B&O tax liability.

<u>Maximum Credit available for quarterly filers (3 x \$35)</u>	
	\$105
<u>B&amp;O Tax due</u>	<u>\$ 90</u>
<u>Credit Available</u>	<u>\$ 90</u>

(b) **HM Corporation** has been assigned a quarterly reporting period by the department of revenue. HM's B&O tax liability from all business activities for the fourth quarter is one hundred twenty dollars. This tax liability exceeds the one hundred five-dollar maximum small business B&O tax credit available for a quarterly period (three times the monthly credit amount of thirty-five dollars). However, a reduced small business tax credit is available. This credit is computed by subtracting HM's B&O tax liability of one hundred twenty dollars from the figure of two hundred ten dollars (twice the maximum credit available for a quarterly reporting period). HM Corporation may claim a small business tax credit of ninety dollars.

<u>Twice the Maximum Credit available for quarterly filers (2 x \$105)</u>	
	\$210
<u>Less: B&amp;O Tax due</u>	<u>\$120</u>
<u>Credit Available</u>	<u>\$ 90</u>

(c) **XY Inc.** has been assigned a quarterly reporting period by the department of revenue. XY's B&O tax liability for the first quarter is two hundred fifty dollars. As XY's B&O tax liability exceeds the two hundred ten-dollar figure used to determine any reduced B&O tax credit (twice the maximum credit available for a quarterly reporting period), XY Inc. is not eligible for the small business B&O tax credit.

<u>Twice the Maximum Credit available for quarterly filers (2 x \$105)</u>	
	\$210
<u>Less: B&amp;O Tax due</u>	<u>\$250</u>
<u>Credit Available</u>	<u>\$ 0</u>

(d) **BG Manufacturing** has been assigned a quarterly reporting period. BG has incurred a ninety-dollar tax liability under the wholesaling B&O tax classification, and a seventy-dollar tax liability under the manufacturing B&O tax classification, for a total B&O tax liability of one hundred sixty dollars during the first quarter. As BG manufactures much of what it sells at wholesale, BG qualifies for an internal multiple activities tax credit (MATC) of sixty dollars. (See WAC 458-20-19301 on multiple activities tax credits.) BG Manufacturing would claim its MATC prior to computing its small business B&O tax credit. BG's B&O tax liability net of the MATC is one hundred dollars, which is less than the one hundred five-dollar maximum credit available for the reporting period. BG may claim a one hundred-dollar small business B&O tax credit.

<u>Wholesaling B&amp;O Tax due</u>	<u>\$ 90</u>
<u>Add: Manufacturing B&amp;O Tax due</u>	<u>\$ 70</u>
	<u>\$160</u>
<u>Subtotal of B&amp;O Tax due</u>	<u>\$160</u>
<u>Less: MATC</u>	<u>\$ 60</u>
	<u>\$100</u>
<u>Total B&amp;O Tax Liability</u>	<u>\$100</u>
<u>Maximum Credit available for quarterly filers (3 x \$35)</u>	
	\$105
<u>B&amp;O Tax due</u>	<u>\$100</u>
<u>Credit Available</u>	<u>\$100</u>

(e) **BB Corporation** has been assigned a quarterly reporting period by the department of revenue. BB's total taxable public utility income for the third quarter is one thousand three hundred dollars. BB Corporation is exempt for the payment of public utility tax because BB's taxable public income does not exceed the one thousand five hundred-dollar minimum taxable amount for this reporting period.

**WSR 95-07-089**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed March 17, 1995, 1:25 p.m.]

Date of Adoption: March 17, 1995.  
 Purpose: To provide information on tax registration with the Washington State Department of Revenue to businesses.  
 Citation of Existing Rules Affected by this Order: Amending WAC 458-20-101.  
 Statutory Authority for Adoption: RCW 82.32.300.  
 Pursuant to notice filed as WSR 95-04-019 on January 19, 1995.  
 Effective Date of Rule: Thirty-one days after filing.  
 March 17, 1995  
 Russell W. Brubaker  
 Assistant Director

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**AMENDATORY SECTION** (Amending WSR 93-13-126, filed 6/22/93, effective 7/23/93)

**WAC 458-20-101 Tax registration. (1) Introduction.**

This section explains tax registration requirements for the Washington state department of revenue. It discusses who is required to be registered, changes in ownership requiring a new registration, ~~((and))~~ the administrative closure of taxpayer accounts, and the revocation and reinstatement of a tax registration.

**(2) Persons required to obtain tax registration endorsements.** Except as provided in (a) of this subsection, every person who is engaged in any business activity for which the department of revenue is responsible for administering and/or collecting a tax, shall apply for and obtain a tax registration endorsement with the department of revenue. (See RCW 82.32.030.) This endorsement shall be reflected on the face of the business person's registrations and licenses document. The tax registration endorsement is nontransferable, and valid for as long as that person continues in business.

(a) Registration under this section is not required if the following conditions are met:

(i) A person's value of products, gross proceeds of sales, or gross income of the business ~~((is below the tax reporting thresholds provided by RCW 82.04.300)),~~ from all business activities, is less than twelve thousand dollars per year;

(ii) The person is not required to collect or pay to the department of revenue any other tax which the department is authorized to collect; and

(iii) The person is not otherwise required to obtain a license or registration subject to the master application procedure provided in chapter 19.02 RCW. For the purposes of this section, the term "license or registration" means any agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity.

(b) Persons subject to the public utility tax (chapter 82.16 RCW) may be required to obtain a tax registration endorsement even if their gross income from business activities is less than twelve thousand dollars per year. RCW 82.16.040 provides a minimum tax reporting threshold of six thousand dollars per year for the public utility tax. (See also WAC 458-20-104 on minimum tax reporting thresholds.) Persons receiving taxable income in excess of this minimum threshold must pay public utility tax to the department. They do not satisfy (a)(ii) of this subsection, and therefore must obtain a tax registration endorsement.

(c) The term "tax registration endorsement," as used in this section, has the same meaning as the term "tax registration" or "certificate of registration" used in Title 82 RCW and other sections of chapter 458-20 WAC.

~~((e))~~ **(d) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) Bob Brown is starting a bookkeeping service. The gross income of the business is expected to be ~~((below the tax reporting threshold provided by RCW 82.04.300))~~ less than twelve thousand dollars per year. Due to the nature of

the business activities, Bob is not required to pay or collect any other tax which the department is authorized to collect.

Bob Brown is not required to apply for and obtain a tax registration endorsement with the department of revenue. The conditions under which a business person may engage in business activities without obtaining the tax registration endorsement have been met. However, if Bob Brown in some future period has gross income which exceeds ~~((the tax reporting threshold))~~ twelve thousand dollars per year, he will be required to obtain a tax registration endorsement and remit the appropriate taxes.

(ii) Cindy Smith is opening a business to sell books written for children to local customers at retail. The gross proceeds of sales are expected to be ~~((below the tax reporting threshold provided by RCW 82.04.300))~~ less than twelve thousand dollars per year.

Cindy Smith must apply for and obtain a tax registration endorsement with the department of revenue. While gross income is expected to be ~~((below the tax reporting threshold provided by RCW 82.04.300))~~ less than twelve thousand dollars per year, Cindy Smith is required to collect and remit retail sales tax.

(iii) Jane Doe is starting a management consulting business. The gross income of the business is expected to exceed twelve thousand dollars per year. However, Jane is starting her business effective October 1, and expects to earn only ten thousand dollars prior to January 1 of the following year. Jane is not required to pay or collect any other tax which the department is authorized to collect.

Jane Doe must apply for and obtain a tax registration endorsement with the department of revenue. Jane Doe expects to earn more than twelve thousand dollars per year. Jane may not delay obtaining a tax registration endorsement merely because she does not anticipate earning more than twelve thousand dollars for the balance (October through December) of the calendar year.

(3) **Out-of-state businesses.** Out-of-state persons not satisfying the conditions expressed in subsection (2)(a) of this section must obtain a tax registration endorsement with this department if any of the following circumstances prevail:

(a) The person maintains a place of business in this state.

(b) The person has established sufficient nexus in Washington to incur a business and occupation or retail sales tax liability in this state. (Refer to WAC 458-20-193 and 458-20-194.)

(c) The ~~((vendor))~~ seller has established sufficient nexus in Washington to be required to collect the use tax on sales made into this state. (See also WAC 458-20-193 and 458-20-221.)

(d) The out-of-state ~~((vendor))~~ seller, while not statutorily required to do so, elects to collect the use tax from its retail customers in this state.

(4) **Registration procedure.** The state of Washington initiated the unified business identifier (UBI) program to simplify the registration and licensing requirements imposed on the state's business community. Completion of the master business application enables the business person to register or license with several state agencies, including the department of revenue, using a single form. The business person will be assigned one business identification number,

which will be used for all state agencies participating in the UBI program.

(a) Business persons completing the master business application will be issued a registrations and licenses document. The face of this document will list the registrations and licenses (endorsements) which have been obtained.

(b) The department of revenue does not charge a registration fee for issuing a tax registration endorsement. Persons required to complete a master business application may, however, be subject to other fees.

(c) While the UBI program is administered by the department of licensing, master business applications are available at any participating UBI agency office. The following agencies of the state of Washington participate in the UBI program:

- (i) The office of the secretary of state;
- (ii) The department of licensing;
- (iii) The department of employment security;
- (iv) The department of labor and industries;
- (v) The department of revenue.

(5) ((Tax registration application made in error. Persons who apply for a tax registration endorsement in error may be entitled to a return of the tax registration fee. It is the business person's responsibility to provide complete and accurate information on the master business application.

(a) The tax registration fee will be returned if, on the initial examination of the application, the information provided by the applicant indicates that a tax registration endorsement is not needed.

(b) However, if a tax registration endorsement is issued as a result of the information available on the master business application, the tax registration fee will not be returned to the applicant.

(c) If a return of the tax registration fee is warranted, fees charged by other state agencies for the registration process may remain applicable.

(d) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. Each situation must be determined after a review of all of the facts and circumstances.

(i) ABC Company completes a master business application, which includes a request for a tax registration endorsement. The application is mailed to the department of licensing for processing, and payment for the tax registration fee is enclosed. The information on the application is complete and accurate.

Upon review of the application, it is determined that ABC Company is not required to be registered with the department of revenue. As this determination was based on the information provided on the master business application, ABC Company is entitled to a return of the tax registration fee.

(ii) John Smith completes a master business application, which includes a request for a tax registration endorsement. The application is mailed to the department of licensing for processing, and payment for the tax registration fee is enclosed. The information provided on the application indicates that the expected amount of income is below the tax reporting threshold provided by RCW 82.04.300. However, the description of the business activities on the application indicates that Mr. Smith will be engaging in

activities which generally require retail sales tax be collected. A tax registration endorsement is issued.

At a later date, Mr. Smith determines he is not required to be registered with the department of revenue. While not indicated on the application, Mr. Smith is exclusively engaged in wholesale activities, and is not responsible for collecting retail sales tax. Mr. Smith requests the account be closed, and the tax registration fee be returned.

While the account may be closed, Mr. Smith is not entitled to a return of the tax registration fee. Based on the information provided on the master business application, the tax registration endorsement was properly issued.

(6)) Temporary revenue registration certificate. A temporary revenue registration certificate may be issued to any person who operates a business of a temporary nature.

(a) Temporary businesses, for the purposes of registration, are those with:

(i) Definite, predetermined dates of operation for no more than two events each year with each event lasting no longer than one month; or

(ii) Seasonal dates of operation lasting no longer than three months. However, persons engaging in business activities on a seasonal basis every year should refer to subsection (6) of this section.

(b) Each temporary registration certificate is valid for a single event. ((Persons requesting a temporary registration certificate are permitted to operate two events each year.))

(c) Temporary revenue registration certificates ((are issued free of charge, and)) may be obtained by making application at any participating UBI agency office, or by completing a ((temporary)) seasonal registration form.

(6) Seasonal revenue registration accounts. Persons engaging in seasonal business activities which do not exceed two quarterly reporting periods each calendar year may be eligible for a seasonal revenue registration account. This is a permanent account until closed by the taxpayer. The taxpayer must specify in which quarterly reporting periods he or she will be engaging in taxable business activities. The quarterly reporting periods in which the taxpayer is engaging in taxable business activities may or may not be consecutive, but the same quarterly period or periods must apply each year. The taxpayer is not required to be engaging in taxable business activities during the entire period.

The department will provide and the taxpayer will be required to file tax returns only for the quarterly reporting periods specified by the taxpayer. Examples of persons which may be eligible for the seasonal revenue registration account include persons operating Christmas tree and/or fireworks stands. Persons engaging in taxable business activities in more than two quarterly reporting periods in a calendar year will not qualify for a seasonal revenue registration account.

(7) Display of registrations and licenses document. The taxpayer is required to display the registrations and licenses document in a conspicuous place at the business location for which it is issued.

(8) Multiple locations. A registrations and licenses document is required for each place of business at which a taxpayer engages in business activities for which the department of revenue is responsible for administering and/or collecting a tax, and any main office or principal place of business from which excise tax returns are to be filed. This

requirement applies to locations both within and without the state of Washington.

(a) For the purposes of this section, the term "place of business" means:

(i) Any separate establishment, office, stand, cigarette vending machine, or other fixed location; or

(ii) Any vessel, train, or the like, at any of which the taxpayer solicits or makes sales of tangible personal property, or contracts for or renders services in this state or otherwise transacts business with customers.

(b) A taxpayer wishing to report all tax liability on a single excise tax return may request a separate registrations and licenses document for each location. The original registrations and licenses document shall be retained for the main office or principal place of business from which the returns are to be filed, with additional documents obtained for all branch locations. All registrations and licenses documents will reflect the same registration number.

(c) A taxpayer desiring to file a separate excise tax return covering a branch location, or a specific construction contract, may apply for and receive a separate revenue registration number (~~without payment of the tax registration fee~~). A registrations and licenses document will be issued for each registration number and will represent a separate account.

(d) A master business application must be completed to obtain a separate registrations and licenses document, or revenue registration number, for a new location.

(9) **Change in ownership.** When a change in ownership of a business occurs, the new owner must apply for and obtain a new registrations and licenses document. The original document must be destroyed, and any further use of the registration number for tax purposes is prohibited.

(a) A "change in ownership," for purposes of registration, occurs upon:

(i) The sale of a business by one individual, firm or corporation to another individual, firm or corporation;

(ii) The dissolution of a partnership;

(iii) The withdrawal, substitution, or addition of one or more partners where the partnership continues as a business organization and the change in the number of partners is equal to or greater than fifty percent;

(iv) Incorporation of a business previously operated as a partnership or sole proprietorship; or

(v) Changing from a corporation to a partnership or sole proprietorship.

(b) For the purposes of registration, a "change in ownership" does not occur upon:

(i) The sale of all or part of the common stock of a corporation;

(ii) The transfer of assets to an assignee for the benefit of creditors or upon the appointment of a receiver or trustee in bankruptcy;

(iii) The death of a sole proprietor where there will be a continuous operation of the business by the executor, administrator, or trustee of the estate or, where the business was owned by a marital community, by the surviving spouse of the deceased owner;

(iv) The withdrawal, substitution, or addition of one or more partners where the partnership continues as a business organization and the change in the number of partners is less than fifty percent; or

(v) A change in the trade name under which the business is conducted.

(c) While changes in a business entity may not result in a "change in ownership," the completion of a master business application may be required to reflect the changes in the registered account.

(10) **Change in location.** Whenever the place of business is moved to a new location, the taxpayer must notify the department (~~in writing~~) of the change. A new registrations and licenses document will be issued (~~upon completion of a UBI change form, and without charge~~) to reflect the change in location.

(11) **Lost registrations and licenses documents.** If any registrations and licenses document is lost, destroyed or defaced as a result of accident or of natural wear and tear, a new document will be issued (~~free of charge~~) upon request.

(12) **Administrative closure of taxpayer accounts.** The department may, upon written notification to the taxpayer, close the taxpayer's account and rescind its tax registration endorsement whenever the taxpayer has reported no gross income, and there is no indication of taxable activity for two consecutive years.

The taxpayer may request, within thirty days of notification of closure, that the account remain open. This request must be in writing and state the reasons why the account should remain active. The request shall be reviewed by the department and if found to be warranted, the department will immediately reopen the account (~~at no charge~~). The following are acceptable reasons for continuing as an active account:

(a) The taxpayer is (~~or will be~~) engaging in business activities in Washington which may result in tax liability.

(b) The taxpayer is required to collect or pay to the department of revenue a tax which the department is authorized to collect.

(c) The taxpayer has in fact been liable for excise taxes during the previous two years.

(13) **Reopening of taxpayer accounts.** A business person choosing to resume business activities for which the department of revenue is responsible for administering and/or collecting a tax, may request a previously closed account be reopened. The business person must complete a new master business application. When an account is reopened a new registrations and licenses document, reflecting a current tax registration endorsement, shall be issued. Persons requesting the reopening of an account which had previously been closed due to a revocation action should refer to subsection (14) of this section.

~~((a) If the account was administratively closed by this department, and the request is made within two years of the closure date, the tax registration fee will be waived. However, fees charged by other state agencies for the registration process may be applicable.~~

~~(b) Refer to subsection (14) of this section for the conditions and requirements which must be satisfied prior to the reopening of an account which had previously been closed due to a revocation action.)~~

(14) **Revocation and reinstatement of tax registration endorsements.** Actions to revoke tax registration endorsements must be conducted by the department pursuant to the provisions of chapter 34.05 RCW, the Administrative

Procedure Act, and the taxpayers bill of rights of chapter 82.32A RCW. Persons should refer to WAC 458-20-10001, Adjudicative proceedings—Brief adjudicative proceedings—Wholesale and retail cigarette license revocation/suspension—Certificate of registration (tax registration endorsement) revocation, for an explanation of the procedures and processes pertaining to the revocation of tax registration endorsements.

(a) The department of revenue may, by order, revoke a tax registration endorsement if any tax warrant issued under the provisions of RCW 82.32.210 is not paid within thirty days after it has been filed with the clerk of the superior court, or for any other reason expressly provided by law.

(b) The revocation order will be posted in a conspicuous place at the main entrance to the taxpayer's place of business and must remain posted until the tax registration endorsement has been reinstated. A revoked endorsement will not be reinstated until:

(i) The amount due on the warrant has been paid, or satisfactory arrangements for payment have been approved by the department; and

(ii) The taxpayer has posted with the department a bond or other security in an amount not exceeding one-half the estimated average annual liability of the taxpayer.

(c) It is unlawful for any taxpayer to engage in business after its tax registration endorsement has been revoked.

(15) **Penalties for noncompliance.** The law provides that any person engaging in any business activity, for which registration with the department of revenue is required, shall obtain a tax registration endorsement.

(a) The failure to obtain a tax registration endorsement prior to engaging in any taxable business activity constitutes a gross misdemeanor.

(b) Engaging in business after a tax registration endorsement has been revoked by the department constitutes a Class C felony.

(c) Any tax found to have been due, but delinquent, and any tax unreported as a result of fraud or misrepresentation, may be subject to penalty as provided in WAC 458-20-228 and 458-20-230.

### WSR 95-07-093

#### PERMANENT RULES

#### GAMBLING COMMISSION

[Filed March 17, 1995, 3:35 p.m., effective July 1, 1995]

Date of Adoption: March 10, 1995.

Purpose: Packet of rules will enhance the ability of organizations to raise funds with raffles.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-183, 230-08-070, 230-12-040, 230-20-300, 230-20-325, and 230-20-335.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 95-04-039 on January 25, 1995.

Effective Date of Rule: July 1, 1995.

March 17, 1995  
Patricia Norman-Cole  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-01-035, filed 12/6/93, effective 1/6/94)

**WAC 230-02-183 Active member defined.** For purposes of this title, "active member" means an individual who is a "bona fide member," as defined by RCW 9.46.0261, and meets all of the requirements set out below:

(1) Did not join the organization specifically to participate in, or be an operator or manager of, gambling activities;

(2) Is authorized to vote in the election of officers or board members who determine the policies of the organization;

(3) Has been a member for at least twelve months preceding an application for a gambling license, or has been accepted as a member according to guidelines set out in the organization's bylaws and such acceptance recorded in the official minutes of a regular membership meeting: *Provided*, That the minimum time provision does not apply to board members or directors if the organization's membership consists entirely of board members or directors elected or appointed for a limited term;

(4) Complies with ~~((the organization's))~~ membership criteria, as set out in ~~((its))~~ the organization's bylaws;

(5) Lives within the boundaries of Washington state or, if outside the state boundaries, lives within one hundred miles of the main administrative offices of the organization which is located within Washington state: *Provided*, That the director may waive the requirements of this subsection for organizations applying for a license to conduct raffles only;

(6) Is at least eighteen years old: *Provided*, That the director may waive this provision when:

(a) The organization's primary purpose is the development of youth;

(b) The organization is applying for a license to conduct only raffles or amusement games;

(c) The organization has at least three members or advisors that are at least eighteen years of age who supervise the operation of the activity; and

(d) One of the adult members or advisors shall be designated as the manager of the activity. This member shall be responsible for ensuring that all activities are operated in accordance with all requirements of the commission and shall attend training required by WAC 230-04-020;

(7) Has ~~((, over the last twelve months,))~~ participated directly in the activities conducted by the organization over the past twelve months. For purposes of this section, participation by a member in any of the following activities during the twelve-month period immediately preceding an application for certification shall be prima facie evidence of direct participation:

(a) Attended at least one regular membership meeting ~~((within the previous twelve months));~~ or

(b) Voted in person or, if authorized by the organization's bylaws, by proxy at a meeting at which officers and/or board members were elected ~~((within the previous twelve months));~~ or

(c) Has been actively involved in policy setting for the organization by serving as a member of the board of directors or a similar policy setting position; or

(d) Has paid dues imposed by the organization ~~((during the last twelve months));~~ or

(e) Has served as a volunteer providing services or raising funds from nongambling sources (~~(during the last twelve months)~~); or

(f) Has maintained a level of communications with the organization that would allow them to demonstrate in-depth knowledge regarding the activities of the organization (~~(during the previous twelve months)~~). In-depth knowledge would include:

- (i) The types of program services provided;
- (ii) The scope of program services provided;
- (iii) Sources and levels of funding available to the organization; and
- (iv) Key plans, including major programs and capital projects.

(8) Incorporated towns or cities applying for a license to conduct gambling activities are exempted from all requirements of this section. The citizens of an incorporated town or city, who are registered to vote in the election for the mayor or governing body of such town or city, (~~(shall be)~~) are deemed to be "active members" (~~(for purposes of this title and are exempted from all other requirements of this section)~~) of such towns and cities.

AMENDATORY SECTION (Amending Order 253, filed 6/15/94, effective 7/16/94)

**WAC 230-12-040 No firearms as prizes—Exceptions.** No firearms, air guns, or other mechanical devices which are capable of discharging dangerous projectiles, including but not limited to, BB(~~(s)~~) or CO<sub>2</sub> guns, (~~(including but not limited to,)~~) rifles, shotguns, pistols(~~(s)~~) or revolvers(~~(s)~~), or crossbows, shall be offered or awarded as a prize (~~(or in lieu of a prize)~~) (~~(winning at)~~) any of the activities authorized by chapter 9.46 RCW: *Provided*, That bona fide charitable or nonprofit organizations licensed to conduct a raffle, may award any legal (~~(shotguns or hunting rifles)~~) firearm or air gun as (~~(merchandise)~~) a prize(~~(s not deemed unlawful as defined by WAC 232-12-047: Provided further, That the organization shall not award the actual prize but will provide)~~) for such raffles. Any firearm for which the transfer is restricted by state or federal law shall be awarded by providing the winner a certificate for (~~(the)~~) such prize which is redeemable (~~(at)~~) by a licensed firearms dealer.

AMENDATORY SECTION (Amending Order 5, filed 12/19/73)

**WAC 230-20-300 Control of raffle prizes.** Any person or organization conducting (~~(a raffle in which)~~) raffles shall ensure that all prizes offered are available at the time and place of the drawing. Prizes shall be controlled as follows:

(1) Merchandise prizes (~~(are to be awarded)~~) shall (~~(have)~~) be owned by the licensee and paid for in full (~~(or otherwise become the owner)~~), without lien or interest of others, (~~(of all such merchandise)~~) prior to the drawing at which the winners of such prizes are to be determined(~~(. If cash prizes totaling fifty dollars or more are to be awarded in any one raffle, the total amount of money to be awarded shall be placed in a trust account for the benefit of the winners of the raffle in a bank or savings and loan association doing business in the state of Washington prior to the drawing at which the winners of such prizes are to be~~

~~determined)~~: *Provided*, That when the winner has an option to receive a cash prize in lieu of such merchandise, a licensee may enter into a contract to immediately purchase a merchandise prize after the winner makes their option;

(2) All cash prizes shall be available at the time of the drawing in the form of United States currency or an equivalent amount of negotiable instruments; and

(3) At the time and date of any raffle drawing, the licensee shall have on deposit an unencumbered amount of money that is equal to or greater than all cash prizes currently being offered or, if the winner has an option, the total cost to purchase merchandise prizes. Such funds shall be on deposit in the gambling receipts account if required by WAC 230-12-020 or otherwise in a recognized Washington state depository authorized to receive funds. The balance of funds available from this account shall not be reduced below the required amount prior to awarding the prize.

AMENDATORY SECTION (Amending Order 205, filed 2/14/90, effective 3/17/90)

**WAC 230-20-325 Manner of conducting a raffle.** All raffles shall be conducted by selling individual (~~(prenumbered tickets)~~) chances for not more than five dollars and awarding prizes by selecting winners by a random drawing from among all (~~(tickets)~~) chances sold. The following operating procedures apply:

(1) All (~~(tickets for use in any)~~) raffle chances shall be consecutively numbered (~~(and each ticket shall be accounted for separately in accordance with WAC 230-08-070.)~~) tickets or other objects imprinted with letters or symbols that are not repeated within the population of all chances sold for a specific raffle;

(2) Raffle (~~(tickets)~~) chances sold to the general public or for raffles that do not require the winner to be present at the drawing shall (~~(have)~~) consist of a ticket that includes a stub or other detachable section bearing a duplicate number, letter, or symbol corresponding to the number, letter, or symbol on the ticket(~~(. Provided, That with prior written director approval, tickets may include any consecutively numbered or lettered object if a stub imprinted with an identical number or letter and all other information required by WAC 230-20-325, is provided to each entrant at the time of purchase.)~~) or object representing the player's chance. The portion retained by the seller shall include the participant's name, complete address, telephone number, and/or other information necessary to notify the winner;

(~~(2)~~) (3) All (~~(prizes available, whether cash or merchandise, and)~~) participants in a raffle must be informed of all rules by which such prizes may be won(~~(, including all costs to a participant, shall be disclosed to each participant. This information shall be printed upon each ticket sold, or shall be otherwise provided in writing to each purchaser)~~) at the time of sale (~~(and shall also include, but not be limited to,)~~) of a chance. This information shall be provided by either imprinting such on the participant's portion of the ticket or otherwise providing such to each participant in writing. The following information shall be provided to each participant:

- (a) The cost of each chance;
- (b) All prizes available, whether cash or merchandise;
- (c) Date and time of drawing(~~(s)~~);

(d) Location of drawing((:));

(e) Whether an entrant is required to be present at a raffle drawing in order to be eligible to win a prize; and

(f) Name of organization conducting raffle.

~~((3))~~ (4) No person shall be required to pay, directly or indirectly, more than ((\$5.00)) five dollars in order to enter any raffle((—After April 15, 1990,));

(5) Each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle((:));

(6) No free tickets, or any opportunity to participate in the drawing of any raffle, shall be awarded or given to a person as a prize or reward for selling raffle tickets or for purchasing a certain number of raffle tickets((:)); Provided, That noncash incentive awards may be provided to members selling tickets if:

(a) Individual awards do not exceed a fair market value of ten dollars;

(b) The awards are based on the number of chances sold; and

(c) The fair market value of the total amount awarded for an individual raffle does not exceed two percent of the gross gambling receipts of the raffle.

~~((ticket or to pay for anything other than the ticket, in order))~~ chance to enter ((the)) a raffle((:—Provided, That licensed raffles conducted among members of the organization only, may be conducted using alternative sales methods if specifically authorized by the commission. This authority will be issued on an individual basis and will require a detailed written request.

~~(4) From October 15, 1988, through April 15, 1990, each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle. However, the sponsor may provide to a purchaser of a raffle ticket an opportunity to obtain by random method a discount on such a ticket, including the opportunity to obtain that ticket free, but only if the sponsor maintains records for each book of raffle tickets so that income from the sale of tickets in each book can be audited.~~

~~(5) If an entrant is required to be present at a raffle drawing in order to be eligible for the prize drawing, then a statement setting forth this condition shall be set forth conspicuously on each raffle ticket and on all promotional material concerning the raffle. When the participant is not required to be present at the drawing the ticket stub or other detachable section(s) of the ticket shall contain the purchaser's name, complete address, and telephone number, and shall be maintained for a period of not less than three years from the end of the fiscal year in which the raffle was completed.~~

~~(6) In conducting a drawing in connection with any raffle,);~~

(8) Each ticket seller shall return to the licensee the stubs or other detachable section of all tickets sold. The licensee shall then place each stub or other detachable section of each ticket sold into a receptacle out of which the winning tickets are to be drawn((—Such));

(9) The ticket collection receptacle shall be designed so that each ticket placed therein has an equal opportunity with every other ticket to be the one withdrawn((:)); Provided, That an alternative drawing format to determine the ((win-

~~ning ticket)) winner may be utilized if such format is approved by the director ((in writing prior to the sale of any ticket. The following requirements must be met prior to utilizing any such alternative drawing format)) and the following requirements are complied with:~~

~~(a) The organization must have a current raffle((s)) license;~~

~~(b) The alternate format must meet the definition of a drawing as defined by WAC 230-02-500;~~

~~(c) The random selection process used in the alternative format shall be fully disclosed to each player prior to selling a ticket;~~

~~(d) Any alternate format utilized to determine the winners must be closely controlled by the licensee; and~~

~~((4)) (e) Each separate alternative format scheme shall be approved by the director in writing prior to a ticket being sold to participate in a raffle using such a scheme to determine winners. The request to utilize an alternative drawing format shall contain, at a minimum, the following information:~~

~~(i) The time, date and location of the drawing;~~

~~(ii) The type of random selection process to be used and complete details of its operation;~~

~~(iii) The name and telephone number of the raffles manager; and~~

~~(iv) The signature of the organization's chief executive officer((:));~~

~~((7)) (10) The raffle license issued by the commission or a photostatic copy of the license shall be conspicuously posted and displayed at the location at all times during the occasion when a drawing is being conducted.~~

#### NEW SECTION

**WAC 230-20-335 Raffles conducted among members of an organization—Procedures—Restrictions.** Organizations may conduct members-only raffles utilizing simplified procedures. For purposes of this section, "members-only raffle" means a raffle conducted by selling chances only to members of the organization and a limited number of guests, and determining the winners from among those members and guests that have purchased chances. The following procedures and restrictions supplement or modify WAC 230-08-070 and 230-20-325 and apply only to members-only raffles:

(1) In order to conduct raffles utilizing these simplified procedures, all phases of the raffle must be completed during a meeting of the members, and the meeting must be completed on the same day and at the same location without interruption;

(2) If guests are allowed to participate, the total number of guests, as a percentage of the total attendance of the meeting, shall not exceed twenty-five percent. Records shall be maintained that will allow commission staff to determine compliance with this requirement;

(3) All disclosures required to be imprinted on a raffle ticket or chance may be provided to participants by posting a sign at each ticket sales point;

(4) Chances to enter a raffle may be included as a part of a package that includes dues, entertainment, or other fundraising activities if the value of each component of the package is disclosed to the purchaser and the value of each individual raffle chance does not exceed five dollars:

*Provided*, That initial applications for membership and any fees paid for such shall not include chances to enter raffles or to participate in any gambling activities;

(5) The director may authorize an organization to deviate from the "same price" requirements of WAC 230-20-325(5). Chances to enter a raffle may be sold for different values, ranging from one cent to a maximum of five dollars, if the following conditions are met:

(a) The scheme for assigning the cost of the ticket must be disclosed to the player prior to selling them a chance to participate. This disclosure shall include the total number of tickets in the population and the number of tickets at each price level;

(b) Participants must be allowed to randomly select their ticket from the population of remaining tickets. Participants pay the amount imprinted upon the ticket they select;

(c) The scheme provides an adequate audit trail that will allow commission staff and taxing authorities to determine gross gambling receipts;

(d) The total gross gambling receipts available from raffles utilizing such schemes are limited to one thousand three hundred dollars each drawing;

(e) No more than two such drawings are conducted during a meeting of the members; and

(f) Approval must be obtained in writing from the director. Such approval shall be valid until revoked by commission staff;

(6) The following sales schemes may be used for members-only raffles:

(a) Multiple tickets to enter one or more drawings may be sold as a package as long as the total price of the package does not exceed five dollars; and

(b) Alternative sales methods may be used if specifically authorized by the commission. This authority will be issued on an individual basis and will require a detailed written request;

(7) Alternative drawing formats approved for members-only raffles shall be valid until revoked by the commission staff, if all the information required by this subsection is reported to the commission at least ten days prior to any drawing using such schemes. Notification for members-only raffles may be signed by the designated raffle manager;

(8) The limitations on noncash incentive awards for an individual raffle, set forth in WAC 230-20-325 (6)(a) and (c), are modified to allow awards that do not exceed five percent of the combined gross gambling receipts for all raffles conducted during a membership meeting if a record of the name, address, and telephone number is maintained for all persons receiving awards valued in excess of fifty dollars;

(9) Raffle records, as required by WAC 230-08-070, are modified as follows:

(a) The threshold value for maintaining a record of the name, address, and telephone number of each winner of a prize is increased to include only prizes valued in excess of fifty dollars;

(b) Ticket disbursement records are not required; and

(c) Minimum record retention period is reduced to a period that is not less than one year following the date of each individual raffle drawing.

AMENDATORY SECTION (Amending Order 188, filed 3/14/89)

WAC 230-08-070 Raffle records. (~~Licenseses for the operation of raffles shall be required to prepare a detailed record covering each individual raffle. This detailed record shall be recorded in a standard format prescribed by the commission. Each detailed raffle record shall be supported by a validated bank deposit receipt(s) and winning tickets.~~

~~Operators of Class A and B raffles shall be exempt from this rule, but will be required to keep all operator records in order to properly report all information as required by WAC 230-08-015-.)~~ A detailed record shall be prepared for each raffle conducted. Unless otherwise noted in this section, organizations licensed to conduct raffles at Class "D" or below and organizations conducting unlicensed raffles under the authority of RCW 9.46.0315 or 9.46.0321 are authorized to use reduced recordkeeping requirements as set out in WAC 230-08-015. Organizations licensed to conduct raffles at or above Class "E" or conducting raffles under any class of license by utilizing alternative drawing formats, as authorized by WAC 230-20-325, shall comply with the following recordkeeping procedures:

(1) All data required shall be recorded in a standard format prescribed by the commission;

(2) At least the following data shall be recorded:

(a) Beginning and ending ticket numbers;

(b) The total number of unsold tickets with ticket numbers that are below the highest ticket number sold;

(c) Total gross gambling receipts;

(d) A description of each prize including the cost, or if contributed to the organization, the fair market value;

(e) The name, address, and telephone number of each winner of a prize with a cost or fair market value in excess of twenty dollars;

(f) Except as authorized by WAC 230-20-335, details of disbursement to and return of tickets from sellers. Minimum details shall include:

(i) The name of the person receiving the tickets;

(ii) The number of tickets disbursed;

(iii) The number of tickets returned; and

(iv) All funds returned;

(3) In addition to the prescribed format, the following records shall be maintained:

(a) Validated deposit receipts for each deposit of raffle proceeds;

(b) All winning tickets;

(c) All ticket stubs for raffles that participants are not required to be present at the drawing;

(d) All unsold tickets for individual raffles for which gross gambling receipts exceed five thousand dollars;

(e) Invoices and other documentation recording the purchase or receipt of prizes; and

(f) Invoices and other documentation recording the purchase of tickets and other expenses of the raffle;

(4) Except as authorized by WAC 230-20-335, these records shall be maintained for a period of not less than three years from the end of the licensee's fiscal year in which the raffle was completed;

(5) Records for each individual raffle shall be completed and available for review by commission staff and local law enforcement or taxing authorities no later than thirty days

following the drawing: *Provided*, That this subsection shall not restrict commission staff or local law enforcement authorities from review of any required records prior to the allowed completion date; and

(6) Records shall be maintained at the main administrative or business office of the organization that is located within Washington state and available for commission review or audit upon request. Organizations that do not have an administrative or business office located within Washington state structured to include more than one chapter or other subdivided unit that conducts raffles under the parent organization's license, shall designate records custodians that reside in Washington state. Such custodians shall be responsible for retaining all original records and making such available for review or audit at any reasonable location within seven days of a request by commission staff. *Provided*, That the director may authorize an organization to maintain records at alternative locations if the organization has demonstrated the ability and desire to comply with all commission requirements. Records maintained under such an agreement shall be made available for commission review and audit at any designated location within seven days. The director may revoke this authority at any time by providing written notice. A request to maintain records at alternative locations shall include at least the following:

(a) The conditions that preclude or restrict compliance with normal records maintenance requirements of this subsection, including costs;

(b) The address of the location where all records will be maintained;

(c) If such records are retained outside the state of Washington, the name, address, and telephone number of a resident of the state of Washington who is authorized by the organization to accept a request for records;

(d) The name, address, and telephone number of a primary and alternate records custodian; and

(e) A notarized statement by the chief executive officer of the organization acknowledging responsibility for providing records and that failure to comply with a request for records within the allotted time may result in suspension or revocation of all licenses held by the organization.

**WSR 95-07-094**  
**PERMANENT RULES**  
**GAMBLING COMMISSION**

[Filed March 17, 1995, 3:36 p.m., effective July 1, 1995]

Date of Adoption: March 10, 1995.

Purpose: Packet of rules clarify commercial stimulant in accordance with amendments to RCW 9.46.0217. Net gambling receipts are no longer required to be less than gross food and drink sales.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-350, 230-02-360, 230-02-370, 230-02-380, 230-04-080, 230-08-130, and 230-08-160.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0217.

Pursuant to notice filed as WSR 95-04-038 on January 25, 1995.

Effective Date of Rule: July 1, 1995.

March 17, 1995  
Patricia Norman-Cole  
Rules Coordinator

AMENDATORY SECTION (Amending Order 165, filed 3/16/87)

**WAC 230-02-350 Commercial stimulant defined.** "Commercial stimulant" means ~~((a))~~ a licensed gambling ~~((activities, when))~~ activity operated by an established food and/or drink business with the ~~((primary))~~ purpose of increasing the volume of food and/or drink sales for "on-premises" consumption. ~~((For purposes of chapter 9.46 RCW and these rules, gambling activities shall qualify as a commercial stimulant only when the combined "adjusted net gambling receipts" from punchboards, pull tabs, and public card rooms are less than the total "gross" sales from the food and/or drink business.))~~

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

**WAC 230-02-360 Licensed premises defined.** "Licensed premises" means the physical building and property, upon which the licensed gambling activity occurs, as set out ~~((and approved))~~ on the license application and approved by the commission: *Provided*, That ~~((where))~~ when only a portion of a building is ~~((leased))~~ utilized for purposes of operating a food and/or drink business or for conducting gambling or related activities, only that portion set out in the ~~((lease document))~~ application on file with the commission, shall be considered the licensed premises ~~((: *Provided further*, That when owners or holders of a substantial interest, of a food and/or drink business, licensed to conduct gambling activities, also operate additional and separate businesses in the same building or on the same property, only the gross sales from the licensed food and/or drink business, as set out and approved on the license application, shall be included for commercial stimulant purposes))~~.

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

**WAC 230-02-370 Food and/or drink business defined.** "Food and/or drink business" means any business which is primarily engaged in the sale of food and/or drink items, to persons other than owners, employees, or substantial interest holders, for consumption on the licensed premises ~~((: *Provided*, That for purposes of chapter 9.46 RCW and these rules, a business is determined to be primarily a "food and/or drink business" when the total gross sales of food and/or drink, for on premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises. *Provided further*, That food and drink items furnished to employees, without their actually paying for it, shall be treated as sales only if:~~

- ~~(1) Detailed records are maintained;~~
- ~~(2) The sale is recorded at estimated cost or menu price, but not more than five dollars per meal; and~~
- ~~(3) No more than one meal per employee is recorded during any four hour work shift).~~

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

**WAC 230-02-380 Established business defined.**

"Established business" means any business ~~((who))~~ that has applied for and received all licenses or permits required by any state or local jurisdictions and has been open to the public for a period of not less than ninety days: *Provided*, That the commission may grant "established" status to a business that:

- (1) Has completed all construction and is ready to conduct business;
- (2) Has obtained all required licenses and permits;
- (3) Provides the commission a planned operating schedule which includes estimated gross sales from each separate activity to be conducted on the proposed premises, including but not limited to the following:
  - (a) Food and/or drinks for on-premises consumption;
  - (b) Food and/or drinks "to go"; and
  - (c) All other business activities.
- (4) Passes an inspection by the commission.

AMENDATORY SECTION (Amending Order 23, filed 9/23/74)

**WAC 230-04-080 Certain activities to be operated as a commercial stimulant only—Licensing of food and/or drink businesses.** The commission may issue a license to operate punchboards and pull tabs ~~((or))~~ or public card rooms ~~((, licensed for use as a commercial stimulant))~~ as commercial stimulants to any established business primarily engaged in the sale of food and/or drink items for consumption on the licensed premises. Such activities shall not be operated other than as a commercial stimulant. The following requirements apply to applicants for a license to use gambling activities to stimulate food and/or drink sales:

(1) For purposes of chapter 9.46 RCW and these rules, a business shall be presumed to be a "food and/or drink business" as defined by WAC 230-02-370 if:

- (a) It is licensed by the liquor control board to sell alcohol beverages at retail to the public for on-premises consumption and:
  - (i) It is a tavern that holds a valid Class "B" liquor license; or
  - (ii) It is a restaurant with a cocktail lounge that holds a valid Class "H" liquor license.

(b) It sells food and/or drink items at retail to the public and:

(i) All food is prepared and served for consumption on the licensed premises: *Provided*, That food may be prepared at other locations and served on the premises if the food is:

- (A) Prepared by the licensed business; or
- (B) Purchased from caterers by the licensed business as a wholesale transaction and resold to customers at retail.

(ii) The total gross sales of food and/or drink, for on-premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises when measured on an annual basis. Applicants seeking qualification for a license under this subsection shall submit data necessary to evaluate compliance with these requirements as a part of their application. For purposes of determining total gross sales of food and drink for on-

premises consumption, meals furnished to employees, free of charge, shall be treated as sales only if:

- (A) Detailed records are maintained;
- (B) The sale is recorded at estimated cost or menu price, but not more than five dollars per meal; and
- (C) No more than one meal per employee is recorded during any four-hour work shift.

(2) When an individual, partnership, or corporation operates two or more businesses within the same building or building complex and such businesses meet the requirements of subsection (1)(a) or (b) of this section, one of the businesses may be designated as a "food and/or drink business" if all of the following conditions are met:

(a) The business being stimulated is physically isolated from all other businesses by walls and doors that clearly demonstrate the business is separate from other business being transacted at that location;

(b) All business transactions conducted by the applicant business are separated from the transactions conducted by all other businesses:

(i) Legally in the form of a separate corporation or partnership; or

(ii) By physical separation of all sales and accounting functions, and the methods of separation are approved by the commission;

(c) All gambling activities are located and occur upon the licensed premises, as defined in the license application and approved by the commission; and

(d) All gambling activities occur only when the food and/or drink business is open for customer service.

AMENDATORY SECTION (Amending Order 251, filed 5/17/94, effective 7/1/94)

**WAC 230-08-130 Quarterly activity reports by operators of punchboards and pull tabs.** Each licensee for the operation of punchboards and pull tabs shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below:

(1) Reports shall be submitted detailing activities occurring during each of the following periods of the year:

- (a) January 1st through March 31st;
- (b) April 1st through June 30th;
- (c) July 1st through September 30th; and
- (d) October 1st through December 31st.

(2) A report shall be submitted for any period of time the activity was operated or a license was valid. If ~~((the licensee does not renew his license, then he shall file))~~ a license is not renewed, a report for the period between the previous report filed and the expiration date ~~((of his license))~~ shall be submitted;

(3) The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than ~~((30))~~ thirty days following the end of the period for which it is made ~~((:))~~;

(4) The report shall be signed by the highest ranking executive officer or ~~((his))~~ their designee. If the report is prepared by someone other than the licensee or ~~((his))~~ an employee, ~~((the))~~ the preparer shall print his/her name and phone number on the report ~~((:))~~;

(5) The report shall be completed in accordance with the related instructions furnished with the report. The report shall include the following:

~~((1) Gross sales, other than licensed gambling activities during the reporting period;~~

~~(2) That portion of the gross sales that relates solely to the sale of food and drink for consumption on the premises;~~

~~(3) The) (a) Gross gambling receipts from punchboards and ((the gross receipts)) from pull tabs;~~

~~((4) The) (b) Total amount of cash prizes paid out and the cost to the licensee of all merchandise prizes paid out((:)) for punchboards and for pull tabs;~~

~~((5)) (c) Full details of all expenses related to the purchase and operation of punchboards and pull tabs;~~

~~((6)) (d) Total net gambling income;~~

~~((7) The number of punchboards and the number of pull tab series that were either in play and in inventory awaiting play as of the end of business on the last day of the quarter;~~

~~(8)) (e) The number of punchboards and the number of pull tab series removed from play during the period; and~~

~~((9)) (f) The number of punchboards and the number of pull tab series purchased during the period, less all unplayed devices returned for credit during the period.~~

AMENDATORY SECTION (Amending Order 251, filed 5/17/94, effective 7/1/94)

**WAC 230-08-160 Quarterly activity reports by operators of social and public card rooms.** Each licensee for the operation of social or public card rooms shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below: Provided, That persons licensed under Class "D" - general, no fee charged, are exempt from all portions of this section:

(1) Reports shall be submitted detailing activities occurring during each of the following periods of the year:

(a) January 1st through March 31st;

(b) April 1st through June 30th;

(c) July 1st through September 30th; and

(d) October 1st through December 31st.

(2) A report shall be submitted for any period of time the activity was operated or a license was valid. If ((the licensee does not renew his license, then he shall file)) a license is not renewed, a report for the period between the previous report filed and the expiration date ((of his license-)) shall be submitted;

(3) The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than ((30)) thirty days following the end of the period for which it is made((-);

(4) The report shall be signed by the highest ranking executive officer or ((his)) their designee. If the report is prepared by someone other than the licensee or ((his)) an employee, ((then)) the preparer shall print his/her name and phone number on the report((-);

(5) The report shall be completed in accordance with the related instructions furnished with the report. The report shall include the following:

~~((1) Gross sales, other than licensed gambling activities during the report period;~~

~~(2) That portion of the gross sales that relates solely to the sale of food and drink for consumption on the premises;~~

~~(3)) (a) Gross gambling receipts from the collection of fees charged for allowing persons to play;~~

~~((4)) (b) Full details of all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of the card room, including:~~

~~((a)) (i) A description of the work performed by that person, including identifying each ((Pan)) dealer;~~

~~((b)) (ii) The hourly wage, including benefits; ((and~~

~~(-)) (iii) The total hours worked during the period((-);~~

~~and~~

~~((5)) (iv) Full details of all other expenses related to the operation of the card room;~~

~~((6) The) (c) Net gambling income or loss from the operation of the card room for the reporting period;~~

~~((7)) (d) The normal days and times of operation of the card room; and~~

~~((8)) (e) The total hours the card room was open during the period((-;~~

~~(9) The total hours "Pan" was played and a paid dealer was provided during the period; and~~

~~(10) Full details of any meals furnished employees included in (1) or (2) above as sales:~~

~~Provided, That persons licensed under Class D - general, no fee charged, are exempt from all portions of this rule).~~

#### WSR 95-07-095

#### PERMANENT RULES

#### GAMBLING COMMISSION

[Filed March 17, 1995, 3:37 p.m., effective July 1, 1995]

Date of Adoption: March 10, 1995.

Purpose: Housekeeping change to reflect current number of assistant directors on staff.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-010.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 95-04-043 on January 25, 1995.

Effective Date of Rule: July 1, 1995.

March 17, 1995

Patricia Norman-Cole  
Rules Coordinator

AMENDATORY SECTION (Amending Order 203, filed 1/18/90, effective 2/18/90)

**WAC 230-02-010 Washington state gambling commission—Purpose and organization.** (1) Purpose - The Washington state gambling commission, hereinafter called "the commission," is created pursuant to RCW 9.46.040 as the licensing and regulatory agency charged with the authority and duty to control statutorily authorized nonprofessional gambling. Where appropriate, the term "commission" also refers to the staff and employees of the commission. In order to carry out the assigned duties and

March 17, 1995  
 Charles R. Fields  
 Vice-President for  
 Student Services

responsibilities, the legislature designated the commission as a law enforcement agency with the powers to investigate all gambling and associated activities and enforce the provisions of chapter 9.46 RCW.

(2) Organization - The commission is comprised of five part-time members, four ex officio members, and a full time staff.

(a) Commission members - Five citizens, all appointed by the governor with the consent of the state senate for six-year staggered terms. One member is annually elected as chairperson. Commissioners serve part-time as necessary and otherwise as directed by the chairperson.

(b) Ex officio members - Two members each from the senate and the house of representatives, one each from the majority and minority political parties. Members are appointed for two year terms by the president of the senate and speaker of the house of representatives, respectively. Ex officio members do not vote on matters before the commission for review.

(c) Staff - The commission staff is organized under a director, a deputy director, and ~~((two))~~ three assistant directors pursuant to RCW 9.46.080. The director, the deputy director, ~~((both))~~ the assistant directors, and all staff required to perform undercover duties are exempt from the provisions of chapter 41.06 RCW. Staff duties and responsibilities are as follows:

(i) Director - The director is appointed by the commission as its administrator for carrying out its powers and duties. The director ensures that staff and other resources are available to carry out the purposes and provisions of chapter 9.46 RCW. The director is directly responsible for matters pertaining to public relations, research, contracts, agreements, and legal problems.

(ii) Deputy director - The deputy director is appointed by the director with responsibilities of making decisions and carrying out duties delegated by the director: *Provided*, That those duties specifically enumerated in WAC 230-12-900 may not be delegated to the deputy director.

(iii) Assistant directors - Assistant directors are appointed by the director with the responsibilities for the day-to-day management of the various operational sections of the commission and advising the director regarding matters necessary to carry out the provisions of chapter 9.46 RCW.

**WSR 95-07-103**

**PERMANENT RULES**

**SHORELINE COMMUNITY COLLEGE**

[Filed March 20, 1995, 10:34 a.m.]

Date of Adoption: March 17, 1995.

Purpose: Repeal chapter 132G-126 WAC, Reduction in force and tenure code. This repeals an existing rule that deals with issues already covered in the faculty contract.

Citation of Existing Rules Affected by this Order: Repealing chapter 132G-126 WAC, Reduction in force and tenure code.

Statutory Authority for Adoption: RCW 34.05.320.

Pursuant to notice filed as WSR 95-04-008 on January 19, 1995.

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

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132G-126-010 Rules and regulations governing reduction in force—Objective and definition.
- WAC 132G-126-020 RIF—Procedures for determining the necessity.
- WAC 132G-126-030 RIF—Layoff units.
- WAC 132G-126-040 RIF—Seniority.
- WAC 132G-126-050 RIF—Implementation of reduction in force.
- WAC 132G-126-060 RIF—Notification, hearing and appeal.
- WAC 132G-126-070 RIF—Rights of laid off academic employees.
- WAC 132G-126-080 RIF—Special provisions.
- WAC 132G-126-200 Tenure—Purpose.
- WAC 132G-126-210 Tenure—Definitions.
- WAC 132G-126-220 Tenure—Appointment review committees—Purpose of the committees and selection of membership.
- WAC 132G-126-230 Tenure—Appointment review committees—Duties and responsibilities.
- WAC 132G-126-240 Tenure—Appointment review committees—Operating procedures.
- WAC 132G-126-250 Tenure—Authority of the board of trustees.
- WAC 132G-126-260 Tenure—Rights and reasonable expectations of the probationer.
- WAC 132G-126-270 Tenure—Dismissal of faculty members—Preamble.
- WAC 132G-126-280 Tenure—Dismissal of faculty members—Faculty categories covered.
- WAC 132G-126-290 Tenure—Dismissal of faculty members—Reasons for dismissal of a faculty member.
- WAC 132G-126-300 Tenure—Dismissal of faculty members—Composition of the dismissal review committee.
- WAC 132G-126-310 Tenure—Dismissal of faculty members—Selection of the dismissal review committee.
- WAC 132G-126-320 Tenure—Dismissal of faculty members—Preliminary procedures relating to the dismissal of a faculty member.
- WAC 132G-126-330 Tenure—Dismissal of faculty members—Initiation of formal proceedings.

PERMANENT

- WAC 132G-126-340 Tenure—Dismissal of faculty members—Procedural rights accorded the faculty member concerned.
- WAC 132G-126-350 Tenure—Dismissal of faculty members—Responsibilities of dismissal review committee.
- WAC 132G-126-360 Tenure—Dismissal of faculty members—Duties of the hearing officer of the dismissal review committee.
- WAC 132G-126-370 Tenure—Dismissal of faculty members—Consideration by the board of trustees.
- WAC 132G-126-380 Tenure—Dismissal of faculty members—Time limits.
- WAC 132G-126-390 Tenure—Dismissal of faculty members—Publicity.
- WAC 132G-126-400 Tenure—Dismissal of faculty members—Right of the faculty member to appeal the decision of the dismissal review committee and/or the board of trustees.

**WSR 95-07-106****PERMANENT RULES****DEPARTMENT OF TRANSPORTATION**

[Order 150—Filed March 20, 1995, 1:27 p.m.]

Date of Adoption: March 20, 1995.

Purpose: For the safety of the traveling public by governing the conduct and use of safety rest areas.

Statutory Authority for Adoption: Chapter 47.38 RCW.

Pursuant to notice filed as WSR 95-04-071 on January 30, 1995.

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

March 20, 1995

S. A. Moon

Deputy Secretary  
for Operations**Chapter 468-32 WAC  
SAFETY REST AREAS****NEW SECTION**

**WAC 468-32-010 Rest area rules.** Pursuant to chapter 47.38 RCW, the purpose of these regulations is for the safety of the traveling public by governing the conduct and use of safety rest areas. The following restrictions apply to activities in safety rest areas:

- (1) Parking is only permitted in designated areas;
- (2) Litter containers are only for picnic and automobile litter;
- (3) Pets shall stay in designated areas and shall be on a leash at all times;
- (4) Open fires are prohibited;
- (5) Aggressive solicitation for money or goods with the intent to intimidate another person into giving money or goods is prohibited; and

(6) Sanitary disposal systems are for dumping sanitary wastes only from recreational vehicles. Commercial vehicles are prohibited from using the sanitary disposal systems.

**WSR 95-07-117  
PERMANENT RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed March 21, 1995, 11:31 a.m.]

Date of Adoption: March 10, 1995.

Purpose: Establish guidelines for the approval and operation of apprenticeship programs.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-04-320; and amending WAC 296-04-001, 296-04-005, 296-04-015, 296-04-160, 296-04-165, 296-04-270, and 296-04-440.

Statutory Authority for Adoption: RCW 49.04.010.

Pursuant to notice filed as WSR 94-24-071 on December 6, 1994.

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

March 21, 1995

Reginald Kaiser, Chair  
Apprenticeship and Training Council

**AMENDATORY SECTION** (Amending WSR 90-21-118, filed 10/22/90, effective 11/22/90)

**WAC 296-04-001 Foreword.** The Washington State Apprenticeship and Training Act, RCW 49.04.010 - 49.04.-910, establishes the council and its administrative arm, the apprenticeship and training division of the department of labor and industries. The intention of the council and department in promulgating and adopting these rules is to establish a uniform procedure to be followed by state and local apprenticeship and training committees in presenting matters to the state apprenticeship and training council and further to establish standards by which the council can operate to effectuate its statutory obligations set forth in the apprenticeship act.

The Washington state apprenticeship and training council recognizes the importance of quality apprenticeship programs to meet the growing needs of employers and employees for high quality training. The council also recognizes that rapid changes in our state's economy and technological change necessitates skilled workers who meet industry-wide standards in order to compete successfully in the changing marketplace. Employers will benefit by knowing that skilled workers who have graduated from a state recognized apprenticeship program have been trained to industry-wide standards and not exclusively in response to the needs of an individual employer or group of employers.

The council also recognizes that the delivery and regulation of apprenticeship programs should be conducted in a manner which avoids needless duplication on the part of the department of labor and industries, community colleges, and vocational-technical institutes. It is important that approved apprenticeship programs be structured to maximize the protection of the apprentice by providing a meaningful process which allows the apprentice to ensure that his or her

rights as an apprentice are protected throughout the term of the apprenticeship.

The council further recognizes that the number of apprentices in a trade or group of trades in any geographic area must be sufficient to meet the needs of all employers and not be so large as to create an oversupply of apprentices. Because quality apprenticeship training requires reasonably continuous on-the-job training, an oversupply of apprentices in any geographic area is to be avoided, if possible, in an effort to maintain ongoing quality training.

The council further recognizes that the attainment of quality apprenticeship training and the planning of numbers of new apprentices in a trade or group of trades will be accomplished best by the establishment of one joint apprenticeship and training committee serving the entire trade or group of trades in a specified geographic area. A single committee is best able to train to industry-wide standards which will enable workers to move between firms when economic necessity requires. A single committee is best able to determine the number of apprentices needed in an entire trade or group of trades in a specified geographic area.

The council also recognizes the benefit apprentices gain in having the widest range of employers and their apprentices represented in the related and supplemental training classes. The intermingling of apprentices representing the widest array of firms possible, in related and supplemental training classes, exposes apprentices to the widest possible range of work experiences. This sharing of work experiences increases the quality of training, benefiting both apprentices and employers.

The council intends that apprenticeship programs be available to meet the training needs of all employers in the state of Washington. These programs are open to all employers on an equal and nondiscriminatory basis. The need for continued quality training, equal treatment of apprentices, and efficient delivery of training suggest that these training needs are best met through existing programs.

As provided in WAC 296-04-160, committees approved by the council shall offer training opportunities on an equal basis to all employers. Existing committees are expected to provide apprenticeship and training opportunities for employers not currently participating in the program:

(1) At a reasonable cost that is equivalent to the cost incurred by employers and apprentices currently participating;

(2) With equal treatment and opportunity for all apprentices; and

(3) With reasonable working and training conditions that apply to all apprentices uniformly and equally;

(4) An employer shall not be required to sign a collective bargaining agreement in order to participate in an apprenticeship program.

(5) All employers requesting "approved training agent" status shall sign an agreement agreeing to comply with all federal or state apprenticeship rules and the appropriate apprenticeship standards. When the sponsor approves the "approved training agent" agreement, he/she shall furnish the department with a copy and shall notify the department when any agreement is rescinded.

All policies and rules of the council are designed to strengthen apprenticeship and training in the state of Washington, as well as to explain related factors established under

existing state and federal laws. The council, as the responsible legislative organ governing apprenticeship and training, requests the cooperation and assistance of all interested persons, organizations, and agencies functioning within the framework of the rules and regulations.

AMENDATORY SECTION (Amending Order 85-31, filed 11/1/85)

**WAC 296-04-005 Apprenticeship and training agreements—Proposed standards.** The Washington state apprenticeship and training council is the body responsible for matters concerning apprenticeship and training in the state of Washington. The principal function of the council is to approve and register apprenticeship and training agreements. Persons or organizations desiring to institute an apprenticeship or training program must first create a committee and submit affidavits to the Washington state apprenticeship and training council requesting that the council recognize the committee. The committee must then prepare proposed standards which conform to these rules and to RCW 49.04.050. The standards must also include the composition of and general rules for the committee which will administer the program. The supervisor, or Washington state apprenticeship coordinators, are available to give assistance in this task.

These standards, which will be either a plant program or committee program as defined herein, must then be presented to the supervisor at least 45 days before the regular meeting at which the council will be requested to consider such proposed standards. The standards proposed will then be discussed by the council and approved, disapproved, or approved subject to enumerated changes. The council, at its meetings, will allow changes made for clerical errors and additions of standard approved language deleted from the proposed standard if authorized representatives of all concerned are present and authorized to accept changes. The council will not accept changes at its meetings in the format or language not deemed standard by the council.

The committee thus set up then begins functioning. Its duties are to run the day to day operations of the apprenticeship and training program. It is charged with operating the program in accordance with the standards as approved by the council. It is charged with accepting or rejecting applicants for apprenticeship or training, registering accepted applicants as apprentices or trainees with the supervisor of apprenticeship and training, removing apprentices or trainees from the program in accordance with the standards and informing the supervisor of any matters which affect the standing of individuals as apprentices or trainees. Persons not registered with the supervisor as apprentices or trainees cannot be recognized as apprentices or trainees by the council.

The supervisor and his staff may be consulted on any matters concerning apprenticeship and training, and they will provide any information concerning apprenticeship training which is available to them. They are also required to investigate any discrepancies between the actual and required operation of any program and conduct systematic reviews of the operation of all programs. The supervisor may recommend cancellation of any program which is not operated in accordance with its approved standards after notice of

violation is given in accordance with the provisions of WAC 296-04-270(3).

The supervisor and the council will act to assist in the resolution of any complaints against local committees, or other organizations administering apprenticeship agreements, by any apprentices who have completed their probationary period, as provided in WAC 296-04-295.

**AMENDATORY SECTION** (Amending Order 82-30, filed 10/29/82)

**WAC 296-04-015 Definitions.** Whenever in these rules and regulations, the following words shall have these meanings:

(1) "Council" shall mean the Washington state apprenticeship and training council established pursuant to RCW 49.04.010.

(2) The words "apprenticeship committee" shall mean a state or local joint apprenticeship committee established pursuant to RCW 49.04.040 (~~(and/or a committee administering a plant program)~~).

(3) The words "regular meeting" shall mean a public meeting of the council as described in WAC 296-04-040(1).

(4) The term "special meeting" shall mean a public meeting of the council as described in WAC 296-04-040(2).

(5) The word "supervisor" shall mean the supervisor of apprenticeship and training appointed pursuant to RCW 49.04.030.

(6) The term "agreement" shall mean an apprenticeship agreement and/or training agreement.

(7) The term "plant program" is defined in WAC 296-04-050.

(8) The term "individual agreement" shall mean a written agreement between an apprentice and/or trainee and either his employer or an apprenticeship committee acting as agent for the employer.

(9) The term "committee program" shall mean an apprenticeship agreement described in WAC 296-04-270 (1)(a) through (k).

(10) The term "on-the-job training program" shall mean a program described in WAC 296-04-280.

(11) The term "trainee" shall mean a person registered with the supervisor pursuant to WAC 296-04-270 or 296-04-280.

(12) The term "apprentice" shall mean a person registered with the supervisor pursuant to an apprenticeship training program pursuant to WAC 296-04-270 for purposes of chapter 49.04 RCW and these rules.

(13) The term "standards" shall mean a written agreement setting forth a plan containing all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices, as further defined in RCW 49.04.050.

(14) The term "registration" shall mean the maintenance of records of apprenticeship and training agreements and of apprenticeship and training standards.

(15) The term "sponsor" shall mean any (~~(plant,)~~) firm, (~~(facility,)~~) association, committee, or organization operating an apprenticeship and training program through an employer and employee relationship and in whose name the program is registered or is to be registered.

(16) The term "department" shall mean the department of labor and industries.

(17) The term "related/supplemental instruction" shall mean that instruction that is approved by the program sponsor. It shall be taught by a trade competent instructor who shall have demonstrated said competency by satisfactory employment performance in the occupation for a period of a minimum of three years beyond the customary learning period for this occupation. Instructors shall be approved by the sponsor. The sponsor shall review said instruction annually for relevancy and currentness. Relevancy shall mean instructional content that is directly required in and applicable to the performance of the work. Relevancy shall not mean academic course content taught by a solely academically qualified instructor except for courses approved by the committee or specified by state law. Currentness means that the instructional content is and remains consistent with the latest trade practices, improvements, and technical advances.

**AMENDATORY SECTION** (Amending WSR 90-21-118, filed 10/22/90, effective 11/22/90)

**WAC 296-04-160 Apprenticeship committees.** (1) Apprenticeship committees shall be appointed in accordance with the provisions of RCW 49.04.040. Such committees shall have the duties prescribed by statute, these rules and the approved standards under which they operate. Committees shall function, administrate or relinquish authority only with the consent of the council. On any petition addressed to the council or the supervisor, only the signature of the elected chairman and secretary of the committee shall be accepted unless the apprenticeship committee has petitioned the council to recognize and accept the signature of another person. Such a petition must be signed by a quorum of the members of the petitioning apprenticeship committee.

(2) Committees approved by the council shall offer training opportunities on an equal basis to all employers and apprentices including all rights, appeals, and services available in the existing apprenticeship program. If an existing committee refuses to provide access to apprenticeship and training opportunities to all employers, the council shall take action as necessary to remove all restrictions to access. Council action may include, but is not limited to, the decertification of the existing committee and recognition of a new committee in order to carry out the intent of chapter 49.04 RCW and the rules adopted under its authority.

(3) Apprenticeship committees shall be composed of no less than four members nor shall the committee be composed of more than twelve members. Exceptions may be granted by the council.

(4) It is the council's view that joint apprenticeship and training committees are not state agencies but rather only quasi-public entities performing services jointly for management and labor by assistance to the apprenticeship program.

**AMENDATORY SECTION** (Amending Order 78-21, filed 11/14/78)

**WAC 296-04-165 Union waiver.** (~~((+))~~) Under a program proposed for registration by an employer or employers' association, and where the standards, collective bargaining agreement or other instrument, provides for

participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgement of union agreement or "no objection" to the registration is required. Where no such participation is evidenced and practiced, the employer or employers' association shall simultaneously furnish to the union, if any, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. The registration agency shall provide a reasonable time period of not less than 30 days nor more than 60 days for receipt of union comments, if any, before final action on the application for registration and/or approval.

~~((2) Where the employees to be trained have no collective bargaining agent, an apprenticeship program may be proposed for registration by an employer or group of employers.))~~

**AMENDATORY SECTION** (Amending WSR 93-04-100, filed 2/2/93, effective 3/5/93)

**WAC 296-04-270 Apprenticeship agreements—Types—Standards—Registration, review, cancellation, reregistration—Certificate of completion.** (1) The following apprenticeship agreements shall be recognized pursuant to RCW 49.04.060:

(a) A written agreement between an association of employers and an organization of employees describing the conditions of training for apprentices.

(b) A written statement of an employer or a written agreement between an employer and an employee organization describing the conditions of training apprentices. The former agreement shall be recognized only if there is no bona fide employee organization in the plant affected by the agreement.

(c) A written agreement between an employer and an individual apprentice describing the conditions of apprenticeship.

(d) Group-joint, or area joint program where there is a labor organization. A program jointly sponsored by a group of employers and a labor organization administered by a joint apprenticeship and training committee (JATC) equally composed from management and labor.

(e) Individual-joint, a program where there is a labor organization. A program jointly sponsored by an individual employer and a labor organization administered by a joint apprenticeship and training committee (JATC) composed equally from management and labor.

(f) Group nonjoint, or area group program where there is no labor organization. A program sponsored by a group of employers administered by an apprenticeship committee.

(g) Individual nonjoint, a program where there is no labor organization. A program sponsored and administered by an individual employer not jointly sponsored with a labor organization.

(h) Group waiver, a program with more than one firm (a group of employers) where either the employer group or the labor organization has voluntarily waived participation and has so notified the other party in writing.

(i) Individual waiver, a program involving an individual person, company, plant, firm, and a labor organization where

management or labor has voluntarily waived participation and has so notified the other party in writing.

(j) Nonjoint and waived committees shall be composed of representatives of which fifty percent shall by reason of education and experience be occupationally qualified in the specific occupation specified in the standards for which the committee is responsible.

(k) The council shall only recognize nonjoint and waived standards for a specific occupation or directly related occupations. When multiple related occupations are approved on a single standard, each occupation shall be considered as an individual standard. Unrelated occupations shall be submitted under separate standards.

(2) Apprenticeship agreements shall conform to the following standards:

(a) Committee programs, plant programs, and on-the-job training programs must contain the provisions required by RCW 49.04.050 and, in addition, shall contain:

(i) Provision for nondiscrimination in the selection of apprentices in substantially the following form:

Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge: "The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by the rules of the Washington state apprenticeship and training council and Title 29, Part 30 of the Code of Federal Regulations."

(ii) Provision that there shall be no discrimination on the basis of race, color, creed, sex, or national origin after selection during all phases of employment during apprenticeship.

(iii) Provision that adequate records of the selection process must be kept for a period of at least five years and will be made available to the council or its designated representative on request. Such records must include a brief summary of any interviews and the conclusions reached on each of the specific factors which are part of the total judgment concerning each applicant.

(iv) Provision for local committee rules and regulations consistent with these rules and the applicable apprenticeship agreement.

(b) Any proposed standards for apprenticeship must be consistent with any standards for apprenticeship already approved by the council for the industry, craft or trade in question to the end that there is general statewide uniformity of such standards in each industry, trade or craft. Proposed standards shall be considered consistent if they are equal to or exceed the average number of hours and do not exceed the maximum number of hours for such trade, craft, or occupation within this state. In addition, the course content and delivery method are similar to the extent that they are designed to achieve the same levels of skills as existing standards within the state for that industry, trade, or craft.

(c) Shall contain a statement of the progressively increasing scale of wages based on specified percentages of a specific wage which shall be submitted to the council and updated no less than annually.

(d) A sample apprenticeship agreement which the council approves is available on request from the supervisor.

(3) Registration, review, cancellation, reregistration.

(a) All individual agreements shall be registered with the supervisor and subject to his approval.

(b) The supervisor and his staff, in the performance of their field work, shall conduct a systematic review of all plant and committee programs and shall take appropriate action, including recommendation of cancellation, when they find that any program is not being operated according to these rules and regulations or according to its applicable standards.

(c) When any program is found to be operating in a manner inconsistent with or contrary to these rules and regulations or its established plant or committee program, the supervisor shall notify the offending committee, person, firm or agency of the violation. If the supervisor does not receive notice, within 60 days, of action taken to correct such violations, the supervisor may take whatever action he deems necessary, including recommendation of cancellation of the apprenticeship or training program and agreement to the council.

(d) If the supervisor deems it necessary to recommend cancellation of an apprenticeship or training program, he shall do so in writing to each council member, stating in detail the reasons for his recommendation. A copy of said recommendation shall be mailed to the last known address of each member of the committee administering said program, or to those persons responsible for said program, together with notice that the council shall consider the recommendation at its next regularly scheduled meeting more than 30 days subsequent to the date of the recommendation and that all interested persons may present evidence or testimony regarding said recommendation. The council shall decide the question before it upon majority vote of the members present and voting and shall notify all interested parties of its decision, together with the reasons for it, in writing.

(e) The cancellation of any program or agreement shall automatically effect a cancellation of any agreement registered thereunder, provided that any organization or firm not responsible for the violations causing the cancellation may petition the council for approval of such cancelled agreement or program as a new program.

(f) Certificates of completion shall be issued at the request of the appropriate committee. An affidavit of the secretary, chair, or authorized official of the committee concerned shall accompany the request, which affidavit shall state that the apprentice has successfully completed the apprenticeship program of that committee, and that he/she has been an active, registered participant of that committee's program for at least six months.

**AMENDATORY SECTION** (Amending Order 78-20, filed 11/14/78)

**WAC 296-04-440 Adoption of consistent state plans.**

All apprenticeship programs registered with the council shall comply with the requirements of WAC 296-04-300 through 296-04-480 within 90 days after the effective date of these rules.

(1) The United States Department of Labor shall have authority to conduct compliance reviews to determine whether the Washington state affirmative action plan or any

state apprenticeship program registered with the council is being administered or operated in accordance with the provisions of Title 29, Part 30 of the Code of Federal Regulations.

(2) It shall be the responsibility of the council to take the necessary action to bring a noncomplying program into compliance with these rules. In the event the council fails to fulfill this responsibility, the secretary of the United States Department of Labor may withdraw the recognition for federal purposes of any or all state apprenticeship programs, in accordance with the procedures for deregistration of programs registered by the department, or refer the matter to the attorney general of the United States with a recommendation for the institution by the attorney general of a court action under Title 7 of the Civil Rights Act of 1964.

(3) The council shall notify the United States Department of Labor of any state apprenticeship program disapproved and deregistered by it.

(4) Any state apprenticeship program disapproved and deregistered by the council for noncompliance with the requirements of these rules or Title 29, Part 30 of the Code of Federal Regulations may, within 15 days of the receipt of the notice of disapproval and deregistration, appeal to the United States Department of Labor to set aside the determination of the state apprenticeship and training council. The ~~((department))~~ United States Department of Labor shall make its determination on the basis of the record. The ~~((department))~~ United States Department of Labor may grant the state program sponsor, the state apprenticeship and training council, and the complainant, if any, the opportunity to present oral or written argument.

(5) **Withdrawal of recognition.** Whenever the United States Department of Labor determines that reasonable cause exists to believe that the council has not adopted or implemented a plan in accordance with the equal opportunity requirements of Title 29, Part 30 of the Code of Federal Regulations, it shall give notice to the council and to appropriate state sponsors of this determination, stating specifically wherein the state's plan failed to meet such requirements and the United States Department of Labor proposes to withdraw recognition for federal purposes from the state apprenticeship and training council unless within 15 days of the receipt of the notice, the council complies with the provisions of Title 29, Part 30, of the Code of Federal Regulations or mails a request for a hearing to the secretary of the United States Department of Labor.

(6) If within 15 days of the receipt of the notice provided for in subsection (5) of this section, the council neither complies with the provisions of Title 29, Part 30 of the Code of Federal Regulations, nor mails a request for a hearing, the secretary of the United States Department of Labor shall notify the council of the withdrawal of recognition.

(7) If within 15 days of the receipt of the notice provided for in subsection (5) of this section, the council mails a request for a hearing, the secretary of the United States Department of Labor shall proceed in accordance with Title 29, Section 30.16 of the Code of Federal Regulations.

(8) If a hearing is conducted in accordance with Title 29, Section 30.16 of the Code of Federal Regulations, the secretary of the United States Department of Labor upon receipt of the proposed findings and recommended decision

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of the hearing officer shall make a final decision whether the council has adopted or implemented a plan in accordance with equal opportunity requirements of Title 29 of Part 30 of the Code of Federal Regulations.

(9) If the secretary of the United States Department of Labor determines to withdraw from recognition, for federal purposes, from the state apprenticeship and training council, the secretary shall notify the council of this determination. The secretary shall also notify the state's sponsors that within 30 days of the receipt of the notice the United States Department of Labor shall cease to recognize, for federal purposes, each state apprenticeship program unless the state program sponsor requests registration with the ~~((department))~~ United States Department of Labor. Such registration may be granted contingent upon finding that the state apprenticeship and training program is operating in accordance with the requirements of Title 29, Part 30 of the Code of Federal Regulations.

(10) If the secretary of the United States Department of Labor determines to withdraw recognition, for federal purposes, from the state apprenticeship [and training council], such recognition may be reinstated upon presentation of adequate evidence to the secretary of the United States Department of Labor that the council has adopted and implemented a plan carrying out the equal opportunity requirements of Title 29, Part 30 of the Code of Federal Regulations.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-04-320 Definitions.

**WSR 95-07-122**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3842—Filed March 22, 1995, 8:33 a.m.]

Date of Adoption: March 22, 1995.

Purpose: Conform to 7 CFR 273.1 (b)(2)(i). Deletes ineligible students from consideration as ineligible household members. By definition, ineligible students are nonhousehold members and are not treated the same as ineligible household members.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-480 Income—Ineligible household members.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: 7 CFR 273.1 (b)(2)(i).

Pursuant to notice filed as WSR 95-05-013 on February 6, 1995.

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

**AMENDATORY SECTION** (Amending Order 3209, filed 7/23/91, effective 8/23/91)

**WAC 388-49-480 Income—Ineligible household members.** (1) The department shall determine eligibility and benefit level for households containing persons disqualified for intentional program violation or persons disqualified for failure to meet work requirements described in WAC 388-49-360 as follows:

(a) The entire income of the disqualified persons shall be considered available to the remaining household members;

(b) The entire household's allowable earned income, standard deduction, medical, dependent care, and excess shelter deduction shall be considered in their entirety; and

(c) The household's coupon allotment shall not be increased as a result of the exclusion of one or more persons.

(2) The department shall determine eligibility and benefit level for households containing persons ineligible because of alien status, disqualification for refusal to obtain or provide a Social Security number, or failure to sign the application attesting to their citizenship or alien status as follows:

(a) A pro rata share of the income of the ineligible persons shall be counted as income to the remaining household members;

(b) The twenty percent earned income deduction shall apply to the ineligible persons' earned income attributed to the household; and

(c) The portion of the household's allowable shelter and dependent care expense which is paid by or billed to the ineligible members shall be divided evenly among all members of the household, providing the ineligible members have income.

(3) ~~((The department shall not consider the income of ineligible students.~~

(4)) The department shall exclude ineligible or disqualified household members when determining the household's size for purposes of:

(a) Assigning a benefit level; and

(b) Comparing the household's monthly income to the income eligibility standards.

**WSR 95-07-123**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3843—Filed March 22, 1995, 8:34 a.m.]

Date of Adoption: March 22, 1995.

Purpose: Adds the category of homeless person or family as one who qualifies under the definition of a household with an obligation to pay shelter costs.

PERMANENT

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-250-1200 Standards of assistance—  
Basic requirements—Need and payment standards.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 45 CFR 233.20 (a)(2).

Pursuant to notice filed as WSR 95-05-014 on February  
6, 1995.

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

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**AMENDATORY SECTION** (Amending Order 3729, filed  
4/6/94, effective 5/7/94)

**WAC 388-250-1200 Standards of assistance—Basic  
requirements—Need and payment standards.** ~~((+))~~ The  
statewide monthly need and payment standards for basic  
requirements shall be determined by whether a household  
has an obligation to pay shelter costs.

(1) A household with an obligation to pay shelter costs  
includes:

(a) A person owning, purchasing, or renting((-)). This  
includes payment of only costs of property taxes, or fire  
insurance, or sewer, or water, or garbage;

(b) A person residing in a lower income housing project,  
assisted under the United States Housing Act of 1937, or  
Section 236 of the National Housing Act, if the person either  
pays rent or makes a utility payment in lieu of a rental  
payment((-2));

(c) A person or family who is homeless. Effective  
April 23, 1990, ~~((family or))~~ a person or family is consid-  
ered homeless if ~~((they))~~ the person or family:

~~((a))~~ (i) Lacks a fixed, regular, and adequate nighttime  
residence; or

~~((b))~~ (ii) Resides in a public or privately operated  
shelter designed to provide temporary living accommoda-  
tions; or

~~((e))~~ (iii) Lives in temporary lodging provided through  
a public or privately funded emergency shelter program.

~~((3))~~ (2) A household with shelter provided at no cost  
includes requirements for shelter, food, clothing, energy,  
personal maintenance and necessary incidentals, household  
maintenance and operations, and transportation.

#### WSR 95-07-125

##### PERMANENT RULES

#### DEPARTMENT OF ECOLOGY

[Order 94-41—Filed March 22, 1995, 8:45 a.m.]

Date of Adoption: March 22, 1995.

Purpose: To adopt an amendment to the San Juan  
County shoreline master program.

Citation of Existing Rules Affected by this Order:  
Amending WAC 173-19-360.

Statutory Authority for Adoption: Chapter 90.58 RCW.

Pursuant to notice filed as WSR 94-24-076 on Decem-  
ber 6, 1994.

Changes Other than Editing from Proposed to Adopted  
Version: The Barnes Island environment redesignation from  
natural to conservancy is limited to one location, described

as Option 1 in the proposal, which extends two hundred feet  
north at a width of five feet along the western edge of the  
north cove as measured from the ordinary high water mark,  
and for thirty feet south at an eight foot width from the  
ordinary high water mark.

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

March 22, 1995

Mary Riveland

Director

**AMENDATORY SECTION** (Amending Order 94-16, filed  
6/28/94, effective 7/29/94)

**WAC 173-19-360 San Juan County.** San Juan  
County master program approved May 28, 1976. Revision  
approved October 29, 1976. Revision approved April 13,  
1981. Revision approved October 30, 1984. Revision  
approved April 19, 1989. Revision approved March 14,  
1990. Revision approved May 15, 1990. Revision approved  
June 19, 1990. Revision approved February 5, 1991.  
Revision approved June 4, 1991. Revision approved August  
18, 1992. Revision approved October 20, 1992. Revision  
approved June 28, 1994. Revision approved March 22,  
1995.

#### WSR 95-07-126

##### PERMANENT RULES

#### DEPARTMENT OF ECOLOGY

[Order 93-40—Filed March 22, 1995, 8:50 a.m.]

Date of Adoption: March 22, 1995.

Purpose: These revisions accomplish the following: (1)  
Update the source category list to include sources subject to  
the federal toxics program and to accommodate sources  
opting out of the operating permit program; (2) clarify the  
scope of the program, including program components and  
registration requirements; and (3) establish an equitable  
system for assessing registration fees.

Citation of Existing Rules Affected by this Order:  
Amending chapter 173-400 WAC.

Statutory Authority for Adoption: Chapter 70.94 RCW,  
Washington Clean Air Act.

Pursuant to notice filed as WSR 95-01-104 on Decem-  
ber 20, 1994.

Changes Other than Editing from Proposed to Adopted  
Version: The following are changes due to comments  
received during the public comment period:

(a) The definition of synthetic minor was revised so as  
not to limit its application to sources opting out of the  
operating permit program.

(b) The degreasers source classification was narrowed  
so as to apply only to halogenated and aromatic solvents.  
The classification further also lists examples of aromatic  
solvents.

(c) The cattle feedlot classification as clarified to  
include feedlots with inventories of 1000 head or more  
versus feedlots with the capacity for 1000 head or more.

(d) The bulk gasoline terminal source category was  
deleted to avoid confusion with registration under chapter  
173-491 WAC, Emission standards and controls for sources  
emitting gasoline vapors.

(e) Sources required to report periodically to demonstrate nonapplicability of EPA requirements under sections 111 or 112 of the FCAA were added to the synthetic minor source classification. This addition addresses sources that are required to report emission levels in order to demonstrate that control strategies under the federal toxic program do not apply.

(f) WAC 173-400-101(7) regarding the process for regulatory orders for limiting emissions was found redundant with provisions on voluntarily limiting emissions under WAC 173-400-090.

(g) Clarifying language was included in various sections to assure that the provisions applies only to sources located within ecology's jurisdiction.

(h) Additional language was included specifying a late payment surcharge.

(i) The insignificant levels for lead were originally misprinted. The final version includes the true threshold level of 0.005.

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

March 22, 1995

Mary Riveland  
Director

**AMENDATORY SECTION** (Amending Order 93-03, filed 8/20/93, effective 9/20/93)

**WAC 173-400-030 Definitions.** Except as provided elsewhere in this chapter, the following definitions apply throughout the chapter:

(1) "Actual emissions" means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.

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

(b) Ecology or an authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

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

(2) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

(3) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(4) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(5) "Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the stationary source (unless the stationary source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as set forth in 40 CFR Part 60 or 61;

(b) Any applicable state implementation plan emissions limitation including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(6) "Ambient air" means the surrounding outside air.

(7) "Ambient air quality standard" means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

(8) "Authority" means any air pollution control agency whose jurisdictional boundaries are ~~((coextensive))~~ coextensive with the boundaries of one or more counties.

(9) "Best available control technology (BACT)" means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61, as they exist on May 7, 1993, or their later enactments as adopted by reference by the director by rule. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

(10) "Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is

emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(11) "Bubble" means a set of emission limits which allows an increase in emissions from a given emissions unit(s) in exchange for a decrease in emissions from another emissions unit(s), pursuant to RCW 70.94.155 and WAC 173-400-120.

(12) "Capacity factor" means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(13) "Class I area" means any area designated pursuant to §§ 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

Alpine Lakes Wilderness;  
 Glacier Peak Wilderness;  
 Goat Rocks Wilderness;  
 Mount Adams Wilderness;  
 Mount Rainier National Park;  
 North Cascades National Park;  
 Olympic National Park;  
 Pasayten Wilderness;  
 Spokane Indian Reservation.

(14) "Combustion and incineration sources" means units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

(15) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(16) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(17) "Director" means director of the Washington state department of ecology or duly authorized representative.

(18) "Dispersion technique" means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.

(19) "Ecology" means the Washington state department of ecology.

(20) "Emission" means a release of air contaminants into the ambient air.

(21) "Emission reduction credit (ERC)" means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

(22) "Emission standard" and "emission limitation" means a requirement established under the FCAA or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment work practice, or operational standard promulgated under the FCAA or chapter 70.94 RCW.

(23) "Emissions unit" means any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA, chapter 70.94 or 70.98 RCW.

(24) "Excess emissions" means emissions of an air pollutant in excess of any applicable emission standard.

(25) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-400-200(2).

(26) "Existing stationary facility" means a stationary source of air pollutants which has the potential to emit two hundred fifty tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. For purposes of determining whether a stationary source is an existing stationary facility the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

(27) "Federal Clean Air Act (FCAA)" means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

(28) "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(29) "Fossil fuel-fired steam generator" means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(30) "Fugitive dust" means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

(31) "Fugitive emissions" means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(32) "General process unit" means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

(33) "Good engineering practice (GEP)" refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

(34) "Incinerator" means a furnace used primarily for the thermal destruction of waste.

(35) "In operation" means engaged in activity related to the primary design function of the source.

(36) "Integral vista" means a view perceived from within a mandatory Class I federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I federal area.

(37) "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects the more stringent of:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(38) "Mandatory Class I federal area" means any area defined in Section 162(a) of the FCAA. The mandatory Class I federal areas in Washington state are as follows:

Alpine Lakes Wilderness;  
 Glacier Peak Wilderness;  
 Goat Rocks Wilderness;  
 Mount Adams Wilderness;  
 Mount Rainier National Park;  
 North Cascades National Park;  
 Olympic National Park;  
 Pasayten Wilderness.

(39) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the FCAA. Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone. A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair, and replacement;

(b) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

(i) The stationary source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, in a prevention of significant deterioration permit or notice of construction approval; or

(ii) The stationary source is approved to use under any federally-enforceable notice of construction approval or a PSD permit issued by the environmental protection agency;

(f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, in a prevention of significant deterioration permit or a notice of construction approval;

(g) Any change in ownership at a stationary source.

(40) "Major stationary source" means:

(a) Any stationary source which:

(i) Emits or has the potential to emit one hundred tons per year or more of any air contaminant regulated by the state or Federal Clean Air Acts; or

(ii) Is located in a "marginal" or "moderate" ozone nonattainment area and which emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen.

(b) Any stationary source (or group of stationary sources) which:

(i) Is located in a "serious" carbon monoxide nonattainment area where stationary sources contribute significantly to carbon monoxide levels and which emits or has the potential to emit fifty tons per year or more of carbon monoxide; or

(ii) Is located in a "serious" particulate matter (PM<sub>10</sub>) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM<sub>10</sub> emissions.

(c) Any physical change that would occur at a stationary source not qualifying under (a) or (b) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself;

(d) A major stationary source that is major for VOCs or NO<sub>x</sub> shall be considered major for ozone;

(e) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the stationary source belongs to one of the following categories of stationary sources or the source is a major stationary source due to (b) of this subsection:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cements plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil fuel-fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; and

(xxvii) Any other stationary source category which, as of August 7, 1980, was being regulated under sections 111 or 112 of the Federal Clean Air Act.

(f) For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

(41) "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

(42) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

(43) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definitions of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

(44) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Part 61.

(45) "Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(46) "Net emissions increase" means:

(a) The amount by which the sum of the following exceeds zero:

(i) Any increase in actual emissions from a particular change or change in method of operation at a source; and

(ii) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date ten years before construction on the particular change commences and the date that the increase from the particular change occurs.

(c) An increase or decrease in actual emissions is creditable only if:

(i) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit, in which case the credit shall expire ten years after the date of original issue of the ERC. Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.

(ii) Ecology or the authority has not relied on it in issuing any permit or order of approval for the source under regulations approved pursuant to 40 CFR 51 Subpart I or the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, which order or permit is in effect when the increase in actual emissions from the particular change occurs.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is federally enforceable at and after the time that actual construction on the particular change begins;

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(iv) Ecology or the authority has not relied on it in issuing any permit or order of approval under regulations approved pursuant to 40 CFR 51 Subpart I, the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, or ecology or the authority has not relied on it in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(47) "New source" means:

(a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and

(b) Any other project that constitutes a new source under the Federal Clean Air Act.

(48) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

(49) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(50) "Notice of construction application" means a written application to permit construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

(51) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(52) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing

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for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

(53) "Order" means any order issued by ecology or a local air authority pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

(54) "Order of approval" or "approval order" means a regulatory order issued by ecology or the authority to approve the notice of construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.

(55) "Particulate matter" or "particulates" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(56) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

(57) "Parts per million (ppm)" means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(58) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(59) "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(60) "PM-10 emissions" means finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the Washington state implementation plan.

(61) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(62) "Prevention of significant deterioration (PSD)" means the program set forth in WAC 173-400-141.

(63) "Projected width" means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

(64) "Reasonably attributable" means attributable by visual observation or any other technique the state deems appropriate.

(65) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.

(66) "Regulatory order" means an order issued by ecology or an authority to an air contaminant source which applies to that source, any applicable provision of chapter 70.94 RCW, or the rules adopted thereunder, or, for sources regulated by a local air authority, the regulations of that authority.

(67) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year
Carbon monoxide . . . . .	100
Nitrogen oxides . . . . .	40
Sulfur dioxide . . . . .	40
Particulate matter (PM) . . . . .	25
Fine particulate matter (PM <sub>10</sub> ) . . . . .	15
Volatile organic compounds (VOC) . . . . .	40
Lead . . . . .	0.6
Fluorides . . . . .	3
Sulfuric acid mist . . . . .	7
Hydrogen sulfide (H <sub>2</sub> S) . . . . .	10
Total reduced sulfur (including H <sub>2</sub> S) . . . . .	10
Municipal waste combustor organics . . . . .	0.000035
(measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	
Municipal waste combustor metals (measured as PM) . . . . .	15
Municipal waste combustor acid gases (measured as SO <sub>2</sub> and hydrogen chloride)	

(68) "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

(69) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of

a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

(70) "Source category" means all sources of the same type or classification.

(71) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(72) "Stack height" means the height of an emission point measured from the ground-level elevation at the base of the stack.

(73) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury.

(74) "Stationary source" means any building, structure, facility, or installation which emits or may emit any contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216 of the FCAA.

(75) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(76) "Synthetic minor" means any source whose emissions have been limited below the source's potential to emit by means of a federally enforceable order, rule, or permit condition.

(77) "Total reduced sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 or an approved equivalent method and expressed as hydrogen sulfide.

~~((77))~~ (78) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1988.

~~((78))~~ (79) "United States Environmental Protection Agency (USEPA)" shall be referred to as EPA.

~~((79))~~ (80) "Visibility impairment" means any perceptible degradation in visibility (visual range, contrast, coloration) not caused by natural conditions.

~~((80))~~ (81) "Visibility impairment of Class I areas" means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

~~((81))~~ (82) "Volatile organic compound (VOC)" means:

(a) Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any organic compound other than the following, which have negligible photochemical activity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro 2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-

tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear completely fluorinated alkanes;

(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; and

(iii) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by ecology or the authority.

(c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, ecology or the authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology or the authority, the amount of negligibly-reactive compounds in the source's emissions.

#### NEW SECTION

**WAC 173-400-099 Registration program.** (1) Program purpose. The registration program is a program to develop and maintain a current and accurate record of air contaminant sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

(2) Program components. The components of the registration program consist of:

(a) Initial registration and annual or other periodic reports from stationary source owners providing information on location, size, height of contaminant outlets, processes employed, nature and quantity of the air contaminant emissions, and other information that is relevant to air pollution and available or reasonably capable of being assembled. For purposes of this chapter, information relevant to air pollution may include air pollution requirements established by rule, regulatory order, or ordinance pursuant to chapter 70.94 RCW.

(b) On-site inspections necessary to verify compliance with registration requirements.

(c) Data storage and retrieval systems necessary for support of the registration program.

(d) Emission inventory reports and emission reduction credits computed from information provided by source owners pursuant to registration requirements.

(e) Staff review, including engineering analysis for accuracy and currentness of information provided by source owners pursuant to registration program requirements.

(f) Clerical and other office support in direct furtherance of the registration program.

(g) Administrative support provided in directly carrying out the registration program.

AMENDATORY SECTION (Amending Order 93-03, filed 8/20/93, effective 9/20/93)

**WAC 173-400-100 ((Registration-)) Source classifications.** ~~(((1) Except as provided in subsection (4) of this section, the owner or operator of each source within the following source categories shall register the source with ecology or the authority:~~

- ~~(a) Agricultural drying and dehydrating operations;~~
- ~~(b) Asphalt plants;~~
- ~~(c) Beverage can surface coating operations;~~
- ~~(d) Bulk gasoline terminals;~~
- ~~(e) Cattle feedlots with facilities for one thousand or more cattle;~~
- ~~(f) Chemical plants;~~
- ~~(g) Ferrous foundries;~~
- ~~(h) Fertilizer plants;~~
- ~~(i) Flexible vinyl and urethane coating and printing operations;~~
- ~~(j) Grain handling, seed processing, pea and lentil processing facilities;~~
- ~~(k) Metallic mineral processing plants;~~
- ~~(l) Mineralogical processing plants;~~
- ~~(m) Nonferrous foundries;~~
- ~~(n) Other metallurgical processing plants;~~
- ~~(o) Petroleum refineries;~~
- ~~(p) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;~~
- ~~(q) Pressure sensitive tape and label surface coating operations;~~
- ~~(r) Rendering plants;~~
- ~~(s) Scrap metal operations;~~
- ~~(t) Synthetic organic chemical manufacturing industries;~~
- ~~(u) Sulfuric acid plants;~~
- ~~(v) Synthetic fiber production facilities;~~
- ~~(w) Veneer dryers;~~
- ~~(x) Wood waste incinerators including wigwam burners;~~
- ~~(y) Other incinerators designed for a capacity of one hundred pounds per hour or more;~~
- ~~(z) Stationary internal combustion engines rated at five hundred horse power or more;~~
- ~~(aa) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;~~
- ~~(bb) Any category of stationary sources subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters);~~
- ~~(cc) Any source which emits a contaminant subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS);~~
- ~~(dd) Any major stationary source.~~

~~(2) Registration shall be on forms to be supplied by ecology or the authority within the time specified on the form.~~

~~(3) A report of closure shall be filed with ecology or the authority within ninety days after operations producing emissions permanently cease at any source within the above categories.~~

~~(4) Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of this section after the Environmental~~

~~Protection Agency grants interim or final approval for the state operating permit program.)~~ (1) Source classification list. In counties without an active local air pollution control authority, the owner or operator of each stationary source within the following source categories shall register the source with ecology:

- (a) Agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;
- (b) Agricultural drying and dehydrating operations;
- (c) Any category of stationary sources to which a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters) applies;
- (d) Any source category subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS) under 40 CFR Part 61, other than Subpart M (National Emission Standard for Asbestos) or a Maximum Achievable Control Technology (MACT) standard established under Section 112 of the Federal Clean Air Act;
- (e) Any source, stationary source or emission unit with a significant emission as defined by WAC 173-400-030(67);
- (f) Asphalt and asphalt products production facilities;
- (g) Brick and clay manufacturing plants, including tiles and ceramics;
- (h) Casting facilities and foundries, ferrous and nonferrous;
- (i) Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;
- (j) Chemical manufacturing plants;
- (k) Composting operations, including commercial, industrial and municipal, but exempting residential composting activities;
- (l) Concrete product manufacturers and ready mix and premix concrete plants;
- (m) Crematoria or animal carcass incinerators;
- (n) Dry cleaning plants;
- (o) Materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;
- (p) Flexible vinyl and urethane coating and printing operations;
- (q) Grain, seed, animal feed, legume, and flour processing operations, and handling facilities;
- (r) Hay cubers and pelletizers;
- (s) Hazardous waste treatment and disposal facilities;
- (t) Ink manufacturers;
- (u) Insulation fiber manufacturers;
- (v) Landfills, active and inactive, including covers, gas collections systems or flares;
- (w) Metal plating and anodizing operations;
- (x) Metallic and nonmetallic mineral processing plants, including rock crushing plants;
- (y) Mills such as lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;
- (z) Mineralogical processing plants;
- (aa) Other metallurgical processing plants;
- (bb) Paper manufacturers;

- (cc) Petroleum refineries;
- (dd) Plastics and fiberglass product fabrication facilities;
- (ee) Rendering plants;
- (ff) Soil and groundwater remediation projects;
- (gg) Surface coating manufacturers;
- (hh) Surface coating operations including: Automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;
- (ii) Synthetic fiber production facilities;
- (jj) Synthetic organic chemical manufacturing industries;
- (kk) Tire recapping facilities;
- (ll) Wastewater treatment plants;
- (mm) Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of FCAA.

(2) Equipment classification list. In counties without an active local air pollution control authority, the owner or operator of the following equipment shall register the source with ecology:

- (a) Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;
- (b) Boilers, all gas fired boilers above 10 million British thermal units per hour input;
- (c) Chemical concentration evaporators;
- (d) Degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;
- (e) Ethylene oxide (ETO) sterilizers;
- (f) Flares utilized to combust any gaseous material;
- (g) Fuel burning equipment with a heat input of more than 1 million Btu per hour; except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;
- (h) Incinerators designed for a capacity of one hundred pounds per hour or more;
- (i) Ovens, burn-out and heat-treat;
- (j) Stationary internal combustion engines and turbines rated at five hundred horsepower or more;
- (k) Storage tanks for organic liquids associated with commercial or industrial facilities with capacities equal to or greater than 40,000 gallons;
- (l) Vapor collection systems within commercial or industrial facilities;
- (m) Waste oil burners above 0.5 mm Btu heat output;
- (n) Woodwaste incinerators.

**AMENDATORY SECTION** (Amending Order 93-39, filed 4/29/94, effective 5/30/94)

**WAC 173-400-101 Registration ((interim fee) issuance.** ((1) The department shall assess and collect from registered sources within its jurisdiction an interim assessment to fund a portion of the department's registration program development. Registered sources include:

- (a) Facilities and emission units currently registered with the department; and
- (b) Other facilities and emission units subject to WAC 173-400-100 that the department determines by April 1, 1994, to be within its jurisdiction.

(2) The amount collected from the interim fee shall not exceed one hundred sixty thousand dollars. The interim fee will be assessed to sources in the following categories according to the schedule listed in Table A.

TABLE A

(a)	Agricultural drying	\$600
(b)	Asphalt plants	\$600
(c)	Beverage can surface coating	\$600
(d)	Bulk gasoline terminals	\$600
(e)	Cattle feedlots >1000	\$600
(f)	Chemical plants	\$600
(g)	Ferrous foundries	\$600
(h)	Fertilizer plants	\$600
(i)	Flexible vinyl & urethane coating & printing operations	\$600
(j)	Grain handling, seed processing, etc.	\$300
(k)	Metallic mineral processing plants	\$600
(l)	Mineralogical processing plants	\$600
(m)	Nonferrous foundries	\$600
(n)	Other metallurgical processing plants	\$600
(o)	Petroleum refineries	\$600
(p)	Power boilers using coal, hog fuel, oil, or other solid or liquid fuel	\$600
(q)	Pressure sensitive tape & label surface coating operations	\$600
(r)	Rendering plants	\$600
(s)	Scrap metal operations	\$600
(t)	Synthetic organic chemical manufacturing industries	\$600
(u)	Sulfuric acid plants	\$600
(v)	Synthetic fiber production facilities	\$600
(w)	Veneer dryers	\$600
(x)	Wood waste incinerators including wigwam burners	\$600
(y)	Other incinerators designed for a capacity of one hundred lbs. per hour or more	\$600
(z)	Stationary internal combustion engines rated at five hundred horse power or more	\$600
(aa)	Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination	\$600
(bb)	Except for country grain elevators, any category of stationary sources subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters)	\$600
(cc)	Except for country grain elevators, any source which emits a contaminant subject to a Na-	

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tional Emission Standard for  
Hazardous Air Pollutants  
(NESHAPS) \$600

~~(3) The fee schedule in subsection (2) of this section is based upon sources within each source category paying the same fee. Ecology may approve alternate methods of allocating the fees among two or more sources within the same source category. Groups of sources requesting an alternate schedule must submit a written request signed by all sources subject to the alternate method prior to May 1, 1994. The written request must specify fee amounts for each source and demonstrate that the aggregate fee amount to be collected from those sources is equal to the aggregate amount that would be collected under subsection (2) of this section. Sources within a source category who elect not to participate in such an agreement shall pay the applicable amount specified in subsection (2) of this section.~~

~~(4) Sources subject to the interim operating permit fee established pursuant to RCW 70.94.161 shall not be required to pay an interim registration fee.~~

~~(5) The department shall determine the persons subject to the interim registration fee and will provide a billing notice by June 1, 1994, with collection due thirty days later.)~~ (1) General. Any person operating or responsible for the operation of an air contaminant source for which registration and reporting are required shall register the source emission unit with ecology or the authority. The owner or operator shall make reports containing information as may be required by ecology or the authority concerning location, size and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(2) Registration form. Registration information shall be provided on forms supplied by ecology or the authority and shall be completed and returned within the time specified on the form. Emission units within the facility shall be listed separately unless ecology or the authority determines that certain emission units may be combined into process streams for purposes of registration and reporting.

(3) Signatory responsibility. The owner, operator, or their designated management representative shall sign the registration form for each source. The owner or operator of the source shall be responsible for notifying ecology or the authority of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.

(4) Operational and maintenance plan. Owners or operators of registered sources within ecology's jurisdiction shall maintain an operation and maintenance plan for process and control equipment. The plan shall reflect good industrial practice and shall include a record of performance and periodic inspections of process and control equipment. In most instances, a manufacturer's operations manual or an equipment operation schedule may be considered a sufficient operation and maintenance plan. The plan shall be reviewed and updated by the source owner or operator at least annually. A copy of the plan shall be made available to ecology upon request.

(5) Report of closure. A report of closure shall be filed with ecology or the authority within ninety days after operations producing emissions permanently cease at any applicable source under this section.

(6) Report of change of ownership. A new owner or operator shall report to ecology or the authority within ninety days of any change of ownership or change in operator.

(7) Operating permit program source exemption. Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104.

#### NEW SECTION

**WAC 173-400-102 Scope of registration and reporting requirements.** (1) Administrative options. A source in a listed source category that is located in a county without an active local air authority will be addressed in one of several ways:

(a) The source will be required to register and report once each year. The criteria for identifying these sources are listed in subsection (2) of this section.

(b) The source will be required to register and report once every three years. The criteria for identifying these sources are listed in subsection (3) of this section.

(c) The source will be exempted from registration program requirements. The criteria for identifying these sources are listed in subsection (4) of this section.

(2) Sources requiring annual registration and inspections. An owner or operator of a source in a listed source category that meets the following criteria shall register and report once each year:

(a) The source emits one or more pollutants at rates greater than the emission rates listed in WAC 173-400-030(67);

(b) Annual registration and reporting is necessary to comply with federal reporting requirements and emission standards; or

(c) Annual registration and reporting is required in a reasonably available control technology determination for the source category.

(d) The director of ecology determines that the source poses a threat to human health and the environment.

(3) Sources requiring periodic registration and inspections. An owner or operator of a source in a listed source category that meets the following criteria shall register and report once every three years:

(a) The source emits one or more pollutants at rates greater than the emission rates listed in subsection (5) of this section and less than the emission rates listed in WAC 173-400-030(67); or

(b) The source emits measurable amounts of one or more Class A or Class B toxic air pollutants listed in WAC 173-460-150 and 173-460-160.

(4) Sources exempt from registration program requirements. Any source included in a listed source category that is located in a county without an active local air authority shall not be required to register if ecology determines the following:

(a) The source emits pollutants below emission rates specified in subsection (5) of this section; and

(b) The source or emission unit does not emit measurable amounts of Class A or Class B toxic air pollutants specified in WAC 173-460-150 and 173-460-160.

(5) Criteria for defining exempt sources. The following emission rates will be used to identify listed sources that are exempt from registration program requirements:

Pollutant	Tons/Year
Carbon Monoxide	5.0
Nitrogen oxides	2.0
Sulfur dioxide	2.0
Particulate Matter (PM)	1.25
Fine Particulate (PM10)	0.75
Volatile organic compounds (VOC)	2.0
Lead	0.005

**NEW SECTION**

**WAC 173-400-103 Emission estimates.** (1) Procedure for estimating emissions. In counties without an active local air pollution control authority, registration may include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. Registration may also include a flowchart of plant processes, operational parameters, and specifications of air pollution control equipment. The emissions estimate shall be based upon actual test data or, in the absence of such data, upon procedures acceptable to ecology. Any emission data submitted to ecology shall be verifiable using currently accepted engineering criteria. The following procedures may be used to estimate emissions from individual sources or emissions units:

- (a) Source-specific testing data;
- (b) Mass balance calculations;
- (c) A published, verifiable emission factor that is applicable to the source;
- (d) Other engineering calculations; or
- (e) Other procedures to estimate emissions that are acceptable to ecology.

(2) Owner or operator review. Ecology will provide the owner or operator of the source an opportunity to review any emission estimates prepared by ecology. An owner or operator may submit additional information and any justification for not using the methods listed above. This information will be evaluated by ecology to determine whether it is based on currently accepted engineering criteria. If none of the above methods are available or applicable to the source, an appropriate method will be established and approved by ecology on a case-by-case basis.

**NEW SECTION**

**WAC 173-400-104 Registration fees.** (1) Registration fee determination. In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.

(2) Budget preparation. Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the

resources required to perform registration program activities listed in WAC 173-400-097(2). Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.

(3) Registration fee schedule. Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:

(a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.

(b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:

(i) Flat component. This portion of a source's fee shall be calculated by the equal division of thirty-five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration.

(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. This portion of the fee is calculated by dividing forty percent of the budget amount allocated to annually registered sources by the total complexity of sources located in ecology's jurisdiction. The quotient is then multiplied by an individual source's complexity rating to determine that source's complexity portion of the fee.

(iii) Emissions component. This portion of a source's fee is calculated by dividing twenty-five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable emissions include all air pollutants except carbon monoxide and total suspended particulate.

(4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.

(6) Fee reductions for economic hardships. If a small business owner believes the registration fee results in an extreme economic hardship, the small business owner 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 registration fee through to customers; average annual profits, and cumulative effects of multiple site ownership. In no case will a registration fee be reduced below two hundred dollars.

(7) Fee payments. Fees specified in this section shall be paid within thirty days of receipt of ecology's billing

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statement. All fees collected under this regulation shall be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received after the thirty-day period.

(8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.

(9) 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 ecology budget functions.

**AMENDATORY SECTION** (Amending Order 93-03, filed 8/20/93, effective 9/20/93)

**WAC 173-400-171 Public involvement.** (1) **Applicability.** Ecology or the authority shall provide public notice prior to the approval or denial of any of the following types of applications or other actions:

(a) Notice of construction application for any new or modified source or emissions unit, if a significant net increase in emissions of any pollutant regulated by state or federal law would result; or

(b) Any application or other proposed action for which a public hearing is required by PSD rules; or

(c) Any order to determine RACT; or

(d) An order to establish a compliance schedule or a variance; or

(e) The establishment or disestablishment of a nonattainment area, or the changing of the boundaries thereof; or

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

(g) An order to authorize a bubble; or

(h) Notice of construction application or regulatory order used to establish a creditable emission reduction;

(i) An order issued under WAC ((173-400-090)) 173-400-091 which establishes limitations on a source's potential to emit; or

(j) Any application or other proposed action made pursuant to this chapter in which there is a substantial public interest according to the discretion of ecology or the authority.

(2) **Public notice.** Public notice shall be made only after all information required by ecology or the authority has been submitted and after applicable preliminary determinations, if any, have been made. The cost of providing public notice shall be borne by the applicant or other initiator of the action. Public notice shall include:

(a) Availability for public inspection in at least one location near the proposed project, of the nonproprietary information submitted by the applicant and of any applicable preliminary determinations, including analyses of the effect(s) on air quality.

(b) Publication in a newspaper of general circulation in the area of the proposed project of notice:

(i) Giving a brief description of the proposal;

(ii) Advising of the location of the documents made available for public inspection;

(iii) Advising of a thirty-day period for submitting written comment to ecology or the authority;

(iv) Advising that a public hearing may be held if ecology or the authority determines within a thirty-day period that significant public interest exists.

(c) A copy of the notice will be sent to the EPA regional administrator.

Public participation procedures for notice of construction applications that are processed in coordination with an application to issue or modify an operating permit shall be conducted as provided in the state operating permit rule.

(3) **Public comment.** No final decision on any application or action of any of the types described in subsection (1) of this section, shall be made until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the thirty-day period for written comment published as provided above. If a public hearing is held the public comment period shall extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

(4) **Public hearings.** The applicant, any interested governmental entity, any group or any person may request a public hearing within the thirty-day period published as above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. Ecology or the authority may, in its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time(s) and place(s) as ecology or the authority deems reasonable.

(5) **Other requirements of law.** Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, such procedures may be used in lieu of the provisions of this section.

(6) **Public information.** Copies of notices of construction, orders, and modifications thereof which are issued hereunder shall be available for public inspection on request at ecology or the authority.

#### WSR 95-07-128

#### PERMANENT RULES

#### DEPARTMENT OF HEALTH

[Filed March 22, 1995, 8:53 a.m.]

Date of Adoption: March 22, 1995.

Purpose: Clarify intent, provide a waiver of AIT program for certain qualified applicants, housekeeping changes, remove conflict with RCW 18.130.150, and bring into compliance with RCW 18.52.110.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-843-240; and amending WAC 246-843-010, 246-843-090, 246-843-205, and 246-843-320.

Statutory Authority for Adoption: RCW 18.52.061.

Pursuant to notice filed as WSR 95-01-106 on December 21, 1994.

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

March 22, 1995

Marie E. Raschko  
Chair

**AMENDATORY SECTION** (Amending Order 371B, filed 6/3/93, effective 7/4/93)

**WAC 246-843-010 General definitions.** Whenever used in these rules and regulations, unless expressly otherwise stated, or unless the context or subject matter requires a different meaning, the following terms shall have the following meanings:

(1) "Nursing home administrator-in-training" means an individual registered as such with the board, under and pursuant to these rules and regulations.

(2) "Person" or "individual" means an individual and does not include the terms firm, institution, public body, joint stock association or any other group of individuals.

(3) "Secretary" means the secretary of the department of health or the secretary's designee.

(4) "Active administrative charge" is the ongoing direct participation in the operating concerns of a nursing home. Operating concerns shall include, but not be limited to, interaction with staff and residents, liaison with the community, liaison with regulatory agencies, pertinent business and financial responsibilities, planning and other activities as identified in the most current role delineation study of the National Association of Boards of Examiners for Nursing Home Administrators. The role delineation study is available from National Association of Boards of Examiners for Nursing Home Administrators, 808 17th Street NW #200, Washington, DC 20006.

(5) "On-site, full-time administrator" shall be defined as an individual in active administrative charge at the premises of only one nursing home facility, a minimum of four days and an average of forty hours per week, except: "On-site, full-time administrator with small resident populations," or in "rural areas," shall be defined as an individual in active administrative charge at the premises of only one nursing home facility:

(a) A minimum of four days and an average of twenty hours per week at facilities with one to thirty beds; or

(b) A minimum of four days and an average of thirty hours per week at facilities with thirty-one to forty-nine beds.

(6) "Collocated facilities" means that more than one licensed nursing facility is situated on a single contiguous piece of property, intersecting streets or roads allowing pedestrian crossing notwithstanding.

(7) "Nursing homes temporarily without an administrator." Upon the administrator's position becoming vacant, a nursing home may operate up to two continuous weeks under a responsible person authorized to act as administrator designee. Such person shall be qualified by experience to assume delegated duties. The nursing home shall have a written agreement with a Washington licensed administrator who shall be available to consult with such person.

**AMENDATORY SECTION** (Amending WSR 93-23-034, filed 11/10/93, effective 12/11/93)

**WAC 246-843-090 Preexamination requirements.** No person shall be admitted to or permitted to take an examination for licensure as a nursing home administrator without having first submitted evidence satisfactory to the board that the applicant meets the following requirements:

(1) All applicants shall be at least twenty-one years of age, and in addition, shall otherwise meet the requirements of suitability and character set forth in WAC 246-843-200.

(2) All applicants shall complete an application for licensure provided by the division of health professions quality assurance, department of health, and shall include all information requested in said application.

(3) All applicants shall submit documentation demonstrating that they meet the minimum requirements set forth in RCW 18.52.071.

(4) Applicants not having completed at least a one thousand hour practical experience requirement in a nursing home((;)) included in a degree program from a recognized educational institution, shall undertake and complete the following:

(a) A one thousand five hundred hour administrator-in-training program in a nursing home for individuals who have no experience in health care;

(b) A one thousand hour administrator-in-training program in a nursing home for individuals with a minimum of two years experience as a department manager in a health care facility with supervisory and budgetary responsibility; or

(c) A five hundred hour administrator-in-training program in a nursing home for individuals with a minimum of two years experience in the last five years with supervisory and budgetary responsibility in one of the following positions or their equivalent:

Hospital (~~administration~~) administrator;

Assistant administrator in a hospital or large health care facility;

Director of a hospital based skilled nursing facility;

Director of a subacute or transitional care unit;

Director of the department of nursing;

Health care consultant to the long term care industry;

Director of community-based long term care service; or

~~((Those individuals serving in two separate positions for a minimum of one year in each position may also submit an application for consideration. Such a))~~ (d) No administrator-in-training program is required for individuals with a

minimum of five years experience in the last seven years with extensive supervisory and budgetary responsibility in one of the following positions or their equivalent:

Hospital administrator;

Assistant administrator in a hospital or large health care facility or agency;

Director of a hospital based skilled nursing facility;

Director of a subacute or transitional care unit; or

An individual who worked as a licensed nursing home administrator for a minimum of five years, in the past ten years, and whose license did not expire more than three years prior to application date.

(5) The AIT program, if required, shall include((;)) without limitations, the following:

(a) The program shall be under the guidance and supervision of a ~~((licensed nursing home administrator, as))~~ qualified preceptor, and shall be conducted for a period of one thousand five hundred hours, one thousand hours, or five hundred hours;

(b) The program shall be designed to provide for individual learning experiences and instruction based upon the person's academic backgrounds, training, and experience;

(c) The prospectus for the program shall be signed by the preceptor, submitted and approved by the board prior to its commencement. Any changes in the program shall be immediately reported in writing to the board, and the board may withdraw the approval given, or alter the conditions under which approval was given, if the board finds that the program as originally submitted and approved has not been or is not being followed;

(d) The program shall include the following components:

(i) A minimum of ninety percent of the required administrator-in-training hours are spent in a planned systematic rotation through each department of a resident occupied nursing home;

(ii) Planned reading and writing assignments;

(iii) Project assignment including at least one problem-solving assignment to be submitted in writing to the board or a designated board member. Problem-solving project should indicate the definition of an acknowledged problem, the method of approach to the problem such as data gathering, the listing of possible alternatives, the conclusions, and final recommendations to improve the facility or procedure(-);

(iv) Other planned learning experiences including acquisition of knowledge about other health and welfare agencies in the community; and

(v) A quarterly written report to the board by the applicant including a detailed outline of activities and learning experiences of the reporting period.

(e) The program shall provide for a broad range of experience with a close working relationship between preceptor and trainee. Toward that end, as a general rule, no program shall be approved which would result in an individual preceptor supervising more than two trainees, or if the facility in which the program is to be implemented has a capacity of fewer than 50 beds. Exceptions to this general rule may be granted by the board in unusual circumstances.

AMENDATORY SECTION (Amending Order 371B, filed 6/3/93, effective 7/4/93)

**WAC 246-843-205 Standards of conduct.** Licensed nursing home administrators shall be in active administrative charge of the nursing home in which they have consented to serve as administrator.

AMENDATORY SECTION (Amending Order 217B, filed 11/27/91, effective 12/28/91)

**WAC 246-843-320 Renewal of licenses.** New or initial nursing home administrator licenses shall expire on the applicant's next birth anniversary date. Licensees may then annually renew their license from birth anniversary date to the next birth anniversary date. ~~((Licensees who fail to pay the renewal fee within thirty days of license expiration date shall be subject to the late penalty fee.))~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-843-240 Restoration and reinstatement of licenses.

#### **WSR 95-07-137 PERMANENT RULES WASHINGTON STATE PATROL**

[Filed March 22, 1995, 11:07 a.m.]

Date of Adoption: March 22, 1995.

Purpose: To simplify chaining requirements for commercial motor vehicles traveling over mountain passes in inclement weather. To lessen requirements for certain commercial vehicles. To add specific reference to automobile transporters.

Citation of Existing Rules Affected by this Order: Amending WAC 204-24-050.

Statutory Authority for Adoption: RCW 46.37.005.

Pursuant to notice filed as WSR 95-03-089 on January 18, 1995.

Changes Other than Editing from Proposed to Adopted Version: The first sentence in subsection (2)(b) Automobile transporters, will be deleted since the words are repeated again in the second sentence of the section.

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

March 21, 1995

Roger W. Bruett  
Chief

AMENDATORY SECTION (Amending WSR 94-08-069, filed 4/4/94, effective 5/5/94)

**WAC 204-24-050 Use of tire chains or other traction devices.** (1) Vehicles under 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "approved traction tires required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires at least one of the traction devices meeting the requirements of WAC 204-24-040.

(b) When traffic control signs marked "chains required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires, tire chains meeting the standards in chapter 204-22 WAC.

(i) Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles shall be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive tires are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight.

When traffic control signs marked "approved traction tires required" or "chains required" are posted by the department of transportation it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its tires, tire chains as follows: *Provided*, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from

the following requirements if such vehicle has sanding capability in front of the drive tires.

(a) ~~((Single vehicles))~~ Vehicles or vehicle combinations with two to four axles including but not limited to trucks, truck-tractors, buses and school buses: For vehicles with a single drive axle, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, ~~((all tires on))~~ one tire on each side of one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers; one tire on the last axle of the last trailer or semi-trailer, shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(b) ~~((Two vehicle combinations))~~ Automobile transporters are any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles. For vehicles with single drive axles, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of each of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(c) Vehicle combinations with five axles consisting of a truck tractor with dual drive axles and a tandem axled semi-trailer; all tires on one drive axle may be chained or one tire on each side of each of the drive axles may be chained. Chains must be applied to a minimum of four tires on the drive axles. On the tandem axle semi-trailer, the chained tire may be on either of the last two axles.

(d) Vehicle combinations with five axles, ~~((including but not limited to))~~ consisting of a truck and trailer, or truck tractor and semi-trailer with a single drive axle, or truck tractor, semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles, all tires on one of the drive axles shall be chained. ~~((In addition, one tire on each side of the additional drive axle shall be chained.))~~ For vehicle~~((s with))~~ combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. ~~((On single axle semi-trailers, one tire on the axle shall be chained.))~~ If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

~~((e Three))~~ (e) Vehicle combinations with six or more axles, including but not limited to truck and trailer or truck tractor~~((s))~~ and semi-trailer or truck tractor semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles where traffic control signs marked "approved traction tires required" are posted, all tires on one of the drive axles shall be chained. For vehicles with dual drive axles where traffic control signs marked "chains required" are posted, all tires on one of the drive axles shall be chained. In addition, one tire on each side of the additional drive axle shall be chained. For vehicle~~((s with))~~ combinations including trailers or semi-trailers, one tire on the last axle ~~((of the last trailer))~~ shall be chained. ~~((On single axle semi-trailers, one tire on the axle shall be chained. If the trailer has tandem rear axles))~~ For vehicles with tandem axle trailers or semi-

trailers, the chained ~~((wheel))~~ tire may be on either of the last two axles.

~~((d))~~ (f) All vehicles over 10,000 pounds gross vehicle weight shall carry a minimum of two extra chains for use in the event that road conditions require the use of more chains or in the event that chains in use are broken or otherwise made useless.

~~((e))~~ (g) Approved chains for vehicles over 10,000 pounds gross vehicle weight shall have at least two side chains to which are attached sufficient cross chains of hardened metal so that at least one cross chain is in contact with the road surface at all times. Plastic chains shall not be allowed. The state patrol may approve other devices as chains if the devices are equivalent to regular chains in performance.

~~((f))~~ (h) On the following routes all vehicles and combinations of vehicles over 10,000 pounds shall carry sufficient tire chains to meet the requirements of this chapter from November 1 to April 1 of each year or at other times when chains are required for such vehicles:

- (i) I-90 - between North Bend (MP 32) and Ellensburg (MP 101).
- (ii) SR-97 - between (MP 145) and Junction SR-2.
- (iii) SR-2 - between Dryden (MP 108) and Index (MP 36).
- (iv) SR-12 - between Packwood (MP 135) and Naches (MP 187).
- (v) SR-97 - between the junction of SR-14 (MP 4) Columbia River and Toppenish (MP 59).
- (vi) SR-410 - from Enumclaw to Naches.
- (vii) SR-20 - between Tonasket (MP 262) and Kettle Falls (MP 342).
- (viii) SR-155 - between Omak (MP 79) and Nespelem (MP 45).
- (ix) SR-970 - between (MP 0) and (MP 10).

Vehicles making local deliveries as indicated on bills of lading and not crossing the mountain pass are exempt from this requirement if operating outside of a chain required area.

(3) The Washington state department of transportation or Washington state patrol may prohibit any vehicle from entering a chain/approved traction tire control area when it is determined that the vehicle will experience difficulty in safely traveling the area.

**WSR 95-07-141**  
**PERMANENT RULES**  
**HORSE RACING COMMISSION**  
[Filed March 22, 1995, 11:43 a.m.]

Date of Adoption: March 21, 1995.

Purpose: Amend the rule to allow for more than one daily double wager per race program per race day.

Citation of Existing Rules Affected by this Order: Amending WAC 260-48-320 Daily double.

Statutory Authority for Adoption: RCW 67.16.040.

Pursuant to notice filed as WSR 95-05-079 on February 15, 1995.

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

March 22, 1995  
Bruce Batson  
Executive Secretary

**AMENDATORY SECTION** (Amending Order 419, Rules of Racing, § 419, filed 4/21/61)

**WAC 260-48-320 Daily double.** ~~((1) Only one daily double will be permitted during a single racing program.)~~

~~((2))~~ **(1)** If no ticket is sold combining the two winners of the daily double, the pool shall then be apportioned equally between those having tickets including the winner in the first race of the daily double and those having tickets including the winner in the last race of the daily double in the same manner in which place pool is calculated and distributed.

~~((3))~~ **(2)** If no ticket is sold including the winner of the first race of the daily double then the entire pool will be paid to the holders of tickets which include the winner of the last race of the daily double.

~~((4))~~ **(3)** Likewise, if no ticket is sold including the winner of the last race of the daily double, the entire pool will be paid to the holders of tickets which include the winner of the first race of the daily double.

~~((5))~~ **(4)** If no ticket is sold including a winner of either race of the daily double, then the pool shall be paid to holders of tickets which include the horses finishing second in the two races of the daily double.

~~((6))~~ **(5)** If no ticket is sold that would require distribution of the daily double pool to a winner under the subsections **(1)**, **(2)**, **(3)**~~((7))~~ and **(4)** ~~((and (5)))~~ of this rule, the association shall make a complete and full refund of the daily double pool.

~~((7))~~ **(6)** If for any reason the first race of a daily double is cancelled and declared off, full and complete refund will be made of the daily double pool.

~~((8))~~ **(7)** If for any reason, the second race of a daily double is cancelled or declared off, the whole of the daily double pool shall be distributed as a win pool to the holders of daily double tickets, upon the winner of the first half of the daily double. If no daily double ticket has been sold upon the winner of the first half of such daily double, the total pool shall be distributed as a win pool to the holders of the daily double tickets upon the horse finishing second in the first half of such daily double.

~~((9))~~ **(8)** There shall be a refund of daily double wagers in the event of a horse being scratched before the betting on the daily double has closed. (This refund to apply only to wagers on the horse scratched.)

~~((10))~~ **(9)** In the event a horse is excused in the second half of the daily double, after the first race is official, all money wagered on the scratched horse in the second half of the daily double shall be deducted from the daily double pool. Using this money, so deducted, as a win pool, a special or consolation prize shall be paid to all ticket holders, combining the scratched horse with the winner of the first race of the daily double.

~~((11))~~ **(10)** Before the running of the race comprising the last half of the daily double pool there shall be posted in a prominent place, easily visible from the grand stand, club house and bleachers, the pay-off of each combination coupled with the winner of the first half of the daily double.

~~((12))~~ **(11)** In case of a dead heat for winner in the first half of the daily double, the pay-off of the daily double need not be posted until after the running of the second half of the daily double, owing to the complicated calculations involved. However, announcement of this fact must be made over the loud-speaker and notice to this effect be posted on the board at conclusion of first half of daily double.

~~((13))~~ **(12)** If a dead heat should result in either the first or second race of the daily double, the total pool is figured as a place pool.

~~((14))~~ **(13)** Sale of daily double tickets shall close not later than "off-time" of the first race of the daily double.

~~((15))~~ **(14)** The daily double is not a "parlay" and has no connection with or relation to the pool shown on the totalizator board. In any race, the win, place, show and daily double pools are treated separately and calculated independently of each other.

**WSR 95-07-142**  
**PERMANENT RULES**  
**HORSE RACING COMMISSION**  
[Filed March 22, 1995, 11:46 a.m.]

Date of Adoption: March 21, 1995.

Purpose: To establish an informational alternative for those who may have a problem with gambling by having available at sites where parimutuel wagering is located, an informational sign, pamphlet, and a toll free hot-line to seek assistance.

Statutory Authority for Adoption: RCW 67.16.040.

Pursuant to notice filed as WSR 94-23-015 on November 4, 1994.

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

March 22, 1995

Bruce Batson  
Executive Secretary

**NEW SECTION**

**WAC 260-12-250 Problem gambling information 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, gambling commission and horse racing 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, gambling commission and horse racing commission shall jointly develop informational signs concerning problem and compulsive gambling, and that signs shall be placed in establishments of horse racing licensees, gambling licensees and lottery retailers.

All Class A, B and C licensees shall post problem and compulsive gambling informational signs in locations of their establishments, including satellite locations, which are clearly visible in patron traffic areas. The informational signs will be provided to the licensee by the horse racing commission and will contain a toll-free hot line number for problem and compulsive gamblers.

If a licensee fails to post the problem and compulsive gambling informational signs in its establishment or satellite locations, it shall be fined \$50.00 for the first violation, \$100.00 for the second violation and \$200.00 for each violation noted thereafter.

PERMANENT

**WSR 95-07-004**  
**EMERGENCY RULES**  
**STATE BOARD FOR COMMUNITY**  
**AND TECHNICAL COLLEGES**

[Filed March 2, 1995, 2:07 p.m.]

Date of Adoption: March 1, 1995.

Purpose: ESB 6285 of the 1992 legislative session made changes to higher education tuition and fee waivers.

Citation of Existing Rules Affected by this Order: Repealing WAC 131-28-028; and amending WAC 131-28-010 through 131-28-090.

Statutory Authority for Adoption: Chapters 28B.15 and 28B.50 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To enable our community colleges to implement, on an emergency basis, changes regarding the treatment of tuition and fee waivers. Permanent rules will be adopted after the 1995 legislative session, reflecting any other tuition changes.

Effective Date of Rule: Immediately.

March 2, 1995

Claire C. Krueger

Executive Assistant

Administrative Rules Coordinator

**AMENDATORY SECTION** (Amending Order 12, filed 7/22/71)

**WAC 131-28-010 Tuition and fee charges for summer quarter.** Tuition, operating, services and activities, and special fees charged to students enrolled as state funded students for summer quarter shall be assessed on the same basis and in the same manner as such fees are assessed for other quarters of the academic year. Fees charged to students enrolled as self-supporting shall comply with RCW 28B.15.515(1).

**AMENDATORY SECTION** (Amending Order 116, Resolution No. 89-16, filed 6/29/89)

**WAC 131-28-015 Assessment of tuition and fee charges.** It shall be the general policy of the (~~Washington community college system~~) state board that all tuition and services and activities fees (~~(, or special fees charged to students)~~) shall be assessed on a uniform and equitable basis, except when the requirement to pay all or part of such fees has been specifically waived or altered by law or by regulation of the state board or the district board of trustees.

**AMENDATORY SECTION** (Amending Order 116, Resolution No. 89-16, filed 6/29/89)

**WAC 131-28-021 Definitions.** For the purpose of WAC 131-28-025, the following definitions shall apply:

(1) "Resident student" and "nonresident student" shall be defined in the same manner as in chapter 28B.15 RCW.

(2) "Tuition fees," "building fees," "operating fees" and "services and activities fees" shall be defined in the same manner as in chapter 28B.15 RCW.

(3) "Special fees" shall be defined as all fees established by the district board of trustees other than tuition, building fees, operating fees or services and activities fees and as such shall include fees charged to an individual student for specific services and privileges received by such student.

(4) "Student funded course" shall be defined as any organized instructional activity, typically ungraded, primarily offered for part-time students, not normally an integral part of any specific study program leading to either an academic or an occupational degree or certificate, and specifically identified as such by a community college consistent with the course classification procedures established by the state board.

(5) "Academic or occupational course" shall be defined as all organized instructional activities other than student funded courses.

(6) "Short course" shall be defined as any academic, occupational, or student funded course not regularly scheduled in the quarterly announcement of courses, not routinely listed in the college catalog as a regular and normal part of the instructional program, and not normally of a full quarter in duration.

(7) "Regular course" shall be defined as any (~~academic, occupational, or student funded~~) course not classified as a short course.

(8) "Required course" shall be defined as any course specified in the college catalog or official curriculum description of any vocational preparatory program as necessary for completion of such program, except courses prerequisite to such program.

(9) "Vocational preparatory program" shall be defined as any planned series of learning experiences, the specific objective of which is to prepare persons to enter gainful employment in a recognized occupation not designated as professional or requiring a baccalaureate or higher degree, provided that such program has been approved by the state board.

**AMENDATORY SECTION** (Amending Order 139, Resolution No. 92-06-39, filed 6/23/92, effective 7/24/92)

**WAC 131-28-025 Method of assessing tuition and fee charges.** (1) For academic and occupational regular or short courses, tuition and fees charged to students:

(a) Shall be based upon the number of credits assigned to such courses as listed in the official and current catalog of the college, or for courses not given such credit designations, the number of credit equivalents as computed by the method for deriving such equivalents established by the state board.

(b) Shall be assessed on a per-credit basis at uniform rates for resident and for nonresident students, provided:

That the respective maximums charged to any resident or nonresident student shall not exceed the amount specified in chapter 28B.15 RCW.

(c) Shall be assessed for part-time students, for each credit of registration or its equivalent, at the rate of one-tenth of the total combined tuition and services and activities fees charged to full-time students consistent with chapter 28B.15 RCW.

(d) Shall include an additional operating fee for each credit in excess of eighteen at the rate of one-tenth of the tuition fee charged to full-time students ((consistent with chapter 28B.15 RCW. The additional fee assessed to a student enrolled in both a vocational preparatory program and a required course in that program shall be set at fifteen percent of the per credit tuition charge, rounded to the nearest whole dollar. This exemption shall require written approval by an appropriate college official)).

(e) Shall be no less than two times the amount of tuition and services and activities fees charged for one credit.

(2) ((The provisions of this section shall not apply to the ungraded courses set forth in WAC 131-28-026.

(3)) For student funded courses, fees charged to students:

(a) Shall be designated as a special fee, all revenue from which shall be used for the general operations and maintenance of the college;

(b) Shall be assessed at a rate sufficient to defray the direct and indirect costs of offering such ((community service)) courses.

((4)) (3) Nothing herein shall be construed to be a restriction on the right of the district board of trustees to assess additional noninstructional fees and special fees to cover unique instructional costs or expendable instructional materials related to any course offered by a college district.

**NEW SECTION**

**WAC 131-28-02501 Waivers.** Community college boards may grant waivers from the standard tuition and fees rate for ungraded courses designated in WAC 131-28-026(3) and to students who qualify under a waiver created in Title 28B RCW.

Except for ungraded courses, colleges shall not waiver the building fee or services and activities fee at a percentage rate greater than the percentage rate of waiver for operating fees.

Colleges may not impose conditions or eligibility criteria beyond that specified in this chapter or Title 28B RCW. Colleges may restrict the number of waivers granted.

Colleges may round the amount waived to the nearest dollar.

**AMENDATORY SECTION** (Amending Order 139, Resolution No. 92-06-39, filed 6/23/92, effective 7/24/92)

**WAC 131-28-026 Tuition charges for certain ungraded courses.** (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025.

(2) Ungraded courses ((designated pursuant to subsection (1) of this section)) shall meet the following qualifications:

(a) The primary intent of offering the course is other than providing academic credit applicable to an associate((s)) or higher degree.

(b) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(c) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of

knowledge other than that intended to lead to initial employment.

(d) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(e) The course is not offered primarily as an integral part of any lower-division curriculum or program.

(f) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) ((For the purposes of this section, ungraded courses shall be defined as those courses classified according to the official course classification taxonomy established by the state board as occupational supplementary, occupational homemaking, academic basic education, or academic general education courses, provided they shall also meet the qualifications set forth in subsection (2) of this section.

(4) For the purpose of implementing WAC 131-28-025(2), the tuition, exclusive of special fees, charged by any Washington community college for the following ungraded courses shall be based on the following percentages of the per credit tuition fee for regular courses. There is no services and activities fee for ungraded courses:

COURSE	TUITION
(a) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices while indentured with the Washington state apprenticeship council or Federal Bureau of Apprenticeship and Training	Thirty percent; provided the director shall convert the credit hour change to a rounded amount per clock hour and districts shall charge accordingly
(b) Department of labor and industries approved industrial first aid courses offered for the purpose of satisfying WISHA first aid certification requirements	One hundred percent
(c) Parent education involving cooperative preschool program	Fifteen percent
(d) Farm management and small business management	Forty percent
(e) Adult basic education, English as a second language	No charge
(f) Emergency medical technician and paramedic continuing education	Thirty percent
(g) Courses specifically designed to provide skills and understandings particularly related to the problems of retirement and advanced age	Thirty percent
(h) Courses providing advanced training and skill maintenance for journeypersons in cooperation with joint apprenticeship and training committees	One hundred percent
(i) GED preparation	Fifteen percent

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~~(5) Students taking from eleven to eighteen credits shall not be charged for those credits.)~~ Colleges may establish the amount of waiver for the following ungraded courses:

(a) Farm management and small business management;  
(b) Emergency medical technician and paramedic continuing education;

(c) Retirement;

(d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult Basic Education, English as a Second Language, GED preparation: No charge.

(b) Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard per credit tuition and services activities fee charge. Parent education students taking eleven to eighteen credits shall not be charged for those credits.

(c) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices indentured with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: Fifty percent reduction from the standard per credit tuition and services and activities fee charge. The college may convert the credit hour charge to a rounded amount per credit hour.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course ((tuition)) fees received pursuant to this section shall be accounted for and deposited in ((the)) local community college operating fee accounts established in RCW ((28B.15. — (section 36, chapter 231, Laws of 1992))) 28B.15.031.

(8) ((The term "standard rate" as used in this section shall mean the tuition charged for one quarter credit.

(9) Tuition)) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

AMENDATORY SECTION (Amending Order 116, Resolution No. 89-16, filed 6/29/89)

**WAC 131-28-030 Waiver of tuition and fees for needy or disadvantaged students.** Pursuant to authority granted by RCW 28B.15.740, the boards of trustees of community college districts are authorized to waive all or part of tuition and services and activities fees for needy students: *Provided*, That the students shall qualify for such waiver ~~((as determined by the))~~ under criteria set forth in WAC 131-28-040 through 131-28-045.

AMENDATORY SECTION (Amending Order 116, Resolution No. 89-16, filed 6/29/89)

**WAC 131-28-040 Criteria for determining eligibility for waiver of tuition and fees under RCW 28B.15.740.** Waiver of tuition and services and activities fees ~~((or any portions thereof as authorized by))~~ under RCW 28B.15.740 ~~((normally charged to students enrolled))~~ (1) shall be based upon the determination that the student is a "needy

student" ~~((by application of))~~ under a method of need analysis approved by the United States Department of Education for determining awards ~~((under))~~ for federal student financial aid programs or ~~((one))~~ a method adopted by the state board ~~((for community college education))~~ specifically for the purposes of this section, except as provided in WAC 131-28-045.

AMENDATORY SECTION (Amending Order 116, Resolution No. 89-16, filed 6/29/89)

**WAC 131-28-045 Procedure for implementing tuition and fee waivers authorized pursuant to RCW 28B.15.740.** (1) Tuition and fee waivers for needy students in any fiscal year ~~((as authorized by RCW 28B.15.740 may))~~ shall not exceed three percent of any community college district's estimated total collections of tuition and services and activities fees had no such waivers been made, after deducting the portion of that total amount which is attributable to the difference between resident and nonresident tuition and fees.

(2) The estimated total collection of tuition and fees shall be based on budgeted, state supported, four-quarter annual average enrollment.

(3) Each district may waive an amount not to exceed three percent of the estimated collections in the event that actual enrollments or collections exceed estimated collections. Conversely, the three percent waiver capacity based upon estimated collections is allowable even though actual collections may not be as high as the estimate.

(4) Districts desiring to exceed their individual three percent waiver capacity may do so only upon written approval from the state director of ~~((community colleges))~~ the state board, or ~~((his))~~ designee. This waiver capacity can only be granted to a district after it has been determined that the total waiver capacity for the community college system is not being utilized as a result of other districts waiving at levels less than the three percent capacity.

(5) At least three-fourths of the total amount waived by any district shall be for needy students who are eligible to pay resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and the remainder may be for other students as determined by the board of trustees, except that no such waivers shall be based on participation in intercollegiate athletic programs.

AMENDATORY SECTION (Amending Order 116, Resolution No. 89-16, filed 6/29/89)

**WAC 131-28-080 Tuition and fee waivers for senior citizens.** (1) ~~((Pursuant to the authority granted by chapter 157, Laws of 1975 1st ex. sess.))~~ Under RCW 28B.15.540, community college districts ~~((are authorized to and))~~ may waive, in whole or in part, tuition and services and activities fees for any individual who ~~((has or will have attained))~~ attains sixty years of age by the first day of instruction of the quarter ~~((during which enrollment is desired))~~ enrolled and who is a resident of Washington, regardless of the length of such residency.

(2) College districts that elect to grant waivers as authorized by this section may:

(a) Waive, in whole or in part, tuition and services and activities fees for students enrolled on a credit or audit basis.

(b) Charge ~~(, in lieu of tuition and services and activities fees,)~~ a special fee of not more than \$5.00 per quarter ~~((per individual in total for those courses for which waivers are granted))~~ for students enrolled on an audit basis.

(c) Charge, in addition, any other special fees normally assessed to students who enroll in any course toward which the waiver authority contained in this section is applied.

(3) When granting waivers as authorized by this section, community college districts ~~((shall be))~~ are subject to the following regulations:

(a) Senior citizens who desire to enroll under the provisions of this section shall not be required to pass any financial need or means test as the basis for receiving such waivers.

(b) Such waivers shall not be applied to more than two courses per individual per quarter; however, qualified senior citizens may enroll in additional courses upon payment of the required tuition and fees normally charged to other students so enrolled.

(c) Such waivers shall be granted only on a "space available" basis after opportunity has been given for other students to register for courses offered by the college district.

(d) No new or additional courses or course section shall be created for the purpose of accommodating enrollments of students ~~((enrolled on the basis of))~~ granted waivers under this section.

(e) Waivers under this section shall not be granted to individuals who plan to use credits thus earned to improve their status for credentialing or salary schedule purposes; provided that it shall be the responsibility of the student to inform the college of the intended use of credits earned through enrollment under this fee waiver authorization.

(f) Enrollment information and statistical data related to enrollments made under this section must be maintained separately and must be discretely identified and distinguished from enrollments reported to the state board for all fiscal purposes.

(g) Computations of enrollment levels, student-faculty ratios, or other similar enrollment-related statistics must exclude student credit hours generated by enrollments for which waivers have been granted under this section.

(h) Individuals enrolled under this section must be afforded equal opportunity to utilize advisory and counseling services offered by the college district.

(i) All existing course prerequisites must apply to students enrolled under this section.

**AMENDATORY SECTION** (Amending Order 116, Resolution No. 89-16, filed 6/29/89)

**WAC 131-28-085 Tuition and fee waivers for full-time community college employees.** ~~((Pursuant to the authority granted by))~~ Under RCW 28B.15.535, community college districts ~~((are authorized to and))~~ may waive tuition and services and activities fees for full-time employees at their respective ~~((institutions of higher education enrolled in courses at said institutions))~~ college under the following conditions:

(1) Enrollment shall be on a space-available basis after opportunity has been given for other students to register for courses offered by the college,

(2) No new or additional courses or course sections shall be created for the purpose of accommodating enrollments of students ~~((enrolled on the basis of))~~ granted waivers under this section,

(3) Enrollment information on employees enrolled on a space-available basis shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall persons enrolled ~~((pursuant to the provisions of))~~ under this section be considered in any enrollment statistics which would affect budgetary determinations,

(4) Computations of enrollment levels, student-faculty ratio, or other similar enrollment related statistics must exclude student credit hours generated by enrollments for which waivers have been granted under this section,

(5) Employees enrolling on a space-available basis shall be charged a registration fee of not less than five dollars per quarter,

(6) Community college districts may limit the number of courses per quarter for which an employee may enroll pursuant to this section,

(7) Districts may enroll full-time intercollegiate center for nursing education, cooperative extension service and agricultural research employees of Washington State University if such employees are stationed off-campus provided that (a) the employee's work station is situated within the district where ~~((he enrolls))~~ enrolled and (b) such a waiver of tuition and fees complies with conditions listed in subsections (1) through (6) of this section,

(8) Districts may recognize completion of such courses for salary improvement or vocational certification provided such courses are an approved part of the professional improvement plan of the individual,

(9) Prior to implementing any program for tuition and fee waivers for full-time employees, the college district shall adopt a written rule regarding such program and definitively set forth rules and procedures related to:

(a) Whether or not employees may take tuition free courses on released time and under what circumstances;

(b) Whether or not courses taken on a tuition free basis shall be allowed to apply toward an advancement on the salary schedule of the institution;

(c) Whether or not there will be a limit on the number of courses per quarter an employee may take; what that limitation is and any other constraints;

(d) The definition of a full-time employee, professional and classified, for purposes of this act;

(10) The individual community college district shall submit a copy of its adopted rule relating to the above to the state director.

(11) In addition to waivers provided under subsections (1) through (9) of this section, community college districts may also waive all or a portion of tuition and services and activities fees for full-time classified employees of state agencies and higher education institutions as provided in RCW 28B.15.558.

**AMENDATORY SECTION** (Amending Order 122, Resolution Nos. 90-42 and 90-43, filed 9/20/90, effective 10/21/90)

**WAC 131-28-090 Tuition and fee waivers for unemployed and underemployed resident students.** (1)

~~((The purpose of this section is to carry out the intent of the legislature to provide tuition free educational opportunities for unemployed and underemployed individuals who wish to attend a Washington community college on a space available basis.~~

~~(2) Pursuant to authority granted by))~~ Under RCW 28B.15.522 community college districts may waive, in whole or in part, tuition and services and activities fees for any individual who:

(a) Is a resident student as defined by RCW 28B.15.012(2);

(b) Will have attained age twenty-one prior to the first day of instruction ~~((on the basis of such waiver));~~

(c) Has not attended an institution of higher education during the six-month period immediately prior to the first day of instruction, other than ~~((pursuant to))~~ under this section;

(d) Is not receiving or eligible to receive unemployment compensation funded by federal, state matching, or trade readjustment benefit sources;

(e) Has a monthly household income below four hundred sixty-five dollars for a single person and an additional one hundred thirty dollars for each additional household member or the successor values to these amounts as may be subsequently established by the department of social and health services as need standards for assistance determination purposes;

(f) Has been or will have been unemployed for at least six months prior to the first day of instruction or is underemployed as evidenced by monthly income for the preceding six-month period below the level established in (e) of this subsection.

~~((3))~~ (2) Enrollments made pursuant to this section shall be on a space available basis.

~~((4))~~ (3) No new course sections shall be created as a result of enrollments based on waivers authorized by this section.

~~((5))~~ (4) Enrollment information on students registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor be considered in any enrollment statistics which would affect budgetary determinations.

~~((6))~~ (5) Persons enrolled ~~((pursuant to))~~ under this section shall have the same access to support services as do all other students and shall be subject to all course prerequisites and requirements.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 131-28-028 Tuition charges for certain waiver categories.

**WSR 95-07-009  
EMERGENCY RULES  
DEPARTMENT OF ECOLOGY**

(Water Resources Program)

[Order 94-15—Filed March 3, 1995, 10:40 a.m.]

Date of Adoption: March 3, 1995.

Purpose: This emergency rule amends chapter 173-548 WAC elevating group domestic water systems to receive the same consideration as single domestics provided specified conservation requirements are met.

Citation of Existing Rules Affected by this Order: Amending chapter 173-548 WAC, Water resources program in the Methow Valley River Basin, WRIA 48.

Statutory Authority for Adoption: Chapters 34.05, 43.21A, 43.27A, and 90.54 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The existing regulation encourages the development of single domestic water systems to the detriment of water and associated resources because these wells are not subject to established instream flows. A citizens advisory group established under the Chelan Agreement and comprised of water users has recommended group domestic water systems receive the same consideration as single domestic systems in the water right permitting process. They recommended ecology act as soon as possible to prevent further proliferation of single domestic wells and the associated potential for deterioration in water quantity. The local planning committee's recommendation to ecology has been taken as the expression of the public interest.

Effective Date of Rule: Immediately.

March 3, 1995

Mary Riveland

Director

**AMENDATORY SECTION** (Amending Order DE 76-37, filed 12/28/76)

**WAC 173-548-010 General provision.** These rules, including any subsequent additions and amendments, apply to waters within and contributing to the Methow River basin, WRIA 48 (see WAC 173-500-040). Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program, applies to this chapter 173-548 WAC.

These requirements for new small group domestic water systems were developed and approved by the Methow Valley Water Resources Pilot Planning Project and recommended to the department of ecology as the basis for a rule change. This group is comprised of caucuses which represent the various water interests and users in the Methow Valley. Their recommendation on the elevation in priority of new small group domestic water systems in chapter 173-548 WAC is taken as an expression of the public interest.

**NEW SECTION**

**WAC 173-548-015 Definitions.** For the purposes of this chapter the following definitions shall apply:

"**Exempt well(s)**" includes those well(s) providing water to one or several houses, up to a maximum of five thousand gallons per day.

"**Open space**" means land within or related to a development, not individually owned (undivided interest), which remains undeveloped (except for approved trails and accessory structures) and that is dedicated to one or more of the following purposes: Historical/architectural preservation, wildlife habitat, agriculture or recreation.

"**Planned development(s)**" are served by a small group domestic water system as defined in this section and means any development consistent with local plan review, and uses no more than five thousand gallons per day.

"**Small group domestic**" shall include those water systems which provide water to planned developments, are exempt from the permit requirement of RCW 90.44.050, and are owned or controlled by an incorporated homeowners association and managed in accordance with state-defined water management practices.

This definition includes "group domestics," "domestic public water supply systems," "planned development water systems," and other such similar systems described in similar terms.

"**Water bank**" means a locally managed water accounting system where water determined to be available for new uses and saved water made available through implementation of water conservation practices to existing water rights is tracked and maintained in reserve for allocation to new small group domestic water systems.

**AMENDATORY SECTION** (Amending Order DE 76-37, filed 12/28/76)

**WAC 173-548-030 Future allocations—Reservation of surface water for beneficial uses.** (1) The department determines that there are surface waters available for appropriation from the stream management units specified in the amount specified in cubic feet per second (cfs) during the time specified as follows:

(a) Maximum surface water available for future allocation from the indicated reach is as follows:

Month	Lower Methow	Middle Methow	Upper Methow	Methow Headwaters	Early Winters Creek	Chewack River	Twisp River
Oct.	95	50	44	15	29	09	14
Nov.	116	101	46	06	21	10	15
Dec.	112	99	44	17	26	10	15
Jan.	50	36	26	08	19	03	09
Feb.	51	37	29	09	19	04	10
Mar.	147	139	80	38	19	24	18
Apr.	565	590	273	336	35	118	148
May	2,922	2,927	784	412	403	809	703
Jun.	3,116	2,853	1,017	1,249	294	1,292	890
Jul.	965	877	583	608	189	308	298
Aug.	214	192	203	109	94	70	70
Sep.	62	55	76	33	47	23	26

All figures in cubic feet per second.

(b) The control station for each reach is defined in WAC 173-548-020.

(c) The appropriation limit is set forth to be an amount equal to the one in two year natural reach discharge on a monthly basis for all management reaches except Early Winters Creek. The appropriation limit for Early Winters Creek is set forth to be an amount equal to the estimated natural mean monthly streamflow for that stream.

(2) The amounts of water referred to in WAC 173-548-030(1) above are allocated for beneficial uses in the future as follows:

(a) Allocation of surface waters by use category (April through September):

Use Description	Apr.	May	Jun.	Jul.	Aug.	Sep.
<b>Lower Methow</b>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	860	1,940	2,220	800	300	300
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<b>Middle Methow</b>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	650	1,500	1,500	500	220	220
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<b>Upper Methow</b>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	300	690	790	240	100	100
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<b>Methow Headwaters</b>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	90	430	1,160	180	32	32
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<b>Early Winters Creek</b>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	23	108	290	45	8.0	11.0
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<b>Chewack River</b>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	140	290	320	110	47	47

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Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<u>Twisp River</u>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	100	300	440	130	27	27
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					

All figures in cubic feet per second

(b) Allocation of surface waters by use category (October through March):

Use Description	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
<u>Lower Methow</u>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	425	425	350	350	350	350
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<u>Middle Methow</u>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	320	320	260	260	260	260
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<u>Upper Methow</u>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	150	150	120	120	120	120
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<u>Methow Headwaters</u>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	60	60	42	42	42	42
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<u>Early Winters Creek</u>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	15	15	10	10	10	10
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					

<u>Chewack River</u>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	68	68	56	56	56	56
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
<u>Twisp River</u>						
Single Domestic, Small Group Domestic, and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	45	45	34	34	34	34
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					

All figures in cubic feet per second.

(c) Allocations presented in this section do not limit the utilization of waters stored for later release, provided such storage does not infringe upon existing rights or base flow and is duly permitted under RCW 90.03.290 and 90.03.350.

(d) As the amount of water allocated for each category of use approaches the amount available for future allocation set forth in WAC 173-548-030(1), the department shall review the program to determine whether there is a need for program revision.

(e) The following applies only to planned developments. Water acquired through conservation or conversion of seasonal agricultural water rights shall be the preferred source of water for planned developments with year round use. A determination will be made at the time of application whether the appurtenant lands are "cropland" or "orchard land." The determination will be based on the use of the lands at the time of application. If no agricultural water rights are available for conversion and water is available from the water bank, a small group domestic water system which meets the requirements of this section and is exempt from the permit requirement of RCW 90.44.050 shall have the same priority as single domestic and stock uses.

Small group domestic water supply systems shall be required to:

(i) Meter any new systems, or systems requesting change(s) in their water right.

(ii) Curtail irrigation of open space lands within the boundaries of the planned development on the first of August or the acreage irrigated on those lands must have been reduced by at least twenty-five percent for the entire year.

(iii) By April 1 of each year, a homeowners association owning or controlling a small group domestic water supply system must decide whether to reduce acreage irrigated by twenty-five percent or curtail irrigation by August 1 and notify members and potentially affected parties. A letter to the Okanogan County planning department and the department's central regional office water resources section, shall suffice for notice.

(iv) The maximum diversion rates for open space lands in planned developments (areas so designated by Okanogan County) subject to these provisions are as follows:

(A) The maximum diversion for irrigation of open space lands planted with field crops (areas so designated by

Okanogan County) on which irrigation is not curtailed on August 1 shall be 0.02 cubic feet per second (cfs) per acre instantaneously not to exceed 2.7 acre feet per acre plus ditch transportation loss of fifteen percent per mile up to a maximum total of 4.0 acre feet per acre annually.

(B) The maximum diversion for irrigation of open space lands planted with orchards on which irrigation is not curtailed on August 1 shall be 0.02 cfs instantaneous diversion, not to exceed 4.2 acre feet; plus ditch transportation loss of fifteen percent per mile, up to a maximum total of 5.0 acre feet per acre annually.

(C) The maximum diversion for irrigation of open space lands planted with field crops on which irrigation is curtailed on August 1 shall be 0.02 cfs per acre not to exceed 2.0 acre feet per acre plus ditch transportation loss of fifteen percent per mile for a maximum total of 3.0 acre feet per acre annually.

(D) The maximum diversion for irrigation of open space lands planted with orchards on which irrigation is curtailed on August 1 shall be 0.02 cfs instantaneous diversion, not to exceed 3.15 acre feet per acre plus ditch transportation loss of fifteen percent per mile, for a maximum total of 3.75 acre feet per acre annually.

(v) Water available for allocation under this section shall meet the following standards and come from:

(A) First, water saved from the conversion of agricultural lands as described in (e)(ii) of this subsection. Waters contained in the water bank from the two cubic foot per second per reach reservation as denoted in WAC 173-548-030 (availability determined by the department) would be available for allocation only after water saved from agricultural diversions has been used.

(B) The maximum amount of water use per unit or connection shall be seven hundred gallons per day (gpd) for in-house and outside use. If a more restrictive use is jointly agreed to by Okanogan County and the department, the maximum use per unit or connection shall be four hundred gallons per day for in-house and outside use.

(C) New exempt ground water uses with no irrigation are subject to a maximum use per unit or connection of four hundred gallons per day for in-house use and outside use. For the purposes of these provisions, an existing exempt well is a well in use before January 1, 1994, and exempt from the permit requirement of RCW 90.44.050.

(vi) If any conversion or curtailment of consumptive or transportation irrigation water to instream flows is applicable, an agreement to transfer the water savings to the department as a trust water right must be made prior to the approval of the small group domestic system for the planned development. When total water use after conversion from seasonal to year around use is less than is currently used under a valid water right, establishment of a trust water right for instream flow will be pursued prior to the approval of water allocations for the planned development; such trust water shall have a priority date immediately junior to the original water right.

**WSR 95-07-010  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 95-19—Filed March 3, 1995, 2:34 p.m.]

Date of Adoption: March 3, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-32-05100M; and amending WAC 220-32-051.

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: Tribal fishers need more time during the day to pull their nets. This rule is consistent with the recommendation of the Columbia River Compact meeting of March 3, 1995, and the Columbia River Fish Management catch guidelines.

Effective Date of Rule: Immediately.

March 3, 1995

Judith Freeman

Deputy

for Robert Turner

Director

**NEW SECTION**

**WAC 220-32-05100N Columbia River salmon seasons above Bonneville.** (1) Notwithstanding the provisions of WAC 220-32-051, and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, effective immediately, it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1F, 1G or 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm springs, Umatilla or Nez Perce treaties may fish or possess salmon, sturgeon and shad under the following provisions:

(a) Open for salmon, sturgeon and shad:

Noon February 27, 1995 to 4:00 p.m. March 4, 1995;

Noon March 6, 1995 to 4:00 p.m. March 11, 1995;

Noon March 13, 1995 to 4:00 p.m. March 18, 1995.

(b) Open Area: SMCRA 1F, 1G, and 1H

(c) Mesh: No mesh restriction

(2) Notwithstanding the provisions of WAC 220-32-058, closed areas at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between point one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia river between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100M Columbia River salmon seasons above Bonneville. (95-12)

**WSR 95-07-018  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Wildlife)**

[Order 95-21—Filed March 6, 1995, 3:10 p.m.]

Date of Adoption: March 6, 1995.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

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: Stocks of extremely depressed salmon require the additional protection of closures for game fish fishing.

Effective Date of Rule: Immediately.

March 6, 1995  
Judith Freeman  
Deputy  
for Robert Turner  
Director

#### NEW SECTION

**WAC 232-28-61900B Regional exceptions to permanent game fish rules.** Notwithstanding the provisions of WAC 232-28-619, it is unlawful to fish for or possess the following species taken from the following waters during the periods provided for herein:

(1) Effective February 16 through March 31, 1995, it is unlawful to fish for steelhead in the waters of the Columbia River downstream from Bonneville Dam.

(2) Effective April 1 through May 31, 1995, it is unlawful to fish for game fish in the waters of the North Fork Lewis River downstream from Merwin Dam to Johnson Creek.

(3) Effective April 1 through May 31, 1995, it is unlawful to fish for game fish from the south side of the Cowlitz River in those waters downstream from the Barrier Dam to a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

**WSR 95-07-026  
EMERGENCY RULES  
PUBLIC EMPLOYMENT  
RELATIONS COMMISSION  
[Filed March 7, 1995, 2:43 p.m.]**

Date of Adoption: February 27, 1995.

Purpose: To eliminate unlawful bargaining relationships under chapter 41.59 RCW, by excluding extracurricular activities jobs for which a professional education certificate is not required from bargaining units containing certificated employees.

Statutory Authority for Adoption: RCW 41.59.110(1).

Other Authority: RCW 41.58.050.

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: Many collective bargaining agreements under chapter 41.59 RCW include extracurricular activities jobs for which a professional education certificate is not required. Those agreements typically expire on August 31 of a given year. As of January 10, 1995, such agreements are unlawful. Unless immediate steps are taken to remove excluded positions from such agreements, existing collective bargaining relationships will be subject to disruption during the summer of 1995. Employees in excluded positions must be given timely notice of removal of their positions from agreements under chapter 41.59 RCW, or they will be deprived of rights they may have under chapter 41.56 RCW. A posting of notice made on the employer's premises during the summer of 1995 would be ineffective as school districts do not operate regular classes during the months of July and August.

Effective Date of Rule: Immediately.

February 27, 1995  
Marvin L. Schurke  
Executive Director

#### NEW SECTION

**WAC 391-35-300 School district employees.** A collective bargaining relationship cannot lawfully be maintained under the Educational Employment Relations Act, chapter 41.59 RCW, with respect to school district jobs for which a professional education certificate is not required by chapter 28A.410 RCW, as implemented through rules adopted by the state board of education and the office of the superintendent of public instruction, or by established practice or written policy of the employing school district. Any collective bargaining rights of employees performing school district jobs not requiring a professional education certificate are regulated by the Public Employees' Collective Bargaining Act, chapter 41.56 RCW.

#### NEW SECTION

**WAC 391-45-560 School district extracurricular activities jobs—Transition to eliminate unlawful bargaining relationships.** (1) As used in this section:

(a) The term "included position" means a school district extracurricular activities job for which a professional education certificate is required by rules of the state board of education (SBE) or the state superintendent of public instruction (SPI) adopted pursuant to chapter 28A.410 RCW, or was required by established practice or written policy of the employing school district as of January 10, 1995.

(b) The term "excluded position" means a school district extracurricular activities job for which a professional education certificate is not required by SBE or SPI rules adopted pursuant to chapter 28A.410 RCW, and was not required by established practice or written policy of the employing school district as of January 10, 1995.

(2) There exists a potential for substantial disruption of collective bargaining relationships and processes between school districts and their employees during the summer of 1995, due to the following circumstances:

(a) The wages, hours and working conditions for both included positions and excluded positions have traditionally been established in many school districts in the state through collective bargaining between the school district and the exclusive bargaining representative of its certificated employees under the Educational Employment Relations Act, chapter 41.59 RCW.

(b) As of January 10, 1995, it is an unfair labor practice for school districts and exclusive bargaining representatives of certificated employees to bargain (or to purport to bargain) the wages, hours, and terms and conditions of employment of excluded positions under chapter 41.59 RCW.

(c) As of January 10, 1995, employees in excluded positions will be deprived of collective bargaining rights they may have under the Public Employees' Collective Bargaining Act, chapter 41.56 RCW, unless they are given timely notice of the removal of their positions from bargaining units under chapter 41.59 RCW.

(d) Collective bargaining agreements between school districts and the exclusive bargaining representatives of their certificated employees typically expire on August 31 of a given year, and negotiations for successor agreements are usually carried on in the spring and summer preceding contract expiration.

(e) Inasmuch as no duty to bargain exists under RCW 41.59.020(2) and no contract bar exists under RCW 41.59.070 with respect to an inappropriate bargaining unit, existing collective bargaining relationships involving certificated employees will be subject to disruption during the summer of 1995, unless immediate steps are taken to remove excluded positions from bargaining units under chapter 41.59 RCW.

(f) Inasmuch as school districts generally do not operate regular classes during the months of July and August, a posting made on the employer's premises during such a summer vacation period would not give school district employees proper notice.

(g) Use of the "permanent rule" adoption procedure would delay the effective date of any rule until the summer vacation period of 1995, or into the 1995-96 school year. Use of the "emergency rule" procedure would permit effecting an orderly transition to be completed on or before May 1, 1995, and would minimize the potential for labor disputes that would be contrary to the public welfare and interest.

(3) A temporary limitation of certain rights will effect an orderly transition of bargaining rights and relationships during the one hundred twenty-day period following the adoption of this section:

(a) No change of certification requirements for excluded positions will be honored or given effect if made, negotiated or implemented before a notice has been posted in the particular school district under subsection (5) of this section for at least thirty days.

(b) To permit and encourage timely modification of collective bargaining relationships maintained under chapter 41.59 RCW, the processing of unfair labor practice com-

plaints under chapter 391-45 WAC shall be suspended with respect to past bargaining involving excluded positions, with respect to school districts and exclusive bargaining representatives which comply fully with the procedures set forth in subsections (4) and (5) of this section.

(c) To assure that any organizational activities among employees holding excluded positions will not be prejudiced by the past bargaining for those positions under chapter 41.59 RCW, any petition for investigation of a question concerning representation, any bargaining authorization card, or any voluntary recognition agreement concerning excluded positions shall be deemed void if signed or filed prior to or on the date a notice is posted in the particular school district under subsection (5) of this section.

(4) In each school district where certificated employees are represented for the purposes of collective bargaining under chapter 41.59 RCW, the employer and the exclusive bargaining representative shall immediately meet to review all extracurricular activities jobs which have been the subjects of collective bargaining between them, to identify included positions and excluded positions. In the event the employer and exclusive bargaining representative are unable to agree as to whether certification is required for one or more position(s), one of those parties or those parties jointly shall file a unit clarification petition under chapter 391-35 WAC, prior to the posting of a notice pursuant to subsection (5) of this section.

(5) On or before May 1, 1995, the following actions shall be taken in each school district where the certificated employees are represented for the purposes of collective bargaining under chapter 41.59 RCW:

(a) A notice shall be posted to inform all school district employees of the agreements reached by the employer and the exclusive bargaining representative concerning the categorization of included positions and excluded positions. The notice shall be jointly signed by the employer and exclusive bargaining representative, and shall be posted in conspicuous places on the employer's premises where notices to all employees are usually posted. The notice shall remain posted for sixty days. The notice shall be in the following form:

PURSUANT TO AN EMERGENCY RULE ADOPTED BY THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, A STATE AGENCY, WE HAVE BEEN REQUIRED TO POST THIS NOTICE TO EMPLOYEES:

I. We agree that the following extracurricular activities jobs require a professional education certificate under either: (a) rules of the state board of education (SBE) or the state superintendent of public instruction (SPI) pursuant to chapter 28A.410 RCW, or (b) established practice or written policy in effect in this school district as of January 10, 1995. WE PROPOSE TO RETAIN THESE POSITIONS WITHIN OUR COLLECTIVE BARGAINING RELATIONSHIP UNDER THE EDUCATIONAL EMPLOYMENT RELATIONS ACT, CHAPTER 41.59 RCW:

(Add space as needed to list positions by title)

II. We agree that the following extracurricular activities jobs DO NOT require a professional education certificate. WE PROPOSE TO EXCLUDE THESE

POSITIONS FROM OUR COLLECTIVE BARGAINING RELATIONSHIP UNDER CHAPTER 41.59 RCW:

(Add space as needed to list positions by title)

(OPTIONAL: III. We are unable to agree on, and have filed a unit clarification petition with the public employment relations commission to obtain a ruling on, the proper bargaining unit placement of the following:

(Add space as needed to list positions by title))

EMPLOYEES WHO ARE DISSATISFIED WITH THE BARGAINING UNIT ASSIGNMENTS LISTED IN PARAGRAPH I AND PARAGRAPH II, above, should first contact this school district and/or the organization shown below, to try to resolve the matter. If the matter is not resolved, an employee holding a position listed in paragraph I or paragraph II above, may file a complaint with the public employment relations commission under chapter 391-45 WAC. A complaint must be filed within six months following the act or event being challenged.

EMPLOYEES HOLDING POSITIONS LISTED UNDER PARAGRAPH II, ABOVE, MAY HAVE RIGHTS UNDER THE PUBLIC EMPLOYEES' COLLECTIVE BARGAINING ACT, CHAPTER 41.56 RCW. It is the purpose of this notice to "clear the air" prior to any exercise of those rights. Any petition for investigation of a question concerning representation, bargaining authorization card, or voluntary recognition agreement that is signed or filed as to such employees prior to or on the date this notice is posted will be deemed void.

THE SCHOOL DISTRICT WILL BE FREE TO CHANGE CERTIFICATION REQUIREMENTS after this notice has been posted for thirty days, subject to any collective bargaining obligation that may then exist.

DATE POSTED: \_\_\_\_\_

(name of school district) (name of organization)

BY: \_\_\_\_\_ BY: \_\_\_\_\_  
Authorized Representative Authorized Representative

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED

This notice must remain posted for sixty consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Questions concerning this notice may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, P.O. Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 753-3444.

(b) A copy of any notice posted under this subsection shall be filed promptly with the executive director of the commission, at the commission's Olympia office.

EMERGENCY

**WSR 95-07-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 95-23—Filed March 7, 1995, 3:32 p.m., effective March 8, 1995]

Date of Adoption: March 7, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-04600B.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The federal court has provided clarification of allotment of the crab resource and harvestable crab are available.

Effective Date of Rule: March 8, 1995.

March 7, 1995  
Robert Turner  
Director

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. March 8, 1995:

WAC 220-52-04600B Crab fishery—Seasons and areas (95-18)

**WSR 95-07-028**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 95-22—Filed March 7, 1995, 3:36 p.m., effective March 17, 1995, 12:01 a.m.]

Date of Adoption: March 7, 1995.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-56-360.

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: Test results show that adequate clams are available for harvest in Razor Clam Areas 1, 2, and 3. Clams from these areas have been certified by the Department of Health as safe for human consumption. Department of Health has issued a human health advisory for clams dug on the beaches north of the Quinault Indian Reservation. Digging clams determined to be unsafe for human consumption would lead to wastage.

Emergency

Effective Date of Rule: March 17, 1995, 12:01 a.m.  
March 7, 1995  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-56-36000M Razor clams.** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, 3, or except as provided for in this section:

(1) Effective 12:01 a.m. April 1, 1995 through 11:59 a.m. April 29, 1995, on odd days only, between 12:01 a.m. and 1:59 a.m. only, razor clam digging is allowed in Razor Clam Area 1.

(2) Effective 12:01 a.m. March 17 through 11:59 a.m. May 5, 1995, every day between 12:01 a.m. and 11:59 a.m. only, razor clam digging is allowed in Razor Clam Area 2.

(3) Effective 12:01 a.m. April 1 through 11:59 a.m. May 5, 1995, on odd days only between 12:01 a.m. and 11:59 a.m. only, razor clam digging is allowed in that portion of Razor Clam Area 3 that is south of the southern boundary of the Quinault Indian Reservation (as posted).

(4) It is unlawful to dig for razor clams at anytime in Long Beach, Twin Harbors Beach or Copalis Beach sanctuaries defined in WAC 220-56-372.

**WSR 95-07-051**  
**EMERGENCY RULES**  
**DEPARTMENT OF TRANSPORTATION**

[Order 149—Filed March 9, 1995, 8:46 a.m.]

Date of Adoption: March 7, 1995.

Purpose: WAC 468-95-100 establishes compliance dates to specific sections for application of certain traffic control devices.

Citation of Existing Rules Affected by this Order: Amending WAC 468-95-100.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 47.36.030.

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: The new MUTCD part VI requires certain traffic control techniques, not yet implemented by the Department of Transportation.

Effective Date of Rule: Immediately.

March 7, 1995  
S. A. Moon  
Deputy Secretary  
for Operations

EMERGENCY

AMENDATORY SECTION (Amending Order 127, filed 12/21/90, effective 1/21/91)

**WAC 468-95-100 Compliance dates.** Through rulings approved by the Federal Highway Administrator, the 1988 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) contains compliance dates to specific sections for application of certain traffic control devices. These compliance dates are hereby amended as follows:

Ruling #	MUTCD Section	Compliance Date
IV-59	4D-2, 4D-7, 7D-5, 7D-9	12/31/95
<del>((VIII-12</del>	<del>8B-3, 8B-4</del>	<del>12/31/94)</del>
II-5	2D-48, 2H-1 Thru 2H-16	9/30/97
<del>((II-33</del>	<del>2B-43, 2B-43a, 2A-11</del>	<del>9/30/93</del>
<del>H-86(e)</del>	<del>2B-43e</del>	<del>9/30/93</del>
<del>VI-3</del>	<del>3B-16, 6D-1, 6D-3</del>	<del>9/30/92)</del>
II-110	2I-1 Thru 2I-7	9/30/95
III-38	3B-5	9/30/95
IV-58	2B-37, 4B-5(4)(c), 4B-6-2	9/30/2001
	4B-6(5)(b), 4B-6(8), 4B-12, 4B-18	
<del>((VI-33</del>	<del>3F-2, 6C-3</del>	<del>9/30/93</del>
<del>VI-34</del>	<del>3F-2, 6C-3</del>	<del>9/30/93</del>
<del>IX-4</del>	<del>9B-20</del>	<del>9/30/93</del>
<del>H-89</del>	<del>6A-1 Thru 6A-6, 6H-1 Thru 6H-4</del>	<del>9/30/92)</del>
II-122	2D-15, 2E-11, 2F-11	9/30/97
IV-73	4B-6-5(a), 4B-15	9/30/96
II-119	2B-44	11/30/97

The December 10, 1993, Federal Register published the Federal Highway Administration's Docket No. 89-1, Notice No. 7, adopting final amendments to the Manual on Uniform Traffic Control Devices (MUTCD) for work zone traffic control. The department shall adopt these amendments, and all necessary modifications thereto, by January 10, 1996.

**WSR 95-07-064**  
**EMERGENCY RULES**  
**GAMBLING COMMISSION**  
 [Filed March 13, 1995, 2:32 p.m.]

Date of Adoption: March 10, 1995.

Purpose: The director may grant a special sales permit authorizing a manufacturer to sell to a distributor only, on a limited basis, authorized gaming equipment, patented or otherwise restricted scheme or paraphernalia.

Citation of Existing Rules Affected by this Order: Amending WAC 230-04-110 and 230-04-203.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule would allow the director to grant a special sales permit authorizing a manufacturer to sell to a distributor only, on a limited basis, authorized gaming equipment, patented or otherwise restricted gaming scheme or paraphernalia.

Effective Date of Rule: Immediately.

AMENDATORY SECTION (Amending WSR 94-01-033, filed 12/6/93, effective 1/6/94)

**WAC 230-04-110 Licensing of manufacturers.** A license must be obtained from the commission prior to manufacturing, selling, or supplying gambling equipment to any person(s) within this state, or for use within this state. The following definitions and requirements apply to certification and licensing of manufacturers:

(1) For purposes of this title, "gambling equipment" includes at least the following devices:

- Punchboards and pull tabs;
- Devices for the dispensing of pull tabs;
- Bingo equipment, as defined by WAC 230-02-250;

and

(d) Any gambling equipment, patented or otherwise restricted gaming schemes, or paraphernalia for use in connection with licensed fund raising events ((or a)), recreational gaming ((activity)) activities, or tribal gaming activities authorized by state/tribal compacts: Provided, That a licensed manufacturer may sell gambling equipment, patented or otherwise restricted gaming schemes, or paraphernalia for use in activities listed under this subsection without obtaining a distributor's license if the manufacturer of such equipment has been granted a special sales permit under the authority of WAC 230-04-115.

(2) The applicant shall include upon the application form supplied by the commission, the following information, as well as all other information and materials required elsewhere in these rules:

- The full name and address of the applicant;
- The full name and address of each location where such devices are manufactured or stored;
- The name, home address, and share of ownership of all owners of the manufacturing business if the business is not a corporation. If the business is a corporation, the name, address, and share of ownership of the officers, the directors, and substantial interest holders;
- A full description of each separate type of gambling equipment or device that an applicant seeks to manufacture or to market in this state;
- The brand name under which each type of gambling device or equipment is sold;
- If the applicant is incorporated under laws other than the laws of Washington state, then the full name and business and home address of the resident agent designated by the applicant pursuant to WAC 230-12-300; and
- A list of all distributors receiving gambling equipment and all businesses or organizations located within the state of Washington in which the applicant has any financial interest and the details of that financial interest. For the purpose of this subsection, the term financial interest shall include all arrangements through which a person directly or indirectly receives any portion of the profits of the licensed manufacturer and indebtedness between the licensee and any other person, other than a regulated financial institution, in excess of five thousand dollars.

(3) An applicant must demonstrate the ability to comply with all manufacturing (~~restrictions and~~), quality control (~~requirements~~), and operational restrictions imposed on authorized gambling equipment, patented or otherwise restricted gaming schemes, or equipment that it seeks to manufacture or market for use within the state of Washington. The licensing process shall include an on-site review of the applicant's manufacturing equipment and process for each separate type of authorized gambling device, equipment, or scheme to ensure capability to comply with all regulatory requirements of this title and state/tribal compacts;

(4) The following information shall be included as an attachment to the application form:

(a) A list of all affiliated businesses or corporations in which the applicant, officers, directors, or substantial interest holders of the applicant, either directly or indirectly, own or control:

- (i) As a sole proprietor; or
- (ii) As a partner; or
- (iii) More than fifty percent of the voting stock of a privately held or closed corporation; or
- (iv) At least five percent of the voting stock of a publicly traded corporation.

(b) A list of all (~~licensed~~) businesses or corporations licensed to conduct gambling activities or to supply gambling-related equipment, supplies, or services in which the applicant, officers, directors, or substantial interest holders of the applicant have any interest;

(c) A list of all jurisdictions in which the applicant or any of the officers, directors, or substantial interest holders of the applicant have been licensed regarding gambling-related activities at any level during the preceding ten years;

(d) A statement regarding whether the applicant or officers, directors, or substantial interest holders have ever had a license for gambling-related activities denied, revoked, or suspended by any jurisdiction for a period longer than thirty days. All details of such must be provided as a part of the application; and

(e) A statement acknowledging that all records related to the ownership or operation of the business shall be made available for review at the time and place requested by commission staff. In addition to other records requested, the following shall be available:

(i) Personal financial records of all substantial interest holders;

(ii) All records related to the scope of activity, including sales of product, purchases of raw materials and parts, and any contracts, franchises, patent agreements, etc., related to sales or purchases; and

(iii) Records related to any financial or management control of or by customers and suppliers.

(5) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form; and

(6) The applicant shall comply with all applicable laws of the United States and the state of Washington and all applicable rules of this commission.

## NEW SECTION

**WAC 230-04-115 Licensing of manufacturers—Exception—Special sales permit.** The director may grant a special sales permit authorizing a manufacturer to sell to a distributor only, on a limited basis, authorized gambling equipment, patented or otherwise restricted gaming scheme, or paraphernalia. A special sales permit may be issued when demand for a particular type of equipment, scheme, or paraphernalia is anticipated to be below the level of economic feasibility of obtaining a license or the type of product is not one for which licensing under WAC 230-04-110 is necessary to protect the public interest. Application for a special sales permit shall be processed in the following manner:

(1) An application shall be submitted on a form obtained from the commission setting forth the following information:

(a) Description of product(s), including trade name(s);

(b) Anticipated scope of sales, in quantity and dollar value;

(c) The name and address of the operator requesting to purchase the equipment and the distributor(s) that will broker the equipment;

(d) All information necessary to determine the qualification of the manufacturer;

(e) A list of all jurisdictions in which the applicant business or any of the officers, directors, or substantial interest holders is currently licensed to conduct business related to gambling; and

(f) The application shall be accompanied by a nonrefundable processing fee of two hundred dollars. Applicants may be assessed additional fees after an estimate of investigation costs have been established;

(2) Upon receipt of all moneys requested by the commission, a limited investigation shall be initiated, the scope of which shall be established using the following criterion:

(a) Anticipated demand for such equipment;

(b) The nature of the equipment, including other sources of such equipment;

(c) The availability of information from appropriate sources to verify the qualification of such manufacturer;

(d) Annual sales compared to the anticipated cost of a comprehensive licensing investigation;

(e) Whether the equipment, after installation, will require an ongoing relationship with the manufacturer;

(f) Security issues related to the manufacturing, installation, and ongoing service of the equipment; and

(g) Other factors deemed relevant;

(3) At any time during the investigation process, the director may determine that a license is required under WAC 230-04-110. Upon notification of such, the applicant may withdraw their permit application without prejudice, and all unused fees will be returned. If the applicant elects to proceed with an application for a manufacturer's license, all fees will be credited toward the appropriate license fee;

(4) A special sales permit shall be valid for a period of one year from the date of issuance: *Provided*, That the director may void a permit upon written notice and require a license be obtained under WAC 230-04-110 prior to further sales.

**AMENDATORY SECTION** (Amending WSR 95-02-003 and 94-23-007, filed 12/22/94 and 11/3/94, effective 1/22/95 and 1/1/95)

**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
<b>1. CARD GAMES</b>		
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

LICENSE TYPE	DEFINITION	FEE
<b>2. COMMERCIAL AMUSEMENT</b> (Fee based on annual gross gambling receipts)		
* Class A	Premises only	** \$265/\$115
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.

LICENSE TYPE	DEFINITION	FEE	VARIANCE*
<b>3. PUNCHBOARDS/ PULL TABS</b> (Fee based on annual gross gambling receipts)			
Class A	Up to \$50,000	\$ 500	\$ 5,000
Class B	Up to \$100,000	\$ 900	\$ 5,000
Class C	Up to \$200,000	\$1,700	\$10,000
Class D	Up to \$300,000	\$2,470	\$10,000
Class E	Up to \$400,000	\$3,190	\$10,000
Class F	Up to \$500,000	\$3,850	\$10,000
Class G	Up to \$600,000	\$4,460	\$10,000
Class H	Up to \$700,000	\$5,020	\$10,000
Class I	Up to \$800,000	\$5,530	\$10,000
Class J	Up to \$1,000,000	\$6,270	\$20,000
Class K	Up to \$1,250,000	\$6,960	\$25,000
Class L	Up to \$1,500,000	\$7,600	\$25,000
Class M	Up to \$1,750,000	\$8,130	\$25,000
Class N	Up to \$2,000,000	\$8,610	\$25,000
Class O	Over \$2,000,000	\$9,460	Nonapplicable

\* 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.

<b>4. DISTRIBUTOR</b> (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>(b) FUND-RAISING EVENT EQUIPMENT DISTRIBUTOR</b>		
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

<b>5. MANUFACTURER</b> (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.

<b>6. PERMITS</b>		
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 230-25-330)		
		\$ 50

<b>7. CHANGES</b>		
NAME	(See WAC 230-04-310)	\$25
LOCATION	(See WAC 230-04-320)	\$25
BUSINESS	(Same owners)	\$50
CLASSIFICATION	(See WAC 230-04-340)	
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, 230-04-340, and 230-04-350)	\$50

EMERGENCY

8. SPECIAL FEES

INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND INSPECTION SERVICES STAMPS	(See WAC 230-08-017)	As required
QUALITY CONTROL INSPECTION FEES	(See WAC 230-30-030)	As required
REPLACEMENT OF IDENTIFICATION 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
<u>SPECIAL SALES PERMITS</u>	<u>(See WAC 230-04-115)</u>	<u>As required</u>

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9. SIX-MONTH PAYMENT PLAN (See WAC 230-04-190) \$25

**WSR 95-07-065  
EMERGENCY RULES  
GAMBLING COMMISSION**

[Filed March 13, 1995, 2:33 p.m.]

Date of Adoption: March 10, 1995.

Purpose: This rule allows tribal casinos a mechanism to increase wagering limits, wagering stations, and hours of operation through a Phase II investigative review and commission approval process.

Statutory Authority for Adoption: RCW 9.46.360.

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: Rule will allow tribal casinos to increase wagering limits, wagering stations and hours of operation.

Effective Date of Rule: Immediately.

March 13, 1995  
Patricia Norman-Cole  
Rules Coordinator

NEW SECTION

**WAC 230-48-010 Tribal-state compacts—Phase II commission review.** (1) Pursuant to each tribal/state compact and upon successful completion of a Phase II investigative review, the director shall forward a summary of the material aspects of the investigative review with a recommendation for approval to Phase II status to the commissioners at least seven days prior to a meeting of the commission.

(2) At least ten days prior to the same meeting, the director's recommendation along with a notice of formal review shall be forwarded to the tribal government and local

law enforcement agencies surrounding the Class III gaming operation. The notice shall set forth the proposed action and instructions for submission of written comments to the formal review process.

(3) During the meeting of the commission for which notice of formal review was given, the commission shall conduct a review of the Class III gaming operation. The review shall address the following criteria:

(a) Whether there have been any violations of the provisions of the compact which have resulted in sanctions imposed by the Federal District Court;

(b) Whether there have been any violations of the compact which are substantial or, due to repetition, would be deemed material;

(c) Whether there have been any material adverse impacts on the public safety or welfare of the surrounding communities in the nature of criminal activities directly related to the operation of the Class III operation;

(d) Whether there have been any unresolved and material violations of Appendix A of the compact; and

(e) Whether the tribal gaming agency has developed a strong program of regulation and control and demonstrated an adequate level of proficiency, which includes the hiring of trained tribal gaming agents, an independent regulatory and reporting structure that is separate from that of the gaming operation or tribal bodies, a thorough and developed system for the reporting of compact violations, and a strong and consistent presence within the Class III facility.

(4) Upon completion of the review, the commission shall either approve, deny, or grant a conditional Phase II approval.

(5) If Phase II is denied or conditionally approved, the commission shall within ten working days issue a written order to the tribe setting forth the basis for the decision.

**WSR 95-07-080  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 95-24—Filed March 15, 1995, 4:17 p.m.]

Date of Adoption: March 15, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300W; and amending WAC 220-52-073.

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: There are sufficient green sea urchins available to offer one day of fishing and sufficient red sea urchins for one day of fishing in District 4. The remaining stocks are needed for propagation.

Effective Date of Rule: Immediately.

EMERGENCY

March 15, 1995  
Judith Freeman  
Deputy  
for Robert Turner  
Director

March 21, 1995  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-52-07300X Sea urchins—Seasons.** Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to fish for or possess sea urchins taken for commercial purposes from state waters except:

(1) It is lawful to take green sea urchins from Sea Urchin Districts 1, 2, 3 and 4 on March 20, 1995. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) It is lawful to take red sea urchins from Sea Urchin District 4 on March 20, 1995. The minimum size for red sea urchins is 3.75 inches in diameter, exclusive of the spines, and the maximum size for red sea urchins is 5.25 in diameter, exclusive of the spines.

(3) Red sea urchins can only be landed in Sekiu or Port Angeles.

REPEALER

The following section of the Washington Administration Code is repealed:

WAC 220-52-07300W Sea urchins—Seasons.  
(95-05)

**Reviser's note:** The typographical error in the above repealer 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 220-52-07300Y Sea urchins—Seasons.** Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to fish for or possess sea urchins taken for commercial purposes from state waters except:

(1) It is lawful to take green sea urchins from Sea Urchin Districts 1, 2, 3 and 4 on March 22, 1995. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

REPEALER

The following section of the Washington Administration Code is repealed:

WAC 220-52-07300X Sea urchins—Seasons.  
(95-24)

**Reviser's note:** The typographical error in the above repealer occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 95-07-119  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 95-25—Filed March 21, 1995, 4:35 p.m.]

Date of Adoption: March 21, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-07300X; and amending WAC 220-52-073.

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: There are sufficient green sea urchins available to offer one day of fishing. The remaining stocks are needed for propagation.

Effective Date of Rule: Immediately.





**WSR 95-07-048**  
**NOTICE OF PUBLIC MEETINGS**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**  
[Memorandum—March 7, 1995]

Meeting Notice: April 12, 1995  
Sun Mountain Lodge  
Winthrop, Washington 98862  
8:00 a.m. - 3:00 p.m.

\* Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

**WSR 95-07-052**  
**HEALTH SERVICES COMMISSION**  
[Filed March 9, 1995, 1:34 p.m.]

**HEALTH SERVICES COMMISSION**

**NOTICE OF PETITION TO APPROVE CERTAIN CONDUCT-IN**  
**THE MATTER OF NORTHPOINTE ORTHOPEDICS, INC./**  
**NORTHWEST ORTHOPEDIC AND FRACTURE CLINIC, P.S.**

Northpointe Orthopedics, Inc., and Northwest Orthopedic and Fracture Clinic, P.S., have petitioned the Washington State Health Services Commission to approve certain conduct which could lessen competition in the relevant market, pursuant to the provision of RCW 43.72.310 and WAC 245-02-130 *et seq.* Consistent with the provision of WAC 245-02-131, the Health Services Commission is soliciting comments from the public on the petition.

The conduct that is the subject of the Petition can be generally described as follows.

Northpointe Orthopedics, Inc. (Northpointe), which is located in Spokane, Washington, is currently comprised of six shareholders, all of whom are orthopedic surgeons. Three doctors constitute the Holy Family Orthopedic Clinic and three other professional corporations comprise the Spokane Orthopedic Clinic. Northpointe is organized as a corporate independent practice association. The corporation has authority to negotiate contracts on behalf of its surgeons, which are then offered to the shareholders for acceptance or rejection on an individual basis. Shareholders may negotiate independently with payors if Northpointe is not already jointly negotiating with them.

Northwest Orthopedic & Fracture Clinic, P.S. (Northwest), is also located in Spokane, Washington, and is currently comprised of ten orthopedic surgeons. Northwest is a corporation which contracts as a single entity with payors for the provision of health care services by its member physicians.

Northwest and Northpointe would like to jointly negotiate contracts with third-party payors, along the model of an individual practice association. The contracts would include various reimbursement methods and one method would include capitation. The joint venture will also withhold a percentage of fees from Northpointe and Northwest to cover possible deficits which would occur if costs of

services exceed the budgeted costs. The amount of capital to be contributed by each party to the transaction, including the individual Northpointe physicians, has yet to be determined.

The joint venture also intends to consolidate business functions, such as marketing, claims processing, debt collection, financing, quality assurance, utilization review and billing.

Written comments may be filed with Tom Hilyard, Health Services Commission, P.O. Box 41185, Olympia, Washington 98504-1185, and must be received by April 14, 1995.

**HEALTH SERVICES COMMISSION**

In the Matter of: )  
NORTHPOINTE ORTHOPEDICS, INC. ) **NOTICE OF HEARING**  
and )  
NORTHWEST ORTHOPEDIC and )  
FRACTURE CLINIC, P.S. )

TO: Randall L. Stamper, STAMPER, SHERMAN, STOCKER & SMITH, P.S., Suite 200 Post Place, 720 West Boone, Spokane, WA, Counsel for Petitioner

Northpointe Orthopedics, Inc./Northwest Orthopedic and Fracture Clinic, P.S. has filed a petition to approve certain conduct pursuant to the provision of RCW 43.72.310. The Health Services Commission appoints Tom Hilyard, pursuant to the provision of WAC 245-02-165, to serve as the Presiding Officer in this matter. The hearing is scheduled for April 19, 1995, at 9 a.m. at the Health Services Commission office (605 Woodland Square Loop SE, Lacey, Washington) in Conference Room 1.

On or before March 31, 1995, Petitioner shall serve two copies of a Brief on the Health Services Commission that addresses, with specificity, the factors set forth in RCW 43.72.310(4). Respondent's Brief must be served on the Petitioner and the Presiding Officer on or before April 10, 1995.

DATED this 9th day of March, 1995.

BERNIE DOCHNAHL, Chair  
Health Services Commission

**NOTICE OF HEARING**

**WSR 95-07-056**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
(Board of Nursing Home Administrators)  
[Memorandum—March 9, 1995]

Listed below is the amended date and location of the May 1995 Nursing Home Administrators Board meeting.

May 18-19, 1995 Rockwood Retirement Community  
2903 East 25th Avenue  
Spokane, WA 99223  
(509) 536-6650

MISCELLANEOUS

**WSR 95-07-059**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC WORKS BOARD**  
 [Memorandum—March 9, 1995]

**NOTICE OF MEETING LOCATION CHANGE**

The Public Works Board regular meeting scheduled for 8:30 a.m. April 4, 1995, in the city of SeaTac has been moved.

The meeting will be handled by conference call. Persons wishing to participate and/or monitor the meeting may do so by appearing at the office of Pete Butkus in the northeast corner of the Third Floor, Department of Community, Trade and Economic Development, 906 Columbia Street Southwest, Olympia, WA.

**WSR 95-07-060**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE**  
**CENTER**  
 [Memorandum—March 8, 1995]

A regular meeting of the board of directors of the Washington State Convention and Trade Center will be held on Wednesday, March 15, 1995, at 1:30 p.m. in Room 310 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call 447-5000.

**WSR 95-07-062**  
**NOTICE OF PUBLIC MEETINGS**  
**HARDWOODS COMMISSION**  
 [Memorandum—March 10, 1995]

There will be a meeting of the Washington State Hardwoods Commission on March 23, 1995, at 8:30 a.m. until completed at the Business Assistance Center, Olympia, Washington.

**WSR 95-07-079**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—March 15, 1995]

Board of Trustees Meeting  
 March 16, 1995  
 Sno-King Building  
 SKB Room 103  
 (3:30 - 6:20)

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

**WSR 95-07-085**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
 (Examining Board of Psychology)  
 [Memorandum—March 15, 1995]

Please consider this memorandum an advanced notice for the cancellation of the October 13-14, 1995, Examining Board of Psychology meeting.

If you have any questions or concerns, please feel free to contact Terry J. West at (206) 753-3095.

**WSR 95-07-102**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION COMMISSION**  
 [Memorandum—March 16, 1995]

The April 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Tuesday, April 11, and 9:00 a.m. on Wednesday, April 12, 1995, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be committee meetings at 9:00 a.m., Tuesday, April 11, in the Transportation Building, Rooms 1D2 and 3F21, Olympia, Washington.

The May 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, May 17, and 9:00 a.m. on Thursday, May 18, 1995, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be committee meetings at 9:00 a.m., Wednesday, May 17, in the Transportation Building, Rooms 1D2 and 3F21, Olympia, Washington.

**WSR 95-07-104**  
**NOTICE OF PUBLIC MEETINGS**  
**MARITIME COMMISSION**  
 [Memorandum—March 17, 1995]

The monthly meeting of the Washington State Maritime Commission scheduled for 9:00 a.m. on April 6, 1995, is changed to 1:00 p.m. on April 13, 1995. Appropriate notification will be sent to interested parties and appropriate notices will be posted at the meeting location.

**WSR 95-07-105**  
**NOTICE OF PUBLIC MEETINGS**  
**WALLA WALLA**  
**COMMUNITY COLLEGE**  
 [Memorandum—March 16, 1995]

The board of trustees of Walla Walla Community College District No. 20 found it necessary to reschedule their regular meeting that was to be held April 19, 1995. The board of trustees will now hold their April meeting on Thursday, April 20, 1995. The meeting will be held at the Clarkston Center in Clarkston at 10:30 a.m. as previously announced.

**WSR 95-07-114**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC WORKS BOARD**  
 [Memorandum—March 9, 1995]

The Public Works Board regular meeting scheduled as a conference call for 8:30 a.m. April 4, 1995, in the city of Olympia has been cancelled.

Proposed agenda items will be presented to the board at the regular meeting scheduled for May 2, 1995.

**WSR 95-07-115**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**  
 [Memorandum—March 21, 1995]

Eastern Washington University  
 BOARD OF TRUSTEES  
 SPECIAL MEETING  
 March 23, 1995  
 10 a.m. until 12 noon  
 Location: Louise Anderson Hall,  
 First Floor Lounge  
 1 p.m. until 3 p.m.  
 Location: Spokane Center,  
 Second Floor Mall

The board of trustees has called a special meeting for the purpose "to comment with respect to the provisions of the tentative agreement and to extending the tentative agreement to policies."

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

**WSR 95-07-124**  
**DEPARTMENT OF ECOLOGY**  
 [Filed March 22, 1995, 8:42 a.m.]

PUBLIC WORKSHOP AND HEARING  
 DRAFT ISSAQUAH CREEK VALLEY  
 GROUND WATER MANAGEMENT AREA PLAN

The Department of Ecology announces a public workshop and hearing on the draft Issaquah Creek Valley ground water management area plan. The location and time for the workshop and hearing is:

Date: April 13, 1995  
 Time: 7:00 p.m.  
 Place: Clark Elementary School  
 500 Second Avenue S.E.  
 Issaquah, WA

The draft Issaquah Creek Valley ground water management area plan is the result of several years of work by the Issaquah Creek Valley ground water advisory committee (GWAC) and Seattle-King County Health Department. It is

a plan developed to address ground water issues in the Issaquah Creek Valley area.

The workshop will consist of a short presentation and discussion on the plan, followed by the public hearing. The public hearing is a formal process where oral comments can be given.

The hearing starts the "findings" process for this plan. In preparing findings, affected local governments assess the proposed plan, as best they can, for technical soundness, economic feasibility, and consistency with laws and regulations.

Affected governments are requested to submit findings by June 16, 1995, to:

Bill Lasby  
 Drinking and Ground Water Programs  
 Seattle-King County Department of Public Health  
 Room 918, Smith Tower  
 Seattle, Washington 98104  
 phone (206) 296-4795  
 FAX (206) 296-0189

Written public comments on the plan will be taken until June 16, 1995, and can be addressed or telefaxed to:

Doug Rushton  
 Department of Ecology  
 P.O. Box 47600  
 Olympia, WA 98504-7600  
 phone (360) 407-6642  
 FAX (360) 407-7162

At the end of the comment period, Seattle-King County Health Department consolidates comments and presents them to the GWAC. The GWAC then resolves areas of nonconcurrency, if any, and presents the plan to ecology for consideration for certification.

**WSR 95-07-133**  
**ATTORNEY GENERAL'S OFFICE**  
 [Filed March 22, 1995, 10:28 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 April 12, 1995. 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 April 12, 1995, 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, 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 request:

95-02-8 Harold Hochstatter, State Senator

Question regarding salary for president and secretary of public utility district commission.



**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.

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16-164	PREP	95-07-017	51-20-002	REP-P	95-04-106	51-20-1800	REP-P	95-04-106
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16-585-090	NEW-P	95-05-071	51-20-0307	REP-P	95-04-106	51-20-3102	REP-P	95-04-106
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16-750-015	AMD	95-06-002	51-20-0404	REP-P	95-04-106	51-20-3104	REP-P	95-04-106
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50-60-020	AMD-P	95-05-084	51-20-0409	REP-P	95-04-106	51-20-3106	REP-P	95-04-106
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50-60-050	AMD-P	95-05-084	51-20-0514	REP-P	95-04-106	51-20-3112	REP-P	95-04-106
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50-60-08003	NEW-P	95-05-084	51-20-0702	REP-P	95-04-106	51-20-3154	REP-P	95-04-106
50-60-08004	NEW-P	95-05-084	51-20-0800	REP-P	95-04-106	51-20-3155	REP-P	95-04-106
50-60-08005	NEW-P	95-05-084	51-20-0801	REP-P	95-04-106	51-20-3156	REP-P	95-04-106
50-60-08006	NEW-P	95-05-084	51-20-0802	REP-P	95-04-106	51-20-3300	REP-P	95-04-106
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51-24-09105	REP-P	95-04-106	67-25-020	AMD	95-06-057	67-35-220	PREP	95-04-012
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51-24-80109	REP-P	95-04-106	67-25-280	AMD	95-06-057	131-28-045	AMD-E	95-07-004
51-24-80110	REP-P	95-04-106	67-25-281	REP	95-06-057	131-28-080	AMD-E	95-07-004
51-24-80111	REP-P	95-04-106	67-25-284	NEW	95-06-057	131-28-085	AMD-E	95-07-004
51-24-80113	REP-P	95-04-106	67-25-288	NEW	95-06-057	131-28-090	AMD-E	95-07-004
51-24-80114	REP-P	95-04-106	67-25-300	AMD	95-06-057	131-46-135	NEW-P	95-06-054
51-24-80120	REP-P	95-04-106	67-25-325	AMD	95-06-057	132G-126-010	REP-P	95-04-008
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132G-126-070	REP	95-07-103	173-19-250	PREP	95-04-101	173-430-070	AMD	95-03-083
132G-126-080	REP-P	95-04-008	173-19-250	AMD	95-07-144	173-430-080	AMD	95-03-083
132G-126-080	REP	95-07-103	173-19-2513	PREP	95-05-063	173-430-090	NEW	95-03-083
132G-126-200	REP-P	95-04-008	173-19-2515	PREP	95-07-020	173-430-100	NEW	95-03-083
132G-126-200	REP	95-07-103	173-19-2519	PREP	95-07-022	173-548	AMD-C	95-06-055
132G-126-210	REP-P	95-04-008	173-19-2521	PREP	95-07-021	173-548-010	AMD-E	95-07-009
132G-126-210	REP	95-07-103	173-19-260	PREP	95-04-076	173-548-015	NEW-E	95-07-009
132G-126-220	REP-P	95-04-008	173-19-260	AMD-P	95-05-064	173-548-030	AMD-E	95-07-009
132G-126-220	REP	95-07-103	173-19-3507	AMD-P	95-03-082	173-563-015	AMD	95-02-066
132G-126-230	REP-P	95-04-008	173-19-3514	AMD-P	95-03-078	173-564-040	AMD	95-02-066
132G-126-230	REP	95-07-103	173-19-360	PREP	95-07-019	174-116-010	PREP	95-05-010
132G-126-240	REP-P	95-04-008	173-19-360	AMD	95-07-125	174-116-011	PREP	95-05-010
132G-126-240	REP	95-07-103	173-221A	PREP	95-07-057	174-116-020	PREP	95-05-010
132G-126-250	REP-P	95-04-008	173-303	PREP	95-05-062	174-116-020	AMD-P	95-07-132
132G-126-250	REP	95-07-103	173-360-100	AMD	95-04-102	174-116-030	PREP	95-05-010
132G-126-260	REP-P	95-04-008	173-360-110	AMD	95-04-102	174-116-030	AMD-P	95-07-132
132G-126-260	REP	95-07-103	173-360-120	AMD	95-04-102	174-116-040	PREP	95-05-010
132G-126-270	REP-P	95-04-008	173-360-130	AMD	95-04-102	174-116-040	AMD-P	95-07-132
132G-126-270	REP	95-07-103	173-360-190	AMD	95-04-102	174-116-041	PREP	95-05-010
132G-126-280	REP-P	95-04-008	173-360-200	AMD	95-04-102	174-116-041	AMD-P	95-07-132
132G-126-280	REP	95-07-103	173-360-210	AMD	95-04-102	174-116-042	PREP	95-05-010
132G-126-290	REP-P	95-04-008	173-360-305	AMD	95-04-102	174-116-042	AMD-P	95-07-132
132G-126-290	REP	95-07-103	173-360-310	AMD	95-04-102	174-116-043	PREP	95-05-010
132G-126-300	REP-P	95-04-008	173-360-320	AMD	95-04-102	174-116-043	AMD-P	95-07-132
132G-126-300	REP	95-07-103	173-360-325	AMD	95-04-102	174-116-044	PREP	95-05-010
132G-126-310	REP-P	95-04-008	173-360-330	AMD	95-04-102	174-116-044	AMD-P	95-07-132
132G-126-310	REP	95-07-103	173-360-335	AMD	95-04-102	174-116-046	PREP	95-05-010
132G-126-320	REP-P	95-04-008	173-360-340	AMD	95-04-102	174-116-046	AMD-P	95-07-132
132G-126-320	REP	95-07-103	173-360-345	AMD	95-04-102	174-116-050	PREP	95-05-010
132G-126-330	REP-P	95-04-008	173-360-350	AMD	95-04-102	174-116-050	AMD-P	95-07-132
132G-126-330	REP	95-07-103	173-360-370	AMD	95-04-102	174-116-060	PREP	95-05-010
132G-126-340	REP-P	95-04-008	173-360-380	AMD	95-04-102	174-116-060	AMD-P	95-07-132
132G-126-340	REP	95-07-103	173-360-385	AMD	95-04-102	174-116-071	PREP	95-05-010
132G-126-350	REP-P	95-04-008	173-360-600	AMD	95-04-102	174-116-071	AMD-P	95-07-132
132G-126-350	REP	95-07-103	173-360-610	AMD	95-04-102	174-116-072	PREP	95-05-010
132G-126-360	REP-P	95-04-008	173-360-620	NEW	95-04-102	174-116-072	AMD-P	95-07-132
132G-126-360	REP	95-07-103	173-360-630	AMD	95-04-102	174-116-080	PREP	95-05-010
132G-126-370	REP-P	95-04-008	173-360-640	REP	95-04-102	174-116-080	AMD-P	95-07-132
132G-126-370	REP	95-07-103	173-360-650	REP	95-04-102	174-116-091	PREP	95-05-010
132G-126-380	REP-P	95-04-008	173-360-655	REP	95-04-102	174-116-091	AMD-P	95-07-132
132G-126-380	REP	95-07-103	173-360-660	REP	95-04-102	174-116-092	PREP	95-05-010
132G-126-390	REP-P	95-04-008	173-360-680	REP	95-04-102	174-116-092	AMD-P	95-07-132
132G-126-390	REP	95-07-103	173-360-690	REP	95-04-102	174-116-119	PREP	95-05-010
132G-126-400	REP-P	95-04-008	173-360-695	REP	95-04-102	174-116-119	AMD-P	95-07-132
132G-126-400	REP	95-07-103	173-400	PREP	95-06-067	174-116-121	PREP	95-05-010
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173-06-010	REP	95-07-058	173-400-104	NEW	95-07-126	174-116-124	AMD-P	95-07-132
173-06-020	REP-P	95-03-081	173-400-171	AMD	95-07-126	174-116-125	PREP	95-05-010
173-06-020	REP	95-07-058	173-422-020	AMD	95-06-068	174-116-126	PREP	95-05-010
173-06-030	REP-P	95-03-081	173-422-030	AMD	95-06-068	174-116-127	PREP	95-05-010
173-06-030	REP	95-07-058	173-422-035	AMD	95-06-068	174-116-127	AMD-P	95-07-132
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173-06-040	REP	95-07-058	173-422-060	AMD	95-06-068	178-01-010	REP-P	95-04-017
173-06-100	NEW-P	95-03-081	173-422-065	AMD	95-06-068	180-27	PREP	95-05-038
173-06-100	NEW	95-07-058	173-422-070	AMD	95-06-068	180-27-019	AMD-P	95-05-083
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180-29-125	AMD-P	95-05-080	197-11-305	AMD	95-07-023	220-57-31900I	NEW-E	95-05-049
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182-13-010	NEW-P	95-03-075	220-32-05100M	REP-E	95-07-010	220-95-026	REP	95-07-012
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182-13-020	NEW-P	95-03-075	220-44-050	AMD-P	95-06-094	220-95-031	REP	95-07-012
182-13-020	NEW	95-07-011	220-44-05000M	REP-E	95-05-007	220-95-032	NEW-P	95-03-088
182-13-030	NEW-P	95-03-063	220-44-05000N	NEW-E	95-05-007	220-95-032	NEW	95-07-012
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182-13-030	NEW-P	95-03-075	220-44-05000P	NEW-E	95-05-021	222-10-040	NEW-C	95-04-073
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182-18	PREP	95-04-057	220-52-04600Z	REP-E	95-06-001	222-21-020	NEW-C	95-04-073
192-12-130	PREP	95-04-104	220-52-07300V	REP-E	95-03-064	222-21-030	NEW-C	95-04-073
192-12-141	PREP	95-04-104	220-52-07300W	NEW-E	95-03-067	222-21-040	NEW-C	95-04-073
192-12-141	PREP	95-07-075	220-52-07300W	REP-E	95-07-080	222-24-030	AMD-C	95-04-073
192-12-184	AMD-P	95-06-081	220-52-07300X	NEW-E	95-07-080	222-24-030	AMD-E	95-04-074
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192-16-019	AMD-P	95-06-081	220-56-115	AMD	95-04-066	222-30-065	NEW-E	95-04-074
192-16-021	AMD-P	95-06-081	220-56-116	AMD	95-04-066	222-30-070	AMD-C	95-04-073
192-16-025	AMD-P	95-06-081	220-56-125	REP	95-04-066	222-30-070	AMD-E	95-04-074
192-16-050	AMD-P	95-06-081	220-56-127	REP	95-04-066	222-30-075	NEW-C	95-04-073
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192-42-010	REP	95-05-048	220-56-282	AMD	95-04-066	230-02-183	AMD	95-07-093
192-42-021	REP	95-05-048	220-56-28500D	NEW-E	95-05-049	230-02-240	AMD-P	95-04-037
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192-42-057	REP	95-05-048	220-56-335	AMD	95-04-066	230-02-350	AMD	95-07-094
192-42-058	REP	95-05-048	220-56-340	AMD	95-04-066	230-02-360	AMD-P	95-04-038
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230-20-070	AMD-C	95-07-099	236-15-200	NEW	95-05-044	245-03-640	NEW-W	95-07-036
230-20-090	AMD-P	95-07-111	236-15-300	NEW	95-05-044	245-03-650	NEW-P	95-06-076
230-20-130	AMD-P	95-06-010	236-15-700	NEW	95-05-044	245-03-650	NEW-W	95-07-036
230-20-170	AMD-P	95-07-111	236-15-800	NEW	95-05-044	245-03-660	NEW-P	95-06-076
230-20-190	AMD-P	95-07-111	236-15-900	NEW	95-05-044	245-03-660	NEW-W	95-07-036
230-20-220	AMD-P	95-07-111	245-02-010	NEW	95-04-115	245-03-670	NEW-P	95-06-076
230-20-300	AMD-P	95-04-039	245-02-020	NEW	95-04-115	245-03-680	NEW-P	95-06-076
230-20-300	AMD	95-07-093	245-02-025	NEW	95-04-115	245-03-680	NEW-W	95-07-036
230-20-325	AMD-P	95-04-039	245-02-030	NEW	95-04-115	245-03-810	NEW-P	95-06-074
230-20-325	AMD	95-07-093	245-02-035	NEW	95-04-115	245-03-810	NEW-W	95-07-034
230-20-335	NEW-P	95-04-039	245-02-040	NEW	95-04-115	245-03-820	NEW-P	95-06-074
230-20-335	NEW	95-07-093	245-02-045	NEW	95-04-115	245-03-820	NEW-W	95-07-034
230-20-620	AMD-P	95-06-010	245-02-050	NEW	95-04-115	245-03-830	NEW-P	95-06-074
230-20-630	AMD-P	95-07-111	245-02-100	NEW	95-04-112	245-03-830	NEW-W	95-07-034
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230-25-070	AMD-P	95-07-111	245-02-115	NEW	95-04-112	245-03-840	NEW-W	95-07-034
230-25-330	AMD-P	95-07-111	245-02-120	NEW	95-04-112	245-03-860	NEW-P	95-06-074
230-40-400	AMD-E	95-05-070	245-02-125	NEW	95-04-112	245-03-860	NEW-W	95-07-034
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230-46-010	AMD-P	95-07-111	245-02-131	NEW	95-04-112	245-03-880	NEW-W	95-07-034
230-48-010	NEW-E	95-07-065	245-02-135	NEW	95-04-112	245-04-010	NEW-P	95-06-077
230-48-010	NEW-P	95-07-096	245-02-140	NEW	95-04-112	245-04-010	NEW-W	95-07-033
230-50-010	AMD-C	95-04-040	245-02-145	NEW	95-04-112	245-04-020	NEW-P	95-06-077
230-50-010	AMD-C	95-06-013	245-02-150	NEW	95-04-112	245-04-020	NEW-W	95-07-033
230-50-010	AMD-C	95-07-097	245-02-155	NEW	95-04-112	245-04-025	NEW-P	95-06-077
232-12-001	AMD	95-05-008	245-02-160	NEW	95-04-112	245-04-025	NEW-W	95-07-033
232-12-131	AMD	95-03-034	245-02-165	NEW	95-04-112	245-04-030	NEW-P	95-06-077
232-12-151	AMD	95-05-008	245-02-170	NEW	95-04-112	245-04-030	NEW-W	95-07-033
232-12-227	AMD	95-02-070	245-02-175	NEW	95-04-112	245-04-040	NEW-P	95-06-077
232-12-287	AMD-P	95-06-095	245-02-180	NEW	95-04-112	245-04-040	NEW-W	95-07-033
232-12-619	AMD	95-05-008	245-03-010	NEW-P	95-06-075	245-04-050	NEW-P	95-06-077
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232-28-02203	AMD	95-03-025	245-03-020	NEW-W	95-07-037	245-04-060	NEW-W	95-07-033
232-28-02204	AMD	95-03-026	245-03-040	NEW-P	95-06-075	245-04-070	NEW-P	95-06-077
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232-28-02220	AMD-P	95-06-100	245-03-080	NEW-W	95-07-037	245-04-090	AMD	95-06-048
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245-04-165	NEW-P	95-04-113	246-325	PREP	95-07-073	260-12-010	AMD-P	95-07-140
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245-04-175	NEW-P	95-04-113	246-327	PREP	95-07-073	260-40-100	PREP	95-05-078
245-04-180	NEW-P	95-04-113	246-331	PREP	95-07-073	260-40-100	AMD-P	95-07-143
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245-04-210	NEW-W	95-07-032	246-560-030	PREP	95-06-073	263-12-190	AMD	95-02-065
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245-04-330	NEW-P	95-06-078	246-830-005	NEW-P	95-07-013	284-30-930	NEW-S	95-06-086
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245-08-030	NEW-P	95-04-114	246-830-990	AMD-P	95-07-013	284-54-205	NEW-W	95-03-076
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245-08-040	NEW-P	95-04-114	246-838-100	PREP	95-06-018	284-54-300	AMD-W	95-03-076
245-08-040	NEW-W	95-07-030	246-838-990	PREP	95-04-069	284-54-350	AMD-W	95-03-076
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246-170-040	REP	95-04-035	246-937-010	NEW	95-04-083	292-09-130	NEW	95-05-031
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246-170-050	REP	95-04-035	246-937-030	NEW	95-04-083	292-09-150	NEW	95-05-031
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246-170-070	REP	95-04-035	246-937-090	NEW	95-04-083	292-100-040	NEW-E	95-04-004
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296-52-555	NEW	95-07-014	296-155-24510	AMD-P	95-05-061	308-124A-425	AMD	95-03-012
296-56-60001	AMD	95-04-007	296-155-24515	AMD-P	95-05-061	308-124A-590	NEW	95-03-012
296-56-60003	AMD	95-04-007	296-155-24519	NEW-P	95-05-061	308-124A-595	NEW	95-03-012
296-56-60005	AMD	95-04-007	296-155-24520	AMD-P	95-05-061	308-124A-600	AMD	95-03-012
296-56-60009	AMD	95-04-007	296-155-24521	AMD-P	95-05-061	308-124H-011	AMD	95-03-012
296-56-60062	AMD	95-04-007	296-155-24522	NEW-P	95-05-061	308-124H-025	AMD	95-03-012
296-56-60073	AMD	95-04-007	296-155-24523	NEW-P	95-05-061	308-124H-035	REP	95-03-012
296-56-60083	AMD	95-04-007	296-155-24524	NEW-P	95-05-061	308-124H-036	REP	95-03-012
296-56-60093	AMD	95-04-007	296-155-24525	AMD-P	95-05-061	308-124H-037	REP	95-03-012
296-56-60095	AMD	95-04-007	296-155-325	AMD-P	95-05-061	308-124H-041	AMD	95-03-012
296-56-60097	AMD	95-04-007	296-155-407	AMD	95-04-007	308-124H-061	AMD	95-03-012
296-56-60098	AMD	95-04-007	296-155-477	AMD-P	95-05-061	308-124H-080	REP	95-03-012
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314-10-030	AMD	95-04-044	358-30-070	AMD-P	95-03-054	388-73-258	NEW-S	95-07-024
314-12-170	AMD	95-05-006	358-30-070	AMD	95-07-074	388-73-260	NEW-S	95-07-024
314-18-080	AMD	95-04-044	358-30-080	AMD-P	95-03-054	388-73-262	NEW-S	95-07-024
314-70-050	AMD	95-04-044	358-30-080	AMD	95-07-074	388-73-264	NEW-S	95-07-024
315-11A-122	AMD-E	95-04-063	358-30-082	NEW-P	95-03-054	388-73-266	NEW-S	95-07-024
315-11A-122	AMD-P	95-07-135	358-30-082	NEW	95-07-074	388-73-268	NEW-S	95-07-024
315-11A-136	NEW	95-03-062	358-30-084	NEW-P	95-03-054	388-73-270	NEW-S	95-07-024
315-11A-137	NEW	95-03-062	358-30-084	NEW	95-07-074	388-73-272	NEW-S	95-07-024
315-11A-138	NEW	95-03-062	358-30-090	AMD-P	95-03-054	388-73-274	NEW-S	95-07-024
315-11A-138	AMD-P	95-07-135	358-30-090	AMD	95-07-074	388-73-276	NEW-S	95-07-024
315-11A-139	NEW	95-03-062	358-30-110	AMD-P	95-03-054	388-73-278	NEW-S	95-07-024
315-11A-140	NEW-P	95-03-100	358-30-110	AMD	95-07-074	388-73-304	AMD-S	95-07-024
315-11A-140	NEW	95-07-050	358-30-170	AMD-P	95-03-054	388-73-400	REP-S	95-07-024
315-11A-141	NEW-P	95-03-100	358-30-170	AMD	95-07-074	388-73-402	REP-S	95-07-024
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332-24-221	AMD-P	95-07-129	365-140-030	AMD-P	95-07-100	388-73-414	REP-S	95-07-024
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352-32-010	AMD	95-07-061	365-140-045	REP-P	95-07-100	388-73-432	REP-S	95-07-024
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352-32-036	REP	95-07-061	381-70-400	AMD	95-06-008	388-73-438	REP-S	95-07-024
352-32-036	AMD-W	95-07-112	388-18	PREP	95-06-034	388-73-440	REP-S	95-07-024
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352-32-250	AMD	95-07-061	388-49-020	AMD	95-06-028	388-73-513	NEW-S	95-07-024
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358-20-020	AMD	95-07-074	388-49-480	AMD-P	95-05-013	388-235-9000	AMD	95-03-048
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358-30-005	NEW	95-07-074	388-73-010	AMD-S	95-07-024	388-508-0805	PREP	95-06-071
358-30-010	AMD-P	95-03-054	388-73-012	AMD-S	95-07-024	388-509-0920	PREP	95-06-071
358-30-010	AMD	95-07-074	388-73-014	AMD-S	95-07-024	388-509-0960	AMD	95-05-023
358-30-020	AMD-P	95-03-054	388-73-01950	AMD-S	95-07-024	388-509-0960	PREP	95-06-071
358-30-020	AMD	95-07-074	388-73-026	AMD-S	95-07-024	388-511-1105	AMD-P	95-06-072
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358-30-022	NEW	95-07-074	388-73-054	AMD-S	95-07-024	388-511-1140	AMD-P	95-06-072
358-30-024	NEW-P	95-03-054	388-73-074	AMD-S	95-07-024	388-511-1160	AMD-P	95-06-072
358-30-024	NEW	95-07-074	388-73-076	AMD-S	95-07-024	388-513-1300	NEW-P	95-03-084
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358-30-026	NEW	95-07-074	388-73-144	AMD-S	95-07-024	388-513-1330	PREP	95-07-072
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358-30-028	NEW	95-07-074	388-73-200	AMD-S	95-07-024	388-513-1380	AMD	95-05-022
358-30-030	AMD-P	95-03-054	388-73-212	AMD-S	95-07-024	388-513-1380	PREP	95-06-071
358-30-030	AMD	95-07-074	388-73-213	REP-S	95-07-024	388-517-1720	PREP	95-06-071
358-30-042	NEW-P	95-03-054	388-73-214	REP-S	95-07-024	388-517-1740	PREP	95-06-071
358-30-042	NEW	95-07-074	388-73-216	REP-S	95-07-024	388-517-1760	PREP	95-06-071
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391-45-560	NEW-E	95-07-026	419-18-030	AMD	95-06-066	458-08-010	REP	95-07-067
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392-121-106	AMD-P	95-06-059	419-18-040	AMD	95-06-066	458-08-020	REP	95-07-067
392-122-205	AMD-P	95-05-020	419-18-045	NEW-P	95-03-091	458-08-030	REP-P	95-04-051
392-122-214	REP-P	95-05-020	419-18-045	NEW	95-06-066	458-08-030	REP	95-07-067
392-122-221	AMD-P	95-05-020	419-18-050	AMD-P	95-03-091	458-08-040	REP-P	95-04-051
392-122-230	AMD-P	95-05-020	419-18-050	AMD	95-06-066	458-08-040	REP	95-07-067
392-122-260	REP-P	95-05-020	419-18-060	AMD-P	95-03-091	458-08-050	REP-P	95-04-051
392-122-275	AMD-P	95-05-020	419-18-060	AMD	95-06-066	458-08-050	REP	95-07-067
392-169-005	AMD-P	95-06-084	419-18-070	AMD-P	95-03-091	458-08-060	REP-P	95-04-051
392-169-015	AMD-P	95-06-084	419-18-070	AMD	95-06-066	458-08-060	REP	95-07-067
392-169-020	AMD-P	95-06-084	419-18-080	NEW-P	95-03-091	458-08-070	REP-P	95-04-051
392-169-022	AMD-P	95-06-084	419-18-080	NEW	95-06-066	458-08-070	REP	95-07-067
392-169-023	AMD-P	95-06-084	419-72-068	NEW-W	95-02-059	458-08-080	REP-P	95-04-051
392-169-025	AMD-P	95-06-084	434-09-020	AMD-E	95-05-050	458-08-080	REP	95-07-067
392-169-033	NEW-P	95-06-084	434-09-030	AMD-E	95-05-050	458-08-090	REP-P	95-04-051
392-169-035	REP-P	95-06-084	434-09-040	AMD-E	95-05-050	458-08-090	REP	95-07-067
392-169-045	AMD-P	95-06-084	434-09-050	AMD-E	95-05-050	458-08-100	REP-P	95-04-051
392-169-050	AMD-P	95-06-084	434-09-060	AMD-E	95-05-050	458-08-100	REP	95-07-067
392-169-055	AMD-P	95-06-084	434-09-070	AMD-E	95-05-050	458-08-110	REP-P	95-04-051
392-169-057	AMD-P	95-06-084	434-09-080	AMD-E	95-05-050	458-08-110	REP	95-07-067
392-169-060	AMD-P	95-06-084	434-09-090	AMD-E	95-05-050	458-08-120	REP-P	95-04-051
392-169-065	AMD-P	95-06-084	434-120-025	PREP	95-06-049	458-08-120	REP	95-07-067
392-169-075	AMD-P	95-06-084	434-120-105	PREP	95-06-049	458-08-130	REP-P	95-04-051
392-169-080	AMD-P	95-06-084	434-120-125	PREP	95-06-049	458-08-130	REP	95-07-067
392-169-085	AMD-P	95-06-084	434-120-130	PREP	95-06-049	458-08-140	REP-P	95-04-051
392-169-090	AMD-P	95-06-084	434-120-140	PREP	95-06-049	458-08-140	REP	95-07-067
392-169-100	AMD-P	95-06-084	434-120-145	PREP	95-06-049	458-08-150	REP-P	95-04-051
392-169-105	AMD-P	95-06-084	434-120-210	PREP	95-06-049	458-08-150	REP	95-07-067
392-169-110	AMD-P	95-06-084	434-120-215	PREP	95-06-049	458-08-160	REP-P	95-04-051
392-169-115	AMD-P	95-06-084	434-120-240	PREP	95-06-049	458-08-160	REP	95-07-067
392-169-120	AMD-P	95-06-084	434-120-255	PREP	95-06-049	458-08-170	REP-P	95-04-051
392-169-125	AMD-P	95-06-084	434-120-260	PREP	95-06-049	458-08-170	REP	95-07-067
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399-10-010	AMD-P	95-07-107	434-120-300	PREP	95-06-050	458-08-180	REP	95-07-067
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399-30-040	AMD-P	95-07-109	434-120-310	PREP	95-06-050	458-08-190	REP	95-07-067
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415-113-010	REP	95-03-001	434-120-330	PREP	95-06-050	458-08-210	REP-P	95-04-051
415-113-020	REP	95-03-001	434-120-335	PREP	95-06-050	458-08-210	REP	95-07-067
415-113-030	AMD	95-03-001	456-09-110	AMD	95-05-033	458-08-220	REP-P	95-04-051
415-113-0301	NEW	95-03-001	456-09-130	AMD	95-05-033	458-08-220	REP	95-07-067
415-113-0302	NEW	95-03-001	456-09-230	AMD	95-05-033	458-08-230	REP-P	95-04-051
415-113-0303	NEW	95-03-001	456-09-320	AMD	95-05-033	458-08-230	REP	95-07-067
415-113-0304	NEW	95-03-001	456-09-325	AMD	95-05-033	458-08-240	REP-P	95-04-051
415-113-0305	NEW	95-03-001	456-09-330	AMD	95-05-033	458-08-240	REP	95-07-067
415-113-0306	NEW	95-03-001	456-09-340	AMD	95-05-033	458-08-250	REP-P	95-04-051
415-113-0307	NEW	95-03-001	456-09-350	AMD	95-05-033	458-08-250	REP	95-07-067
415-113-0308	NEW	95-03-001	456-09-365	AMD	95-05-033	458-08-260	REP-P	95-04-051
415-113-0309	NEW	95-03-001	456-09-540	AMD	95-05-033	458-08-260	REP	95-07-067
415-113-0310	NEW	95-03-001	456-09-705	AMD	95-05-033	458-08-270	REP-P	95-04-051
415-113-040	REP	95-03-001	456-09-710	AMD	95-05-033	458-08-270	REP	95-07-067
415-113-041	NEW	95-03-001	456-09-725	AMD	95-05-033	458-14-005	PREP	95-07-139
415-113-042	NEW	95-03-001	456-09-730	AMD	95-05-033	458-14-015	PREP	95-07-139
415-113-045	NEW	95-03-001	456-09-930	AMD	95-05-033	458-14-056	PREP	95-07-139
415-113-050	REP	95-03-001	456-09-935	AMD	95-05-033	458-14-066	PREP	95-07-139
415-113-055	NEW	95-03-001	456-09-945	AMD	95-05-033	458-14-116	PREP	95-07-139
415-113-057	NEW	95-03-001	456-09-955	AMD	95-05-033	458-14-127	PREP	95-07-139
415-113-059	NEW	95-03-001	456-10-110	AMD	95-05-032	458-14-146	PREP	95-07-139
415-113-060	REP	95-03-001	456-10-140	AMD	95-05-032	458-14-160	PREP	95-07-139
415-113-065	NEW	95-03-001	456-10-320	AMD	95-05-032	458-14-170	PREP	95-07-139
415-113-070	NEW	95-03-001	456-10-325	AMD	95-05-032	458-14-171	PREP	95-07-139
415-113-080	NEW	95-03-001	456-10-330	AMD	95-05-032	458-16-265	REP	95-06-042
415-113-082	NEW	95-03-001	456-10-340	AMD	95-05-032	458-16A-010	NEW	95-06-041
415-113-084	NEW	95-03-001	456-10-360	AMD	95-05-032	458-16A-020	NEW	95-06-042
415-113-090	NEW	95-03-001	456-10-505	AMD	95-05-032	458-18-220	AMD-P	95-02-064
415-113-100	NEW	95-03-001	456-10-510	AMD	95-05-032	458-18-220	AMD	95-06-044
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458-20-101	AMD	95-07-089	479-20-037	AMD	95-04-072	479-420-025	NEW	95-04-072
458-20-104	AMD-P	95-04-018	479-20-075	REP	95-04-072	479-420-027	NEW	95-04-072
458-20-104	AMD	95-07-088	479-20-086	AMD	95-04-072	479-420-031	NEW	95-04-072
458-20-183	PREP	95-03-092	479-20-095	AMD	95-04-072	479-420-037	NEW	95-04-072
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